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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
Date of Report (Date of earliest event reported): June 3, 2024

LivePerson, Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware	**0-30141**	**13-3861628**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

530 7th Ave, Floor M1
New York, New York 10018
(Address of principal executive offices, with zip code)

(212) 609-4200
Registrant's telephone number, including area code

N/A
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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, par value $0.001 per share	LPSN	The Nasdaq Stock Market LLC
Rights to Purchase Series A Junior Participating Preferred Stock	None	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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. ☐

Item 1.01 Entry into a Material Definitive Agreement.

As previously disclosed, on May 13, 2024, LivePerson, Inc. (the "Company") entered into a privately negotiated exchange and purchase agreement (the "Original Agreement") with Lynrock Lake Master Fund LP ("Lynrock"). On June 3, 2024, the Company and Lynrock entered into a First Amendment to the Exchange and Purchase Agreement (the "Exchange Agreement Amendment", and the Original Agreement as so amended, the "Exchange and Purchase Agreement"), dated as of June 3, 2024.

Pursuant to the Exchange and Purchase Agreement, on June 3, 2024, the Company consummated (i) an exchange (the "Exchange") of $145,957,000 aggregate principal amount of the Company's outstanding 0% Convertible Senior Notes due December 15, 2026 (the "2026 Notes") held by Lynrock for $100,000,000 aggregate principal amount of First Lien Convertible Senior Notes due 2029 (the "New Notes"), (ii) a private offering and sale of $50,000,000 in aggregate principal amount of New Notes to Lynrock for a subscription price of $50,000,000 (the "Initial Draw Notes") and (iii) issuances to Lynrock of 10-year warrants with a strike price of $0.75 per share, exercisable for approximately 8.9% of the Company's common stock, $0.001 par value per share (the "Common Stock"), calculated on a fully diluted basis (the "Share-Settled Warrants") and 10-year warrants with a strike price of $0.75 per share, exercisable with respect to a notional amount of approximately 2.1% of the Common Stock for cash payments equal to the excess of Fair Market Value (as defined therein) per share over the strike price, fully diluted subject to certain adjustments (the "Cash-Settled Warrants," and collectively with the Share-Settled Warrants, the "Warrants."). The Cash-Settled Warrants will permit the Company, subject to certain conditions (including that the Company has maximum Available Cash (as defined therein) of $100,000,000), to defer payment of the settlement amount at an annualized interest rate of 6.0%, compounded monthly. Warrants outstanding at the 10-year expiration will be exercised automatically (and in the case of the Share-Settled Warrants, will be exercised on a cashless basis) if, immediately prior to the expiration, the Fair Market Value per share is greater than the strike price.

The Initial Draw Notes were issued pursuant to, and are governed by, an indenture (the "Indenture"), dated as of June 3, 2024, by and among the Company, the subsidiary guarantors party thereto and U.S. Bank Trust Company, National Association, as trustee (the "Trustee") and collateral agent (the "Collateral Agent"). Pursuant to the Exchange and Purchase Agreement, Lynrock has agreed to purchase up to $50,000,000 of additional New Notes upon the Company's request at any time prior to December 3, 2024 for an aggregate cash purchase price equal to the aggregate principal amount of the New Notes so purchased (the "Delayed Draw Notes").

The New Notes are guaranteed on a senior basis by certain of the Company's direct and indirect domestic and foreign subsidiaries (the "Subsidiary Guarantors") and secured by first priority security interests in substantially all of the assets of the Company and the Subsidiary Guarantors, subject to customary exceptions. Accordingly, the New Notes rank effectively senior to the 2026 Notes to the extent of the value of the assets securing the New Notes, and the 2026 Notes are also structurally subordinated to the guarantees of the New Notes. The Indenture contains affirmative and negative covenants and events of default customary for senior secured indebtedness. The negative covenants include limitations on asset sales, the incurrence of debt, preferred stock and liens, fundamental changes, investments, dividends and other payment restrictions affecting subsidiaries, restricted payments and transactions with affiliates. Among other things, these covenants generally prohibit the payment of cash dividends on the Common Stock. The Indenture permits the Company and its subsidiaries to incur, subject to certain requirements, up to $150,000,000 of debt that is junior in lien priority and subordinated in right of payment to the New Notes. The Indenture also includes a financial covenant that requires the Company to maintain a minimum cash balance of $60,000,000 at all times. Upon request of Lynrock, the Indenture requires the Company to enter into a registration rights agreement with respect to the New Notes containing customary terms including demand, shelf and piggyback registration rights.

From June 3, 2024 until the earlier of the date of issuance of the Delayed Draw Notes and December 15, 2026, interest on the New Notes will accrue at a rate of 10.83% (consisting of 4.17% cash and 6.66% paid in kind ("PIK")) per annum. From the date of issuance of the Delayed Draw Notes and prior to December 15, 2026, interest on the New Notes will increase and accrue at a rate of 11.375% (consisting of 4.375% cash and 7.00% PIK) per annum. On and after December 15, 2026, interest on the New Notes will further increase and accrue at a rate of 13% (consisting of 5% cash and 8% PIK) per annum.

The New Notes will mature on the earlier of (a) June 15, 2029 and (b) 91 days before the maturity of the 2026 Notes, if greater than $60,000,000 principal amount of 2026 Notes remains outstanding on such date. The amount payable by the Company if the New Notes mature pursuant to clause (b) will be equal to 100% of the aggregate principal amount of the New Notes, plus accrued and unpaid interest (including cash and PIK components thereof), plus the remaining future interest payments (including cash and PIK components thereof) that would have been payable through June 15, 2029, discounted at a rate equal to the comparable treasury rate plus 50 basis points (the "Make-Whole Amount"). The Company may, at its option, redeem the New Notes, in whole or in part, on a pro rata basis, prior to June 15, 2025 at a price equal to the Make-Whole Amount. On or after June 15, 2025, and prior to June 15, 2026, the Company may, at its option, redeem the New Notes, in whole or in part on a pro rata basis for an amount of cash equal to the sum of (i) 106.50% of the aggregate principal amount of the New Notes

(including all increases to the principal amount as the result of previous payments of PIK Interest) plus (ii) 106.50% of all accrued and unpaid PIK interest plus (iii) all accrued and unpaid cash interest. On or after June 15, 2026, and prior to December 15, 2026, the Company may, at its option, redeem the New Notes, in whole or in part on a pro rata basis for an amount of cash equal to the sum of (i) 103.25% of the aggregate principal amount of the New Notes (including all increases to the principal amount as the result of previous payments of PIK Interest) plus (ii) 103.25% of all accrued and unpaid PIK interest plus (iii) all accrued and unpaid cash interest. From December 15, 2026 until maturity, the Company may, at its option, redeem the New Notes, in whole or in part on a pro rata basis for an amount of cash equal to the sum of (i) 113% of the aggregate principal amount of the New Notes (including all increases to the principal amount as the result of previous payments of PIK Interest) plus (ii) 113% of all accrued and unpaid PIK interest plus (iii) all accrued and unpaid cash interest. In addition, the Make-Whole Amount will be payable in the event of an acceleration of the Notes or repurchase triggered by certain asset sales. No sinking fund is provided for the Notes.

If the Company undergoes a fundamental change (which includes a change of control or certain delistings of the Common Stock), holders may require the Company to repurchase all or any portion of their New Notes at a repurchase price equal to 100% of the aggregate principal amount of the New Notes to be repurchased, plus accrued and unpaid interest (including cash and PIK components thereof), plus an amount equal to 66% of the remaining future interest payments (including cash and PIK components thereof) that would have been payable through June 15, 2029, discounted at a rate equal to the comparable treasury rate plus 50 basis points.

The New Notes (including all accrued and unpaid interest (including cash and PIK components thereof)) are convertible at the option of the holders thereof at certain times into cash based on a daily conversion value calculated on a proportionate basis for each trading day in a 50 trading day observation period, initially corresponding to 13.2933 shares of Common Stock per $1,000 principal amount of New Notes. The Company is not required to deliver Common Stock upon conversion under any circumstances. The conversion rate for the New Notes is subject to adjustment if certain events occur and contains customary anti-dilution protections.

Holders of the Notes may convert their Notes at their option at any time prior to the close of business on the business day immediately preceding February 15, 2029 only under the following circumstances: (1) during any calendar quarter commencing after the calendar quarter ending on September 30, 2024 (and only during such calendar quarter), if the last reported sale price of the Common Stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price for the Notes on each applicable trading day as determined by the Company; (2) during the five business day period after any five consecutive trading day period (the "measurement period") in which the Trading Price (as defined in the Indenture) per $1,000 principal amount of Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the Common Stock and the product of (x) the quotient of (i) the Conversion Amount (as defined in the Indenture) in respect of $1,000 principal amount of Notes on such trading day divided by (ii) 1,000 times (y) the conversion rate for the Notes on each such trading day; (3) with respect to any Notes that the Company calls for redemption, at any time prior to the close of business on the scheduled trading day immediately preceding the redemption date; (4) upon the occurrence of specified corporate events; or (5) during the period from August 17, 2026 through September 14, 2026, if the aggregate principal amount of 2026 Notes exceeds $60,000,000 on August 16, 2026. On or after February 15, 2029, holders may convert all or any portion of their Notes at any time prior to the close of business on June 13, 2029, regardless of the foregoing circumstances.

The Warrants contain customary anti-dilution protections and a beneficial ownership limitation on Lynrock's ownership of the Common Stock, on a post-exercise basis (aggregating all securities convertible into or exercisable for Common Stock), of 4.99%, subject to increase upon 61 days' notice by Lynrock, but not to exceed 9.99%.

Pursuant to the Exchange Agreement Amendment, the Company has agreed, among other things, to (a) not amend, supplement or otherwise modify certain provisions of the Indenture and the Intercreditor Agreement, or make certain determinations thereunder, without the consent of Lynrock, (b) not enter into (or permit any of its subsidiaries to enter into) any line of business it was not already engaged in on June 3, 2024 without the consent of Lynrock and (c) deliver certain written reports relating to specified provisions of the Indenture to Lynrock, in each case, so long as Lynrock maintains certain beneficial ownership of the New Notes.

In connection with the Exchange, the Company expects to unwind a portion of the capped call options associated with the aggregate principal amount of 2026 Notes exchanged.

Copies of the Indenture, the form of New Note, the Share-Settled Warrant, the Cash-Settled Warrant and the Exchange Agreement Amendment are filed as Exhibits 4.1, 4.2, 4.3, 4.4 and 10.1, respectively, to this Current Report on Form 8-K and

are incorporated herein by reference. The foregoing descriptions of the Indenture, the New Notes and the Exchange Agreement Amendment do not purport to be complete and are qualified in their entirety by reference to such exhibits.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference into this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities.

The New Notes and the Warrants have been sold to Lynrock in a private placement in reliance on the exemption from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), provided by Section 4(a)(2) of the Securities Act. The Company is relying on this exemption from registration based in part on representations made by Lynrock in the Exchange and Purchase Agreement.

The information related to the issuance of the Notes contained in Item 1.01 of this Current Report on Form 8-K is incorporated by reference.

Item 3.03 Material Modification to Rights of Security Holders.

The information set forth under Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference into this Item 3.03.

Item 9.01. Financial Statements and Exhibits.
(d) Exhibits. The following documents are included as exhibits to this report:

Exhibit No.	Description
4.1	Indenture, dated as of June 3, 2024, by and among LivePerson, Inc., the subsidiary guarantors party thereto and U.S. Bank Trust Company, National Association, as Trustee and as Collateral Agent.
4.2	Form of Senior Secured Convertible Note due 2029 (included within the Indenture filed as Exhibit 4.1 hereto).
4.3	Warrant to Purchase Common Stock issued by LivePerson, Inc. on June 3, 2024 to Lynrock Lake Master Fund LP.
4.4	Warrant issued by LivePerson, Inc. on June 3, 2024 to Lynrock Lake Master Fund LP.
10.1	First Amendment to Exchange and Purchase Agreement, dated as of June 3, 2024, by and between LivePerson, Inc. and Lynrock Lake Master Fund LP.
104.1	Cover Page Interactive Data File (embedded within the Inline XBRL document).

SIGNATURE

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 hereunto duly authorized.

LIVEPERSON, INC.
(Registrant)

Date: June 4, 2024

By: /s/ MONICA L. GREENBERG
Monica L. Greenberg
Executive Vice President, Policy and General Counsel

LIVEPERSON, INC.

THE SUBSIDIARY GUARANTORS PARTY HERETO FROM TIME TO TIME

AND

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,

as Trustee and as Collateral Agent

INDENTURE

Dated as of June 3, 2024
First Lien Convertible Senior Notes due 2029

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INDENTURE, dated as of June 3, 2024, between LIVEPERSON, INC., a Delaware corporation, as issuer (the "***Company***", as more fully set forth in Section 1.01), the Subsidiary Guarantors from time to time party hereto and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee (in such capacity, the "***Trustee***", as more fully set forth in Section 1.01) and as collateral agent (in such capacity, the "***Collateral Agent***", as more fully set forth in Section 1.01).

W I T N E S S E T H:

WHEREAS, for its lawful corporate purposes, the Company has duly authorized the issuance of its First Lien Convertible Senior Notes due 2029 (the "***Notes***", as more fully set forth in Section 1.01), initially in an aggregate principal amount not to exceed $150,000,000, subject to the issuance of (i) Additional Notes in an aggregate principal amount of up to $50,000,000 in accordance with Section 2.10 and (ii) PIK Notes issuable from time to time on each Interest Payment Date in connection with the PIK Payment required to be made on such Interest Payment Date in accordance with Section 2.11, and in order to provide the terms and conditions upon which the Notes are to be authenticated, issued and delivered, the Company has duly authorized the execution and delivery of this Indenture; and

WHEREAS, the obligations of the Company with respect to the due and punctual payment of the principal of, Notes Premium, if any, and interest on the Notes and the performance and observation of each covenant and agreement under this Indenture to be performed or observed will be guaranteed by the Subsidiary Guarantors; and

WHEREAS, the Form of Note, the certificate of authentication to be borne by each Note, the Form of Notice of Conversion, the Form of Fundamental Change Offer Repurchase Notice, the Form of Asset Sale Repurchase Notice and the Form of Assignment and Transfer to be borne by the Notes are to be substantially in the forms hereinafter provided; and

WHEREAS, all acts and things necessary to make the Notes, when executed by the Company and authenticated and delivered by the Trustee or a duly authorized authenticating agent, as in this Indenture provided, the valid, binding and legal obligations of the Company, and this Indenture a valid agreement according to its terms, have been done and performed, and the execution of this Indenture by the Company and the Subsidiary Guarantors and the issuance hereunder of the Notes by the Company have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Notes are, and are to be, authenticated, issued and delivered, and in consideration of the premises and of the purchase and acceptance of the Notes by the Holders thereof, each of the Company and the Subsidiary Guarantors covenants and agrees with the Trustee and the Collateral Agent for the equal and proportionate benefit of the respective Holders from time to time of the Notes (except as otherwise provided below), as follows:

ARTICLE 1
DEFINITIONS

Section 1.01 Definitions. The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01.

"***Acceleration Date***" means the date on which all the Notes have been declared or have become due and payable pursuant to Section 6.02.

"***Acceleration Premium***" means, with respect to any Note on any applicable Acceleration Date, the present value at such Acceleration Date of all unpaid interest payments in the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would be due after such Acceleration Date on such Note (and on any PIK Notes that would be issued to effect payment of such PIK Interest) through the Stated Maturity if such acceleration had not occurred (excluding accrued and unpaid interest to, but excluding, the Acceleration Date), computed using a discount rate equal to the relevant Premium Treasury Rate as of such Acceleration Date plus 50 basis points, as calculated by the Company or its agent; the Trustee shall have no responsibility to calculate or verify the calculation of the Acceleration Premium.

Thus, as an example, and for the avoidance of doubt, if an Acceleration Date occurs, the amount payable on the Acceleration Date on all the Notes (including any Notes previously issued as PIK Notes) will consist of cash in an amount equal to the sum of (i) 100% of the aggregate principal amount of all the Notes (including the principal amount of all Notes previously issued as PIK Notes) plus (ii) all the accrued and unpaid interest on all the Notes (including on all the Notes previously issued as PIK Notes) at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) to, but excluding, the Acceleration Date plus (iii) the applicable Acceleration Premium on all the Notes (including any Notes previously issued as PIK Notes).

"***Accounting Changes***" means changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the Commission.

"***Action***" shall have the meaning specified in Section 13.01(e).

"***Additional Interest***" means all amounts, if any, payable pursuant to Section 4.06(d) or Section 4.06(e).

"***Additional Notes***" means Notes in an aggregate principal amount not to exceed $50,000,000 issued on the Additional Notes Issue Date in accordance with Section 2.10, (it being understood that neither any PIK Note issued pursuant to and in accordance with Section 2.11 nor any Note issued in exchange for or replacement of any Note issued pursuant to and in accordance with Section 2.05 or Section 2.06 shall be an Additional Note).

"***Additional Notes Issue Date"*** means, as to Additional Notes, the date of issuance thereof pursuant to and in accordance with Section 2.10.

"***Affiliate***" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control", when used with respect to any specified Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. Notwithstanding anything to the contrary herein, the determination of whether one Person is an "Affiliate" of another Person for purposes of this Indenture shall be made based on the facts at the time such determination is made or required to be made, as the case may be, hereunder. For purposes of this definition, the Designated Holders will not be deemed an "Affiliate" of the Company as a result of the transactions contemplated by the Exchange Agreement.

"***After-Acquired Collateral***" shall have the meaning specified in Section 4.15(a).

"***Anti-Corruption Laws***" means the FCPA, UK Bribery Act 2010, and any other state or federal Requirements of Law of any jurisdiction applicable to the Company, any Subsidiary Guarantor or any of their Subsidiaries or controlled Affiliates from time to time concerning or relating to bribery or corruption.

"***Anti-Terrorism Laws***" means Executive Order No. 13224 (effective September 24, 2001), the Patriot Act, Money Laundering Control Act of 1986, the laws comprising or implementing the Bank Secrecy Act, the UK Proceeds of Crime Act 2002, the UK Terrorism Act 2000, and any other Requirements of Law of any jurisdiction applicable to the Company, any Subsidiary Guarantor or any of their Subsidiaries or Affiliates from time to time concerning or relating to terrorism financing or money laundering.

"***Applicable Procedures***" means, with respect to a Depositary, as to any matter at any time, the policies and procedures of such Depositary, if any, that are applicable to such matter at such time.

"***Asset Sale***" means:

(a) the sale, lease, conveyance or other disposition of any assets or rights (whether in a single transaction or a series of related transactions) outside of the ordinary course of business of the Company and its Subsidiaries; provided, that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company and its Subsidiaries taken as a whole will be governed under Article 11; and

(b) the issuance of Capital Stock by any of the Company's Subsidiaries or the sale of Capital Stock in any of the Company's Subsidiaries (other than directors' qualifying Capital Stock or Capital Stock required by applicable law to be held by a Person other than the Company or one of its Subsidiaries).

Notwithstanding anything to the contrary in the preceding paragraph, none of the following items will be deemed to be an Asset Sale:

(a) a transfer of assets or rights between or among the Company and its Subsidiary Guarantors;

(b) an issuance or sale of Capital Stock by any Subsidiary of the Company to the Company or to another Subsidiary; provided, that any Subsidiary that is not a Subsidiary Guarantor shall not own Capital Stock of a Subsidiary Guarantor;

(c) any sale or other disposition of damaged, worn-out or obsolete assets or assets otherwise unsuitable or no longer required for use in the ordinary course of the business of the Company and its Subsidiaries (including the abandonment or other disposition of property that is, in the reasonable judgment of the Company, no longer profitable, economically practicable to maintain or useful in the conduct of the business of the Company and its Subsidiaries, taken as a whole);

(d) a Restricted Payment that is not prohibited under Section 4.12 or a Permitted Investment;

(e) dispositions constituting casualty or condemnation events;

(f) the creation of or realization on a Lien to the extent that the granting of such Lien was not prohibited under Section 4.11;

(g) the sale or other disposition of cash, Cash Equivalents or marketable securities in the ordinary course of business;

(h) the lapse, abandonment or other disposition of intellectual property rights in the ordinary course of business, which in the reasonable good faith determination of the Company are no longer commercially reasonable to maintain or are not material to the conduct of the Company and its Subsidiaries, taken as a whole;

(i) the sale or other disposition of the two businesses identified in the Exchange Agreement, provided, however, that the corresponding purchase and sale agreement (or similar agreement) must provide that the net proceeds received from such sale will be delivered to the Company or a Subsidiary Guarantor;

(j) non-exclusive licenses or sublicenses of intellectual property rights to non-Affiliates for Fair Market Value (for the avoidance of doubt, unless otherwise excluded pursuant to any other clause of this definition, any exclusive licenses or sublicenses of intellectual property rights to non-Affiliates shall be an Asset Sale); and

(k) additional non-ordinary course asset sales, transfers or other dispositions in an aggregate amount during the term of this Indenture not to exceed $1,000,000 of Fair Market Value determined at the time of sale, transfer or disposition, as applicable.

"***Asset Sale Offer***" shall have the meaning specified in Section 4.13(b)(i).

"***Asset Sale Offer Company Notice***" shall have the meaning specified in Section 4.13(b)(iv).

"***Asset Sale Offer Consideration Amount***" shall have the meaning specified in Section 4.13(b)(i).

"***Asset Sale Offer Repurchase Date***" shall have the meaning specified in Section 4.13(b)(i).

"***Asset Sale Offer Repurchase Notice***" shall have the meaning specified in Section 4.13(b)(iii).

"***Asset Sale Offer Repurchase Premium***" means, with respect to any Note on any applicable Asset Sale Offer Repurchase Date, the present value at such Asset Sale Offer Repurchase Date of all unpaid interest payments in the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would be due after such Asset Sale Offer Repurchase Date on such Note (and on any PIK Notes that would be issued to effect payment of such PIK Interest) through the Stated Maturity if such Asset Sale Trigger had not occurred (excluding accrued and unpaid interest to, but excluding, the Asset Sale Offer Repurchase Date), computed using a discount rate equal to the relevant Premium Treasury Rate as of such Asset Sale Offer Repurchase Date plus 50 basis points, as calculated by the Company or its agent; the Trustee shall have no responsibility to calculate or verify the calculation of the Asset Sale Offer Repurchase Premium.

Thus, as an example, and for the avoidance of doubt, upon the occurrence of an Asset Sale Trigger, the amount payable as the "Asset Sale Offer Repurchase Price" on all Notes (including any Notes previously issued as PIK Notes) to be repurchased on the Asset Sale Offer Repurchase Date (unless

such Asset Sale Offer Repurchase Date falls after an Interest Record Date but on or prior to the immediately succeeding Interest Payment Date) will consist of cash in an amount equal to the sum of (i) 100% of the aggregate principal amount of such Notes plus (ii) all the accrued and unpaid interest on such Notes at the full amount of Stated Interest to, but excluding, such Asset Sale Offer Repurchase Date plus (iii) the Asset Sale Offer Repurchase Premium on such Notes (including any such Notes previously issued as PIK Notes).

To continue this example and for the further avoidance of doubt, if the Asset Sale Offer Repurchase Date falls after an Interest Record Date but on or prior to the Interest Payment Date to which such Interest Record Date relates, then (i) the Holders at the close of business on such Interest Record Date of all the Notes (including any Notes previously issued as PIK Notes) to be repurchased will be entitled, notwithstanding such Asset Sale Offer Repurchase Date, to receive, on such Interest Payment Date, the unpaid interest on such Notes at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would have accrued on such Notes to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Notes remained outstanding through such Interest Payment Date, if such Asset Sale Offer Repurchase Date is before such Interest Payment Date); and (ii) the Holders of such Notes to be repurchased on the Asset Sale Offer Repurchase Date will be entitled to receive on such Asset Sale Offer Repurchase Date the Asset Sale Offer Repurchase Price in an amount in cash equal to the sum of 100% of the aggregate principal amount of such Notes plus the Asset Sale Offer Repurchase Premium on such Notes (including any such Notes previously issued as PIK Notes).

"***Asset Sale Offer Repurchase Price***" shall have the meaning specified in Section 4.13(b)(i).

"***Asset Sale Trigger***" shall have the meaning specified in Section 4.13(b)(i).

"***Authorized Denomination***" means, with respect to a Note, a minimum principal amount thereof equal to $1.00 or any integral multiple of $1.00 in excess thereof.

"***Bankruptcy Law***" means Title 11, U.S. Code, as amended, or any similar federal or state law for the relief of debtors.

"***Bid Solicitation Agent***" means the Company or the Person appointed by the Company to solicit bids for the Trading Price of the Notes in accordance with Section 14.01(b)(i). The Company shall initially act as the Bid Solicitation Agent.

"***Board of Directors***" means the board of directors of the Company or a committee of such board duly authorized to act for it hereunder.

"***Board Resolution***" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors, and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"***Business Day***" means, with respect to any Note, any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

"***Capital Lease***" means any lease that is required to be capitalized for financial reporting purposes in accordance with U.S. GAAP (with the amount of any Indebtedness in respect of a Capital Lease being

the capitalized amount of the obligations under such Capital Lease determined in accordance with U.S. GAAP).

"***Capital Lease Obligations***" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as Capital Leases, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with U.S. GAAP provided, however, that all obligations of any Person that are or would have been treated as operating leases (including for avoidance of doubt, any network lease or any operating indefeasible right of use) for purposes of U.S. GAAP prior to December 15, 2018 shall continue to be accounted for as operating leases for purposes of all financial definitions and calculations for purpose of the Indenture (whether or not such operating lease obligations were in effect on such date) notwithstanding the fact that such obligations are required in accordance with U.S. GAAP as in effect on or after December 15, 2018 to be treated as Capital Lease Obligations in the Company's financial statements.

"***Capital Stock***" means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

"***Cash Equivalents***" means: (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States Government or issued by any agency thereof and backed by the full faith and credit of the United States, or insured by the United States Government or any government of any member of the European Union or the United Kingdom or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full-faith-and-credit obligation of such government, in each case, maturing within one (1) year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of one (1) year or less from the date of acquisition issued by any commercial bank organized under the laws of the United States or any state thereof, having combined capital and surplus of not less than $500,000,000 and a rating of "A" (or such other similar equivalent rating) or higher by at least one "nationally recognized statistical rating organization" (as defined in Section 3(a)(62) of the Exchange Act); (c) commercial paper of an issuer rated at least A-1 by McGraw Hill Financial, Inc. ("***S&P***") or P-1 by Moody's Investors Service, Inc. ("***Moody's***"), or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within one (1) year from the date of acquisition; (d) repurchase obligations of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than thirty (30) days, with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one (1) year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of six (6) months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the requirements of clause (b) of this definition; (g) money market mutual or similar funds that invest exclusively in assets satisfying the requirements of one or more of the clauses (a) through (e) of this definition; (h) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least $5,000,000,000; or (i) instruments comparable in credit quality and tenor to those referred to in clauses (a) through (h) above

and customarily used by corporations for normal cash management purposes in a jurisdiction outside of the United States.

"***Clause A Distribution***" shall have the meaning specified in Section 14.04(c).

"***Clause B Distribution***" shall have the meaning specified in Section 14.04(c).

"***Clause C Distribution***" shall have the meaning specified in Section 14.04(c).

"***close of business***" means 5:00 p.m. (New York City time).

"***Code***" shall have the meaning specified in Section 14.12(a).

"***Collateral***" means the rights, property and assets securing the Notes over which a Lien has been granted pursuant to the Security Documents, and any rights, property or assets over which a Lien has been granted to secure the Notes Obligations of the Company and the Subsidiary Guarantors under the Notes, the Note Guarantees and this Indenture.

"***Collateral Agent***" means the Person named as the "Collateral Agent" in the first paragraph of this Indenture until a successor collateral agent shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Collateral Agent" shall mean or include each Person who is then a Collateral Agent hereunder.

"***Commission***" means the U.S. Securities and Exchange Commission.

"***Common Equity***" of any Person means Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

"***Common Stock***" means the Common Stock of the Company, par value $0.001 per share, at the date of this Indenture, subject to Section 14.07.

"***Company***" shall have the meaning specified in the first paragraph of this Indenture, and subject to the provisions of Article 11, shall include its successors and assigns.

"Company Order" means a written order of the Company, signed by the Company's Chief Executive Officer, Chief Financial Officer, any President or Vice President (whether or not designated by a number or numbers or word or words added before or after the title "President" or "Vice President") or the Company's Treasurer or Assistant Treasurer, and delivered to the Trustee.

"***Conversion Agent***" shall have the meaning specified in Section 4.02.

"***Conversion Amount***" means, with respect to any Notes being converted, an amount in dollars equal to the sum of (i) the aggregate principal amount of such Notes, *plus* (ii) the accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) on such principal amount of such Notes to, and including the Conversion Date.

"***Conversion Date***" shall have the meaning specified in Section 14.02(c).

"***Conversion Obligation***" shall have the meaning specified in Section 14.01(a).

"***Conversion Price***" means as of any time, $1,000, divided by the Conversion Rate as of such time.

"***Conversion Rate***" shall have the meaning specified in Section 14.01(b).

"***Corporate Event***" shall have the meaning specified in Section 14.01(b)(iii).

"***Corporate Trust Office***" means the designated office of the Trustee or the Collateral Agent, as applicable, at which at any time this Indenture shall be administered, which office at the date hereof is located at 633 West Fifth Street, 24th Floor, Los Angeles, California 90071, Attention: B. Scarbrough (LivePerson, Inc.), or such other address as the Trustee or the Collateral Agent, as applicable, may designate from time to time by notice to the Holders and the Company, or the designated corporate trust office of any successor trustee or successor collateral agent (or such other address as such successor trustee or successor collateral agent may designate from time to time by notice to the Holders and the Company).

"***Custodian***" means the Trustee, as custodian for Cede & Co., with respect to the Global Notes, or any successor entity thereto.

"***Daily Conversion Value***" means, for each of the 50 consecutive Trading Days during the relevant Observation Period, 2.0% of the product of (a) the Conversion Rate on such Trading Day and (b) the Daily VWAP on such Trading Day.

"***Daily VWAP***" means, for each of the 50 consecutive Trading Days during the relevant Observation Period, the per share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "LPSN <equity> AQR" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such Trading Day (or if such volume-weighted average price is unavailable, the market value of one share of the Common Stock on such Trading Day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by the Company). The "Daily VWAP" shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

"***Default***" means any event that is, or after notice or passage of time, or both, would be, an Event of Default.

"***Defaulted Amounts***" means any amounts on any Note (including, without limitation, the Redemption Price, the Asset Sale Offer Repurchase Price, the Fundamental Change Repurchase Price, principal, any applicable Notes Premium (to the extent not duplicative of the foregoing) and interest) that are payable but are not punctually paid or duly provided for.

"***Delayed Draw Purchase***" has the meaning ascribed thereto in the Exchange Agreement.

"***delivered***" with respect to any notice to be delivered, given or mailed to a Holder pursuant to this Indenture, shall mean notice (x) given to the Depositary (or its designee) pursuant to the standing instructions from the Depositary or its designee, including by electronic mail in accordance with accepted practices or Applicable Procedures (in the case of a Global Note) or (y) mailed to such Holder by first class mail, postage prepaid, at its address as it appears on the Note Register, in each case in accordance

with Section 17.03. Notice so "delivered" shall be deemed to include any notice to be "mailed" or "given," as applicable, under this Indenture.

"***Depositary***" means, with respect to each Global Note, the Person specified in Section 2.05(c) as the Depositary with respect to such Notes, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Indenture, and thereafter, "Depositary" shall mean or include such successor.

"***Designated Holders***" shall have the meaning specified in Section 4.34.

"***Designated Person***" means at any time, (a) any Person who is the target of Sanctions including any Person listed in any Sanctions-related list of designated Persons maintained by the U.S. government, including OFAC, the U.S. Department of State, the U.S. Department of Commerce or His Majesty's Treasury, (b) any Person operating, organized or resident in a country or territory that it the subject of comprehensive Sanctions or whose government is the subject or target of Sanctions or (c) any Person owned or otherwise controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"***Distributed Property***" shall have the meaning specified in Section 14.04(c).

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

"***Effective Date***" as used in Section 14.04 and Section 14.05, shall mean the first date on which shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, reflecting the relevant share split or share combination, as applicable.

"***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended, including (unless the context otherwise requires) any rules or regulations promulgated thereunder.

"***ERISA Affiliate***" means each corporation, trade or business (whether or not incorporated) which is treated as a single employer with the Company or any Subsidiary of the Company under Section 414(b) or (c) of the Code or, solely for the purposes of Section 302 of ERISA and Section 412 of the Code, any other Person required to be aggregated with the Company or any Subsidiary of the Company under Section 414(m) or (o) of the Code. Any former ERISA Affiliate of the Company or any Subsidiary of the Company shall continue to be considered an ERISA Affiliate of the Company or such Subsidiary within the meaning of this definition with respect to the period such entity was an ERISA Affiliate of the Company or such Subsidiary and with respect to liabilities arising after such period for which the Company or such Subsidiary could be liable under the Code or ERISA.

"***ERISA Event***": any of (a) a reportable event as defined in Section 4043 of ERISA with respect to a Pension Plan, excluding, however, such events as to which the PBGC by regulation has waived the requirement of Section 4043(a) of ERISA that it be notified within 30 days of the occurrence of such event; (b) the applicability of the requirements of Section 4043(b) of ERISA with respect to a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, to any Pension Plan where an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to such plan within the following 30 days, excluding, however, such events as to which the PBGC by regulation has waived the requirement of Section 4043(b) of ERISA); (c) a withdrawal by any of the Company and its Subsidiaries or any ERISA Affiliate from a Pension Plan or the termination of any Pension Plan resulting in liability under Sections 4063 or 4064 of ERISA; (d) the withdrawal of any of the

Company and its Subsidiaries or any ERISA Affiliate in a complete or partial withdrawal (within the meaning of Section 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt by any of the Company and its Subsidiaries or any ERISA Affiliate of notice from any Multiemployer Plan that it is in insolvency pursuant to Section 4245 of ERISA; (e) the filing of a notice of intent to terminate, the treatment of a plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or the receipt by any of the Company and its Subsidiaries or any ERISA Affiliate of notice from any Multiemployer Plan that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (f) the imposition of liability on any of the Company and its Subsidiaries or any ERISA Affiliate pursuant to Sections 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (g) the failure by any of the Company and its Subsidiaries or any ERISA Affiliate to make any required contribution to a Pension Plan, or the failure to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Code or Section 302(c) of ERISA) or the failure to make by its due date a required installment under Section 430 of the Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (h) the determination that any Pension Plan is, or is expected to be, in "at-risk" status (within the meaning of Section 430 of the Code or Section 303 of ERISA) or any Multiemployer Plan is, or is expected to be, in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (i) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (j) the imposition of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any of the Company and its Subsidiaries or any ERISA Affiliate with respect to any Pension Plan; (k) an application for a funding waiver under Section 302 of ERISA or Section 412 of the Code or an extension of any amortization period pursuant to Section 303 of ERISA or Section 430 of the Code with respect to any Pension Plan; (l) the occurrence of a non-exempt prohibited transaction under Sections 406 or 407 of ERISA or Section 4975 of the Code for which any of the Company and its Subsidiaries or any Subsidiary thereof may be directly or indirectly liable; (m) the occurrence of an act or omission which would be reasonably expected to give rise to the imposition on any of the Company and its Subsidiaries of fines, penalties, taxes or related charges under Chapter 43 of the Code or under Sections 409, 502(c), (i) or (1) or 4071 of ERISA; (n) the assertion of a material claim (other than routine claims for benefits) against any Plan or the assets thereof, or against any of the Company and its Subsidiaries or any Subsidiary thereof in connection with any Plan; (o) receipt from the IRS of notice of the failure of any Qualified Plan to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Qualified Plan to fail to qualify for exemption from taxation under Section 501(a) of the Code; or (p) the imposition of any lien (or the fulfillment of the conditions for the imposition of any lien) on any of the rights, properties or assets of any of the Company and its Subsidiaries or any ERISA Affiliate thereof, in either case pursuant to Title I or IV of ERISA, including Section 303(k) of ERISA or to Section 430(k) of the Code.

"***Existing Notes***" means the Company's 0% Convertible Senior Notes due 2026 issued on December 4, 2020.

"***Existing Notes Test Date***" means September 15, 2026.

"***Existing Notes Test Date Notice***" has the meaning set for in Section 15.01(c)

"***Existing Notes Test Maturity Date***" has the meaning set forth in Section 15.01(b).

"***Existing Notes Test Maturity Premium***" means, with respect to any Note on any applicable Existing Notes Test Maturity Date, the present value at such Existing Notes Test Maturity Date of all unpaid interest payments in the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would be due after such Existing Notes Test Maturity Date on such Note (and on any PIK Notes that would be issued to effect payment of such PIK Interest) through the Stated Maturity if such Existing Notes Test Maturity Date had not occurred (excluding accrued and unpaid interest to, but excluding, the Existing Notes Test Maturity Date), computed using a discount rate equal to the relevant Premium Treasury Rate as of such Existing Notes Test Maturity Date plus 50 basis points, as calculated by the Company or its agent; the Trustee shall have no responsibility to calculate or verify the calculation of the Existing Notes Test Maturity Premium.

Thus, as an example, and for the avoidance of doubt, the amount payable on the Existing Notes Test Maturity Date (unless such Existing Notes Test Maturity Date falls after an Interest Record Date but on or prior to the Interest Payment Date to which such Interest Record Date relates) on all the Notes (including any Notes previously issued as PIK Notes) will consist of cash in an amount equal to the sum of (i) 100% of the aggregate principal amount of all of the Notes (including the principal amount of all Notes previously issued as PIK Notes) plus (ii) all of the accrued and unpaid interest on all of the Notes at the full amount of Stated Interest on all the Notes (including both the cash interest and PIK Interest portions thereof) to, but excluding, the Existing Notes Test Maturity Date plus (iii) the applicable Existing Notes Test Maturity Premium thereon on all the Notes (including any Notes previously issued as PIK Notes).

To continue this example and for the further avoidance of doubt, if the Existing Notes Test Maturity Date falls after an Interest Record Date but on or prior to the Interest Payment Date to which such Interest Record Date relates, then (i) the Holders of Notes (including any Notes previously issued as PIK Notes) at the close of business on such Interest Record Date will be entitled, notwithstanding such Existing Notes Test Maturity Date, to receive, on such Interest Payment Date, the unpaid interest on all the Notes at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would have accrued on such Notes to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Notes remained outstanding through such Interest Payment Date, if such Existing Notes Test Maturity Date is before such Interest Payment Date); and (ii) the Holders of such Notes on the Existing Notes Test Maturity Date will be entitled to receive on such Existing Notes Test Maturity Date an amount in cash equal to the sum of 100% of the aggregate principal amount of such Notes plus the Existing Notes Test Maturity Premium on such Notes (including any such Notes previously issued as PIK Notes).

"***Export/Import Controls***" means (a) the U.S. Export Administration Regulations administered by the U.S. Department of Commerce, the International Traffic in Arms Regulations administered by the U.S. Department of State, and any other applicable Requirements of Law related to export controls and (b) customs laws administered or enforced by the United States, including the U.S. Customs and Border Protection, and any other applicable Requirements of Law related to import controls or customs.

"***Event of Default***" shall have the meaning specified in Section 6.01.

"***Excluded Property***" means any of the following:

(a) any General Intangible, Capital Stock, authorization, permit, lease, license, franchise, charter, contract, intellectual property, property right or agreement to which any grantor is a party or any of its rights, title or interests thereunder, in each case, if and only to the extent as to which pledges thereof

or a grant of a security interest in favor of the Collateral Agent shall constitute or result in a breach of a term or provision of, or the termination of the abandonment, invalidation or unenforceability or a default under the terms of, such General Intangible, Capital Stock, authorization, permit, lease, license, franchise, charter, contract, intellectual property, property right or agreement (other than to the extent that (I) such restriction or condition was established in contemplation of this exception, (II) such restriction or condition is in favor of any grantor or any Subsidiary or (III) any such law, rule, regulation, term or provision or limitation on such grant would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC of any relevant jurisdiction or any other applicable law (including any debtor relief law or principle of equity)); provided, however, that; (x) if such breach, termination, invalidation or unenforceability or default arises solely from a contractual obligation with a non-affiliated third party as of the Original Issue Date or at the time of its acquisition and not entered into in contemplation thereof prohibiting or restricting pledges of such assets (including Capital Stock) covered in this clause (a), such Capital Stock shall be excluded under this clause (a) only if the applicable grantor has used commercially reasonable efforts to obtain, and nevertheless has failed to obtain, consent from such third party to such Lien or to remove such prohibition or restriction, (y) the right to receive Proceeds arising therefrom or any other rights referred to in Sections 9-406(f), 9-407(a), or 9-408(a) of the UCC or any Proceeds, substitutions or replacements thereof shall not be Excluded Property (unless such rights, Proceeds, substitutions or replacements would otherwise independently constitute Excluded Property) and (z) at such time as the contractual or legal prohibitions or restrictions on such grant described above shall no longer be applicable and to the extent severable, such asset or property (or portion thereof) shall cease to be Excluded Property and the Lien of the Collateral Agent shall attach immediately to the portion of such General Intangible or authorization, permit, lease, license, franchise, charter, contract, intellectual property, property right or agreement not subject to the limitations and exclusions specified in the provisions above;

(b) any letter-of-credit rights to the extent a security interest therein cannot be perfected by the filing of a UCC-1 financing statement in the jurisdiction of organization (or other location of a grantor under Section 9-307 of the UCC) of the applicable grantor;

(c) (i) with respect to any trademarks, applications in the PTO to register trademarks on the basis of any of grantor's "intent to use" such trademarks will not be deemed to be Collateral unless and until a "statement of use" or "amendment to allege use" has been filed and accepted in the PTO, whereupon such application shall be automatically subject to the security interest granted herein and deemed to be included in the Collateral, and (ii) with respect to any other trademark or any patents or copyrights, such trademarks, patents or copyrights will not be deemed to be Collateral if the creation of a security interest therein will constitute or result in the abandonment, impairment, invalidation or unenforceability thereof any assets to the extent and for so long as the pledge of such assets is prohibited by law and such prohibition is not overridden by the UCC or other applicable law;

(d) margin stock (within the meaning of Regulation U issued by the Federal Reserve Board) to the extent the creation of a security interest therein in favor of the Collateral Agent will result in a violation of Regulation U issued by the Federal Reserve Board;

(e) assets to the extent as to which pledges thereof or a grant of security interest therein are prohibited or restricted by applicable law (including any requirement to obtain the consent of (i) any governmental authority or (ii) similar regulatory third party, in each case, except to the extent such consent has been obtained);

(f) assets (with the consent of the Collateral Agent (at the direction of the Required Holders)) to the extent as to which pledges thereof or the grant of a security interest therein would result in material adverse tax consequences to any grantor or any of its Subsidiaries;

(g) (i) any leasehold or subleasehold interest (including any ground lease interest) in real property and (ii) any fee interest in owned real property other than owned real property having a fair market value in excess of $250,000;

(h) all Commercial Tort Claims where the amount of damages reasonably expected to be realized by the applicable grantor in such Commercial Tort Claims (as determined by the Company in good faith) is not in excess of $250,000 individually or in the aggregate;

(i) motor vehicles, aircraft and other assets subject to certificates of title or ownership (including, without limitation, aircraft, airframes, aircraft engines or helicopters, or any equipment or other assets constituting a part thereof and rolling stock) in each case, to the extent a security interest therein cannot be perfected by the filing of a UCC-1 financing statement in the jurisdiction of organization (or other location of a grantor under Section 9-307 of the UCC) of the applicable grantor; and

(j) any specifically identified asset with respect to which the costs of obtaining, perfecting or maintaining a security interest or pledge exceed the fair market value thereof and the practical benefit to the Holders afforded thereby as determined by the Collateral Agent (at the direction of the Required Holders);

provided, however, that Excluded Property shall not include any Proceeds, substitutions or replacements of any Excluded Property unless such Proceeds, substitutions or replacements would independently constitute Excluded Property.

"***Excluded Subsidiary***" means, as of any date, with respect to any Subsidiary of the Company acquired or organized after the date of the Exchange Agreement, (a) Domestic Subsidiaries that have less than $10,000 of total assets, (b) Foreign Subsidiaries that have less than $10,000 of total assets (or the local currency equivalent), (c) Foreign Subsidiaries organized in jurisdictions where the costs of obtaining a secured guarantee exceed the practical benefit afforded to the Holders thereby (as determined by the Designated Holders, or at such time the Designated Holders no longer constitute Required Holders, by the Company it its reasonable discretion) or where upstream guarantees are not customarily provided for in respect of senior secured high yield debt instruments (with guarantee limitations for such entities customary in such foreign jurisdictions) and (d) (with the consent of the Designated Holders, or at such time the Designated Holders no longer constitute Required Holders, by the Company it its reasonable discretion) any Subsidiary to the extent the provision of a guarantee by such Subsidiary would reasonably be expected to result in material adverse tax consequences to the Company or its Subsidiaries, provided, however, that an "Excluded Subsidiary" will not include any Subsidiary that guarantees any Indebtedness of the Company.

"***Ex-Dividend Date***" means the first date on which shares of the Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of the Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

"***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"***Exchange Agreement***" means that certain Exchange and Purchase Agreement, dated as of May 13, 2024, by and between the Company and Lynrock, as may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with its terms.

"***Fair Market Value***" means the value that would be paid by a willing buyer or licensor to an unaffiliated willing seller or licensee in a transaction not involving distress or necessity of either party, determined in good faith by the Company.

"***FCPA***": the Foreign Corrupt Practices Act of 1977, as amended.

"***Foreign Benefit Arrangement***": any employee benefit arrangement mandated by nonUS law that is maintained or contributed to by the Company or any Subsidiary thereof.

"***Foreign Plan***": each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to US law and is maintained or contributed to by the Company or any Subsidiary thereof.

"***Foreign Plan Event***": with respect to any Foreign Benefit Arrangement or Foreign Plan, (a) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any employer or employee contributions required by applicable law or by the terms of such Foreign Benefit Arrangement or Foreign Plan; (b) the failure to register or loss of good standing with applicable regulatory authorities of any such Foreign Benefit Arrangement or Foreign Plan required to be registered; or (c) the failure of any Foreign Benefit Arrangement or Foreign Plan to comply with any material provisions of applicable law and regulations or with the material terms of such Foreign Benefit Arrangement or Foreign Plan.

"***Foreign Subsidiary***" means any Subsidiary that is not a Domestic Subsidiary.

"***Form of Assignment and Transfer***" shall mean the "Form of Assignment and Transfer" attached as Attachment 4 to the Form of Note attached hereto as Exhibit A.

"***Form of Asset Sale Offer Repurchase Notice***" shall mean the "Form of Asset Sale Offer Repurchase Notice" attached as Attachment 3 to the Form of Note attached hereto as Exhibit A.

"***Form of Fundamental Change Repurchase Notice***" shall mean the "Form of Fundamental Change Repurchase Notice" attached as Attachment 2 to the Form of Note attached hereto as Exhibit A.

"***Form of Note***" shall mean the "Form of Note" attached hereto as Exhibit A.

"***Form of Notice of Conversion***" shall mean the "Form of Notice of Conversion" attached as Attachment 1 to the Form of Note attached hereto as Exhibit A.

"***Fundamental Change***" shall be deemed to have occurred at the time after the Notes are originally issued if any of the following occurs:

(a) a "person" or "group" within the meaning of Section 13(d) or 14(a) of the Exchange Act, other than the Company, its Wholly Owned Subsidiaries and the employee benefit plans of the Company and its Wholly Owned Subsidiaries, has become the direct or indirect

"beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of more than 50% of the voting power of the Company's Common Equity.

(b) the consummation of (A) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, or other property or assets; (B) any share exchange, consolidation or merger of the Company pursuant to which the Company's Common Stock will be converted into cash, securities or other property or assets; or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one of the Company's Wholly Owned Subsidiaries;

(c) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company;

(d) any merger, consolidation or sale of all or substantially all of the property or assets of the Company and its Subsidiaries, taken as a whole, to any third party; or

(e) the Common Stock (or other common stock underlying the Notes) ceases to be listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market, or The Nasdaq Global Market (or any of their respective successors).

"***Fundamental Change Company Notice***" shall have the meaning specified in Section 15.02(c).

"***Fundamental Change Repurchase Date***" shall have the meaning specified in Section 15.02(b).

"***Fundamental Change Repurchase Notice***" shall have the meaning specified in Section 15.02(b)(i).

"***Fundamental Change Repurchase Premium***" means, with respect to any Note on any applicable Fundamental Change Repurchase Date, the product of (i) 66% and (ii) the present value at such Fundamental Change Repurchase Date of all unpaid interest payments in the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would be due after such Fundamental Change Repurchase Date on such Note (and on any PIK Notes that would be issued to effect payment of such PIK Interest) through the Stated Maturity if such Fundamental Change had not occurred (excluding accrued and unpaid interest to, but excluding, the Fundamental Change Repurchase Date), computed using a discount rate equal to the relevant Premium Treasury Rate as of such Fundamental Change Repurchase Date plus 50 basis points, as calculated by the Company or its agent; the Trustee shall have no responsibility to calculate or verify the calculation of the Fundamental Change Repurchase Premium.

Thus, as an example, and for the avoidance of doubt, if a Fundamental Change occurs at any time prior to the Stated Maturity, the amount payable as the "Fundamental Change Repurchase Price" on all Notes (including any Notes previously issued as PIK Notes) to be repurchased on the Fundamental Change Repurchase Date (unless such Fundamental Change Repurchase Date falls after an Interest Record Date but on or prior to the immediately succeeding Interest Payment Date) will consist of cash in an amount equal to the sum of (i) 100% of the aggregate principal amount of such Notes plus (ii) all the accrued and unpaid interest on such Notes at the full amount of Stated Interest to, but excluding, such

Fundamental Change Repurchase Date plus (iii) the Fundamental Change Repurchase Premium on such Notes (including any such Notes previously issued as PIK Notes).

To continue this example and for the further avoidance of doubt, if the Fundamental Change Repurchase Date falls after an Interest Record Date but on or prior to the Interest Payment Date to which such Interest Record Date relates, then (i) the Holders at the close of business on such Interest Record Date of all the Notes (including any Notes previously issued as PIK Notes) to be repurchased will be entitled, notwithstanding such Fundamental Change Repurchase Date, to receive, on such Interest Payment Date, the unpaid interest on such Notes at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would have accrued on such Notes to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Notes remained outstanding through such Interest Payment Date, if such Fundamental Change Repurchase Date is before such Interest Payment Date); and (ii) the Holders of such Notes to be repurchased on the Fundamental Change Repurchase Date will be entitled to receive on such Fundamental Change Repurchase Date the Fundamental Change Repurchase Price in an amount in cash equal to the sum of 100% of the aggregate principal amount of such Notes plus the Fundamental Change Repurchase Premium on such Notes (including any such Notes previously issued as PIK Notes).

"***Fundamental Change Repurchase Price***" shall have the meaning specified in Section 15.02(a).

"***Global Note***" shall have the meaning specified in Section 15.02(b).

"***Governmental Approval***" means any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"***Governmental Authority***" means the government of the United States of America, or any other nation, or of any political subdivision thereof, whether state, provincial, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, and any group or body charged with setting accounting or regulatory capital rules or standards (including any successor or similar authority to any of the foregoing).

"***Holder***", as applied to any Note, or other similar terms (but excluding the term "beneficial holder"), shall mean any Person in whose name at the time a particular Note is registered on the Note Register.

"***Immaterial Subsidiary***" means a Subsidiary of the Company that does not individually account for greater than 2.5% of the total assets of the Company and its Subsidiaries on a consolidated basis or greater than 2.5% of the total revenue of the Company and its Subsidiaries on a consolidated basis; provided, that Subsidiaries may be characterized as "Immaterial Subsidiaries" only if they do not, in the aggregate, account for greater than 5.0% of the total assets of the Company and its Subsidiaries on a consolidated basis or greater than 5.0% of the total revenue of the Company and its Subsidiaries on a consolidated basis.

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

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

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

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

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts and accrued expenses payable in the ordinary course of business, obligations in respect of licenses and operating leases, payroll liabilities and deferred compensation and severance, pension, health and welfare retirement and equivalent benefits to current or former employees, directors or managers of such Person and its subsidiaries);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned by such Person (including indebtedness arising under conditional sales or other title retention agreements but excluding trade accounts and accrued expenses payable in the ordinary course of business and licenses and operating leases), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse, but solely to the extent such indebtedness is recourse to such Person or such property;

(f) all attributable indebtedness in respect of Capital Leases and synthetic lease obligations;

(g) all obligations in respect of Redeemable Equity; and

(h) all guarantees of such Person in respect of any of the foregoing;

provided, that, notwithstanding the foregoing, Indebtedness shall be deemed not to include (a) contingent obligations incurred in the ordinary course of business or (b) any operating lease as such an instrument would be determined in accordance with GAAP; provided, further, that Indebtedness shall be calculated without giving effect to Accounting Standards Codification topic 815, Derivatives and Hedging and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

"***Indenture***" means this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented.

"***Indenture Documents***" means this Indenture, the Notes, the Security Documents, the Intercreditor Agreement (if applicable) and the Exchange Agreement (including amendments, supplements, waivers, consents and other modifications to the foregoing). For the avoidance of doubt, the Indenture Documents shall not include the Warrants.

"***Initial Notes***" means the $150,000,000 initial aggregate principal amount of Notes issued on the Original Issue Date.

"***Intercreditor Agreement***" means the intercreditor agreement substantially in the form of Exhibit B attached hereto or otherwise in form and substance satisfactory to the Required Holders in their sole and absolute discretion.

"***Interest Payment Date***" means each June 15 and December 15 of each year, beginning on December 15, 2024.

"***Interest Record Date***" with respect to any Interest Payment Date, shall mean the June 1 or December 1 (whether or not such day is a Business Day) immediately preceding the applicable June 15 or December 15 Interest Payment Date, respectively.

"***Investments***" means, with respect to any specified Person, all direct or indirect investments by such specified Person in other Persons (including Affiliates) in the forms of loans (including guarantees of Indebtedness or other obligations), advances or capital contributions (excluding (i) commission, travel and similar advances to officers and employees made in the ordinary course of business and (ii) extensions of credit to customers or advances, deposits or payment to or with suppliers, lessors or utilities or for workers' compensation, in each case, that are incurred in the ordinary course of business), or purchases or other acquisitions for consideration of Indebtedness, Capital Stock or other securities. The acquisition by the Company or any Subsidiary of a Person that holds an Investment in a third Person that was acquired in contemplation of the acquisition of such Person will be deemed to be an Investment by the Company or such Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person determined as provided in this Indenture. Except as otherwise provided in this Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value but after giving effect (without duplication) to all subsequent reductions in the amount of such Investment as a result of the return of capital, return on investment, repayment or disposition thereof, in each case, in cash, not to exceed the original amount of such Investment.

"***Issue Date***" means (i) the Original Issue Date and (ii) any Additional Notes Issue Date.

"***Junior Indebtedness***": collectively, any Indebtedness of the Company or any of its Subsidiaries, that is (x) secured by a Lien that is junior in priority to the Lien securing the Notes Obligations, (y) Subordinated Indebtedness and/or (z) unsecured.

"***Last Reported Sale Price***" of the Common Stock on any date means the closing sale price per share (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) on that date as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is traded. If the Common Stock is not listed for trading on a U.S. national or regional securities exchange on the relevant date, the "***Last Reported Sale Price***" shall be the last quoted bid price for the Common Stock in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock is not so quoted, the "***Last Reported Sale Price***" shall be the average of the mid-point of the last bid and ask prices for the Common Stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose. The "***Last Reported Sale Price***" shall be determined without regard to after-hours trading or any other trading outside of regular trading session hours.

"***Lien***" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in the nature of a security interest in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement or any lease in the nature thereof.

"***Lynrock***" means Lynrock Lake Master Fund LP.

"***Make-Whole Fundamental Change***" means any transaction or event that constitutes a Fundamental Change (as defined above).

"***Make-Whole Payment***" shall have the meaning specified in Section 14.03(a).

"***Market Disruption Event***" means, for the purposes of determining amounts due upon conversion (a) a failure by the primary U.S. national or regional securities exchange or market on which the Common Stock is listed or admitted for trading to open for trading during its regular trading session or (b) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the Common Stock for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts traded on any U.S. exchange relating to the Common Stock.

"***Material Adverse Effect***" means any event, circumstance or condition that, individually or in the aggregate, has had or would reasonably be expected to have a materially adverse effect on (a) the business, assets, properties, liabilities (contingent or otherwise), financial condition or results of operations of the Company and its Subsidiaries, taken as a whole, (b) the ability of the Company and the Subsidiary Guarantors taken as a whole, to perform their respective obligations under the Indenture Documents or (c) the rights and remedies of the Holders, the Trustee and/or the Collateral Agent under the Indenture Documents taken as a whole; provided, that any adverse event, change, occurrence or effect publicly disclosed or announced in the Company's 10-Q for the fiscal quarter ended March 31, 2024 or its May 8, 2024 earnings release for such fiscal quarter and any notification from The Nasdaq Stock Market to the extent related to an event that is curable by the Company will, in each case, be deemed not to constitute a Material Adverse Effect; provided, further, that the foregoing proviso shall not apply to any actual delisting of the Company's Common Stock under Rule 5810(c) of The Nasdaq Stock Market.

"***Maturity Date***" means the earlier of:

(i) the Stated Maturity; or

(ii) the Existing Notes Test Date if (but only if) on such date the aggregate outstanding principal amount of Existing Notes exceeds $60,000,000.

"***Maximum Percentage***" shall have the meaning specified in Section 14.12(a).

"***Measurement Period***" shall have the meaning specified in Section 14.01.

"***Multiemployer Plan***" means a "multiemployer plan" (within the meaning of Section 3(37) or Section 4001(a)(3) of ERISA) to which the Company or any Subsidiary of the Company or any ERISA Affiliate thereof makes, is making, or is obligated or has been obligated to make, contributions within the past six (6) years.

"***Net Proceeds***" means the aggregate cash proceeds and Cash Equivalents received by the Company or any of its Subsidiaries in respect of any Asset Sale (including, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of the direct costs relating to such Asset Sale, including, without limitation, any legal, accounting and investment banking fees and sales commissions, any relocation expenses incurred as a result of such Asset Sale, any taxes paid or payable as a result of the Asset Sale, in each case, other than

to an Affiliate, and any distributions to the Company or any Subsidiary in order to pay taxes reasonably estimated to be payable by the Company or any Subsidiary as a result of the Asset Sale.

"***Note***" or "***Notes***" shall have the meaning specified in the first paragraph of the recitals of this indenture, including, unless the context otherwise requires, any Additional Notes issued in accordance with Section 2.10 and any PIK Notes issued in accordance with Section 2.11 and any Replacement Notes.

"***Note Guarantee***" means a guarantee pursuant to Article 18 by each Subsidiary Guarantor of the obligations of the Company under the Indenture and the Notes.

"***Notes Obligations***" means the Obligations of the Company and the other obligors (including the Subsidiary Guarantors) under this Indenture and the Indenture Documents to pay principal, any applicable Notes Premium and interest (including all interest accruing after the commencement of any bankruptcy, insolvency, reorganization or similar proceeding, whether or not a claim for such post-petition interest is allowed or allowable in such proceeding), fees, expenses and indemnities when due and payable, and all other amounts due or to become due under or in connection with this Indenture and the Indenture Documents and to perform the Conversion Obligation upon conversion of any Note and all other obligations of the Company and the Subsidiary Guarantors under this Indenture and the Indenture Documents, according to the respective terms thereof.

"***Notes Premium***" means, as applicable, the Acceleration Premium, the Asset Sale Offer Repurchase Premium, the Existing Notes Test Maturity Premium, the Fundamental Change Repurchase Premium or the Redemption Premium and, in the case of a conversion of Notes, any applicable Make-Whole Payment.

"***Note Register***" shall have the meaning specified in Section 2.05(a).

"***Note Registrar***" shall have the meaning specified in Section 2.05(a).

"***Notice of Conversion***" shall have the meaning specified in Section 14.02(b).

"***Obligations***" means any principal, interest, penalties, fees, expenses (including any interest, fees or expenses that accrue following the commencement of any insolvency or liquidation proceeding, whether allowed or allowable in such proceeding), indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"***Observation Period***" with respect to any Note surrendered for conversion means: (i) subject to clause (ii), if the relevant Conversion Date occurs prior to February 15, 2029 the 50 consecutive Trading Day period beginning on, and including, the second Trading Day immediately succeeding such Conversion Date; (ii) if the relevant Conversion Date occurs on or after the Company's issuance of a Redemption Notice with respect to the Notes pursuant to Section 16.02 and prior to the relevant Redemption Date, the 50 consecutive Trading Days beginning on, and including, the 51st Scheduled Trading Day immediately preceding such Redemption Date; and (iii) subject to clause (ii), if the relevant Conversion Date occurs on or after February 15, 2029, the 50 consecutive Trading Days beginning on, and including, the 51st Scheduled Trading Day immediately preceding the Maturity Date.

"***OFAC***": the Office of Foreign Assets Control of the United States Department of the Treasury and any successor thereto.

"***Officer***" means, with respect to the Company, the Chief Executive Officer, the Chief Financial Officer, the Chief Accounting Officer, the Treasurer, the Secretary, or any President or Vice President (whether or not designated by a number or numbers or word or words added before or after the title "President" or "Vice President").

"***Officer's Certificate***", when used with respect to the Company or any Subsidiary Guarantor, means a certificate that is delivered to the Trustee or the Collateral Agent, as applicable, and that is signed by an Officer of the Company or a Subsidiary Guarantor, as applicable. Each such certificate shall include the statements provided for in Section 17.05 if and to the extent required by the provisions of such Section. The Officer giving an Officer's Certificate pursuant to Section 4.08 shall be the principal executive, financial or accounting officer of the Company.

"***open of business***" means 9:00 a.m. (New York City time).

"***Opinion of Counsel***" means an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Company, that is delivered to the Trustee or the Collateral Agent, as applicable, which opinion may contain customary exceptions and qualifications as to the matters set forth therein. Each such opinion shall include the statements provided for in Section 17.05 if and to the extent required by the provisions of such Section 17.05.

"***Optional Redemption***" shall have the meaning specified in Section 16.01.

"***Original Issue Date***" means June 3, 2024.

"***outstanding***", when used with reference to Notes, shall, subject to the provisions of Section 8.04, mean, as of any particular time, all Notes authenticated and delivered by the Trustee under this Indenture, except:

(a) Notes theretofore canceled by the Trustee or accepted by the Trustee for cancellation;

(b) Notes, or portions thereof, that have become due and payable and in respect of which monies in the necessary amount shall have been deposited in trust with the Trustee or with any Paying Agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent);

(c) Notes that have been paid pursuant to Section 2.06 or Notes in lieu of which, or in substitution for which, other Notes shall have been authenticated and delivered pursuant to the terms of Section 2.06 unless proof reasonably satisfactory to the Trustee is presented that any such Notes are held by protected purchasers in due course;

(d) Notes converted (and as to which the Conversion Obligation has been fully satisfied) pursuant to Article 14 and required to be cancelled pursuant to Section 2.08;

(e) Notes redeemed pursuant to Article 16; and

(f) Notes repurchased by the Company pursuant to the penultimate sentence of Section 2.10 or pursuant to an Asset Sale Offer in accordance with Section 4.13 or a Fundamental Change Repurchase Notice in accordance with Section 15.02 and any other Notes delivered to the Trustee for cancellation.

"***Paying Agent***" shall have the meaning specified in Section 4.02.

"***PBGC***" means the Pension Benefit Guaranty Corporation, or any successor thereto.

"***Pension Plan***" means an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan (x) that is or within the past six (6) years was maintained or sponsored by the Company or any Subsidiary of the Company or any ERISA Affiliate or to which the Company or any Subsidiary of the Company or any ERISA Affiliate thereof makes or is obligated to make, or within the past six years made or was obligated to make, contributions and (y) that is subject to Section 412 of the Code, Section 302 of ERISA or Title IV of ERISA.

"***Permitted Indebtedness***" means, without duplication, each of the following:

(a) Indebtedness in respect of the Existing Notes;

(b) Junior Indebtedness in an aggregate principal amount not to exceed $150,000,000, which Junior Indebtedness (i) shall mature no earlier than December 15, 2029; (ii) is payment subordinated on terms satisfactory to the Required Holders; (iii) if secured, is subject to the Intercreditor Agreement; (iv) does not amortize and does not provide for payment of any cash interest prior to December 15, 2026; (v) does not include a cross-default event of default provision with respect to the Notes (but, for the avoidance of doubt, may include a cross-acceleration event of default provision with respect to the Notes); and (vi) is not guaranteed by any obligors that are not obligors in respect of the Notes or secured by any assets that are not pledged as Collateral in respect of the Notes;

(c) Indebtedness in an aggregate principal amount not to exceed (i) $200,000,000 in respect of the Initial Notes and Additional Notes issued pursuant to Section 2.01(a) or Section 2.10, as applicable to Lynrock, unless otherwise agreed by Lynrock in its sole discretion (and any Replacement Notes in respect thereof) and any Notes Guarantees in respect thereof *plus* (ii) any PIK Notes and Note Guarantees in respect of any Notes issued pursuant to Section 2.11 (and any Replacement Notes in respect thereof) and any Notes Guarantees in respect thereof, which capacity will be deemed reduced by the amount of Notes issued and repurchased, repaid, redeemed, cancelled or that otherwise cease to be outstanding;

(d) Indebtedness of the Company or any of its Subsidiaries in respect of purchase money Indebtedness, Capital Lease Obligations, synthetic lease obligations or mortgage financings in an aggregate principal amount not to exceed $1,000,000 at any one time outstanding;

(e) intercompany Indebtedness (i) among the Company and any of its Subsidiary Guarantors and (ii) owed by the Company or a Subsidiary Guarantor to a Subsidiary that is not a Subsidiary Guarantor; provided, that such Indebtedness must be unsecured and subordinated pursuant to the terms of an intercompany note that is reasonably satisfactory to the Required Holders;

(f) Indebtedness in connection with standby and/or trade letters of credit for general corporate purposes in an aggregate outstanding face amount not to exceed $1,000,000;

(g) obligations in respect of the warrants issued on the Original Issue Date to the Designated Holder as the same may be transferred from time to time, to the extent constituting Indebtedness; and

(h) other Indebtedness in an aggregate outstanding principal amount not to exceed $1,000,000.

"***Permitted Investments***" means:

(a) Investments in cash and Cash Equivalents;

(b) intercompany Investments (i) by any Subsidiary that is not a Subsidiary Guarantor into any other Subsidiary that is not a Subsidiary Guarantor or (ii) into the Company or any Subsidiary Guarantor; provided, that any Investments by a Subsidiary that is not a Subsidiary Guarantor in the Company or the Subsidiary Guarantors in the form of a loan must be unsecured and subordinated pursuant to the terms of an intercompany note that is reasonably satisfactory to the Required Holders;

(c) Investments existing on the date of the Exchange Agreement and set forth on Schedule 4.12; provided, that the amount of the Investments described on such Schedule is not increased (except as permitted pursuant to any clause of the definition of "Permitted Investments" other than this clause (c));

(d) Investments by the Company or any Subsidiary in non-Guarantor Subsidiaries and professional corporations owned by or associated with Wild Health, Inc. in an aggregate outstanding amount not to exceed (i) $1,000,000 *plus* (ii) the aggregate amount of additional cash investments from time to time not to exceed an amount necessary (giving effect to applicable transfer pricing requirements) (as reasonably determined by the Company) to make vendor expense (solely with respect to Wellington Provider Group, P.C.), payroll, compensation, rent and other payments in respect of real estate, equipment for the employees employed by such Subsidiary or such professional corporation, hosting fees, subcontracted labor, software, legal and tax advisory, insurance, employee benefits, taxes, reseller fees, marketing expenses, reimbursement of travel and entertainment, assurance services and similar payments directly or indirectly by any non-Guarantor Subsidiaries or professional corporations that are associated with Wild Health, Inc. within the 30 days following the making of any such Investment, in each case, in the ordinary course of business and consistent with past practice;

(e) in connection with any sale of Wild Health, Inc. and its associated professional corporations, a working capital facility in the aggregate outstanding principal amount as outlined in the Exchange Agreement provided by the Company or any Subsidiary Guarantor to the purchaser thereof for up to 24 months following the consummation of such sale; provided, however, that the corresponding purchase and sale agreement (or similar agreement) must provide that the net proceeds received from such sale will be delivered to the Company or a Subsidiary Guarantor; and

(f) other Investments in an aggregate outstanding amount not to exceed $1,000,000.

"***Permitted Liens***" means:

(a) Liens in existence on the date of the Exchange Agreement and listed on Schedule 4.11 (the "***Liens Schedule***"); provided, that (i) no such Lien is spread to cover any additional property after the date of the Exchange Agreement other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien and (B) proceeds and products thereof, (ii) the amount of any Indebtedness secured thereby is not increased (except as permitted pursuant to Section 4.10), (iii) the direct or contingent obligor with respect thereto is not changed, and (iv) any renewal or extension of any Indebtedness secured thereby is permitted by Section 4.10;

(b) Liens created pursuant to the Security Agreement and the other Security Documents and other Liens in favor of the Collateral Agent;

(c) Liens securing Junior Indebtedness permitted pursuant to clause (b) of the definition of "Permitted Indebtedness", subject at all times to the Intercreditor Agreement;

(d) Liens on the assets or equity of Wild Health, Inc. and its associated professional corporations in the form of a customary conditional sale agreement arising in connection with any sale of Wild Health, Inc. and its associated professional corporations;

(e) Liens in favor of a banking or other financial institution arising as a matter of law or in the ordinary course of business under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of set-off) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution's general terms and conditions;

(f) Liens (i) arising by operation of law (or by agreement to the same effect) in the ordinary course of business and consistent with past practice, securing or arising by reason of any netting or set-off arrangement entered into in the ordinary course of banking or other trading activities, (ii) in favor of the Company or any Subsidiary (other than Liens on property or assets of the Company or any Subsidiary Guarantor in favor of any Subsidiary that is not a Subsidiary Guarantor), (iii) arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into in the ordinary course of business and consistent with past practice (iv) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft, cash pooling or similar obligations incurred in the ordinary course of business and consistent with past practice, and (v) attaching to commodity trading or other brokerage accounts incurred in the ordinary course of business and consistent with past practice;

(g) Liens consisting of letters of intent or agreements to sell, transfer, lease or otherwise dispose of any property in transactions permitted under this Indenture;

(h) Liens on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment, or storage of such inventory or other goods in the ordinary course of business;

(i) pledges, deposits or Liens in connection with workers' compensation, unemployment insurance and other social security and other similar legislation or other insurance-related obligations (including, without limitation, pledges or deposits securing liability to insurance carriers under insurance or self-insurance arrangements) in the ordinary course of business and consistent with past practice;

(j) pledges, deposits or Liens to secure the performance of bids, tenders, trade, government or other contracts (other than for borrowed money), obligations for utilities, leases, licenses, statutory obligations, completion guarantees, surety, judgment, appeal or performance bonds, other similar bonds, instruments or obligations, and other obligations of a like nature incurred in the ordinary course of business and consistent with past practice;

(k) Liens arising from precautionary Uniform Commercial Code (or equivalent statutes) financing statement filings regarding operating leases entered into by the Company or any of its Subsidiaries in the ordinary course of business and consistent with past practice;

(l) leases or subleases and non-exclusive licenses or sublicenses granted in the ordinary course of business to others not interfering in any material respect with the business of the Company or any of its Subsidiaries, taken as a whole;

(m) Liens arising from the rights of lessors under leases (including financing statements regarding property subject to lease) permitted under clause (d) of the definition of "Permitted Indebtedness"; provided, that such Liens do not at any time encumber any property other than the property financed thereby;

(n) Liens on cash collateral securing any letters of credit permitted by clause (f) of the definition of "Permitted Indebtedness" in an aggregate amount not to exceed $1,000,000;

(o) Liens for taxes (including interest, penalties and additional amounts with respect thereto) that are (i) not yet delinquent or (ii) where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with U.S. GAAP with respect thereto have been provided on the books of the Company or the relevant Subsidiary;

(p) to the extent constituting Liens, non-exclusive licenses or sublicenses of intellectual property pursuant to clause (j) of the definition of "Asset Sale" (for the avoidance of doubt, unless otherwise permitted pursuant to any other clause of this definition, exclusive licenses or sublicenses of intellectual property shall not be Permitted Liens); and

(q) other Liens securing an aggregate amount at any time outstanding not to exceed $1,000,000; provided, that if the obligations secured by such Liens consist of Indebtedness for borrowed money, such Liens shall rank junior in priority to the Liens securing the Notes Obligations on terms acceptable to the Required Holders**.**

"***Person***" means an individual, a corporation, a limited liability company, an association, a partnership, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

"***Physical Notes***" means permanent certificated Notes in registered form issued in Authorized Denominations.

"***PIK Interest***" means Interest paid in kind on any Notes by, if such Note is a Global Note, increasing the principal amount of such Global Note or, if such Note is a Physical Note, issuing a new Physical Note, in each case in a principal amount equal to such interest.

"***Predecessor Note***" of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 2.06 in lieu of or in exchange for a mutilated, lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note that it replaces.

"***Premium Payment Date***" means the Asset Sale Offer Repurchase Date, Fundamental Change Repurchase Date, Existing Notes Test Maturity Date, Acceleration Date or Redemption Date, as applicable.

"***Premium Treasury Rate***" means, as of the applicable Premium Payment Date, the yield to maturity as of such Premium Payment Date of United States 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 two Business Days prior to such Premium Payment Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such Premium Payment Date to the Stated Maturity, provided, however, that if the period from such Premium Payment Date to the Stated Maturity is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"***Proceeds***" shall have the meaning assigned in Article 9 of the UCC and, in any event, shall also include, but not be limited to, (i) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Collateral Agent or any grantor from time to time with respect to any of the Collateral, (ii) any and all payments (in any form whatsoever) made or due and payable to any grantor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any governmental authority (or any Person acting under color of governmental authority) and (iii) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral.

"***PTO***" means the United States Patent and Trademark Office.

"***Qualified Cash***" means at any time of determination, the aggregate amount of unrestricted cash and Cash Equivalents included in the consolidated balance sheet of the Company and its Subsidiary Guarantors as of such time that (i) is free and clear of all Liens other than Liens permitted hereunder, (ii) may be applied to payment of the Notes Obligations without violating any law, contract, or other agreement and (iii) is in deposit accounts or securities accounts subject to a perfected lien in favor of the Collateral Agent (or similar agreement or arrangement in any non-U.S. jurisdiction to the extent such concept exists in such jurisdiction); provided, that this clause (iii) will only apply after the date that is (x) in the case of any such deposit accounts or securities accounts of the Company or any Subsidiary Guarantor that is a Domestic Subsidiary, 45 Business Days or (y) in the case of any such deposit accounts or securities accounts of any Subsidiary Guarantor that is a Foreign Subsidiary, 60 Business Days following the Original Issue Date (in each case, or such later date as may be agreed by the Required Holders in their reasonable discretion).

"***Qualified Plan***" means an employee benefit plan (as defined in Section 3(3) of ERISA) other than a Multiemployer Plan (a) that is maintained or sponsored by the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries makes or is obligated to make contributions and (b) that is intended to be tax-qualified under Section 401(a) of the Code.

"***Record Date***" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock (or other applicable security) have the right to receive any cash, securities or other property or in which the Common Stock (or such other security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock (or such other security) entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors, by statute, by contract or otherwise).

"***Redeemable Equity***" means any equity security of the Company or any of its Subsidiaries that by its terms (or by terms of any security into which it is convertible or for which it is exchangeable), or otherwise (including by the passage of time or the happening of an event), is required to be redeemed (other than solely for common stock or another security that is not Redeemable Equity or Indebtedness and cash in lieu of fractional shares), is redeemable (other than solely for common stock and cash in lieu of fractional shares) at the option of the holder thereof in whole or in part (including by operation of a sinking fund), or is convertible or exchangeable for Indebtedness of such Person (with a scheduled maturity prior to the 366th day immediately following the Stated Maturity), in each case, at the option of the holder thereof, in whole or in part, at any time prior to the 366th day immediately following the Stated Maturity (other than upon the occurrence of a Fundamental Change, change of control or Asset Sale); provided, however, that only the portion of such equity security which is required to be redeemed, is so convertible or exchangeable or is so redeemable at the option of the holder thereof before such date will be deemed to be Redeemable Equity. Redeemable Equity will not include any common stock issued by the Company or its Subsidiaries to its employees or directors that is subject to repurchase by the Company or its Subsidiaries pursuant to the terms of any employment agreement, benefit plan or other arrangement. The aggregate principal amount of Redeemable Equity deemed to be outstanding at any time for purposes of this Indenture will be the maximum amount that the Company or its Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Redeemable Equity or portion thereof, exclusive of accrued dividends.

"***Redemption Date***" shall have the meaning specified in Section 16.02(a).

"***Redemption Notice***" shall have the meaning specified in Section 16.02(a).

"***Redemption Premium***" means, with respect to any Note on any applicable Redemption Date:

(a) if the Redemption Date is prior to June 15, 2025, the present value at such Redemption Date of all unpaid interest payments in the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would be due after such Redemption Date on such Note (and on any PIK Notes that would be issued to effect payment of such PIK Interest) through the Stated Maturity if such Optional Redemption had not occurred (excluding accrued and unpaid interest to, but excluding, the Redemption Date), computed using a discount rate equal to the relevant Premium Treasury Rate as of such Redemption Date plus 50 basis points, as calculated by the Company or its agent;

(b) if the Redemption Date is on or after June 15, 2025 and prior to June 15, 2026, the sum of (i) 6.50% of the aggregate principal amount of such Note plus (ii) 6.50% of the portion of the accrued and unpaid interest on such Note to, but excluding, such Redemption Date that would (without giving effect to Section 2.03(d)) otherwise be payable solely in the form of PIK Interest pursuant to Section 2.03(c);

(c) if the Redemption Date is on or after June 15, 2026 and prior to December 15, 2026, the sum of (i) 3.25% of the aggregate principal amount of such Note plus (ii) 3.25% of the portion of the accrued and unpaid interest on such Note to, but excluding, such Redemption Date that would (without giving effect to Section 2.03(d)) otherwise be payable solely in the form of PIK Interest pursuant to Section 2.03(c); or

(d) if the Redemption Date is on or after December 15, 2026, the sum of (i) 13.00% of the aggregate principal amount of such Note plus (ii) 13.00% of the portion of the accrued and unpaid interest on such Note to, but excluding, such Redemption Date that would (without giving effect to Section 2.03(d)) otherwise be payable solely in the form of PIK Interest pursuant to Section 2.03(c);

provided, that the Trustee shall have no responsibility to calculate or verify the calculation of the Redemption Premium.

Thus, as an example, and for the avoidance of doubt, if the Company elects an Optional Redemption of all the Notes on any Redemption Date prior to June 15, 2025 (unless such Redemption Date falls after an Interest Record Date but on or prior to the immediately succeeding Interest Payment Date), the amount payable as the "Redemption Price" on the Redemption Date will consist of cash in an amount equal to the sum of (i) 100% of the aggregate principal amount of such Notes plus (ii) all the accrued and unpaid interest on such Notes at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) to but excluding such Redemption Date plus (iii) the present value at such Redemption Date of all unpaid interest payments in the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would be due after such Redemption Date on such Note (and on any PIK Notes that would be issued to effect payment of such PIK Interest) through the Stated Maturity if such Optional Redemption had not occurred (excluding accrued and unpaid interest to, but excluding, the Redemption Date), computed using a discount rate equal to the relevant Premium Treasury Rate as of such Redemption Date plus 50 basis points, as calculated by the Company or its agent.

As a further example, and for the avoidance of doubt, if the Company elects an Optional Redemption of all the Notes on any Redemption Date on or after December 15, 2026 (other than a Redemption Date that falls after an Interest Record Date but on or prior to the immediately succeeding Interest Payment Date), the amount payable as the "Redemption Price" on Redemption Date will consist of cash in an amount equal to the sum of (i) 113% of the aggregate principal amount of all of the Notes (including the principal amount of all Notes previously issued as PIK Notes) plus (ii) 113% of all the accrued and unpaid interest on all of the Notes (including on all of the Notes previously issued as PIK Notes) to, but excluding, such Redemption Date that would otherwise be payable in the form of PIK Interest plus (iii) all the accrued and unpaid interest on all of the Notes (including on all of the Notes previously issued as PIK Notes) to, but excluding, such Redemption Date that would in any event (and regardless of such Optional Redemption) be payable in cash.

To continue these examples, and for the further avoidance of doubt, if the Redemption Date falls after an Interest Record Date but on or prior to the Interest Payment Date to which such Interest Record Date relates, then (i) the Holders at the close of business on such Interest Record Date of all the Notes (including any Notes previously issued as PIK Notes) to be redeemed will be entitled, notwithstanding such Redemption Date, to receive, on such Interest Payment Date, the unpaid interest on such Notes at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would have accrued on such Notes to, but excluding such Interest Payment Date (assuming solely for these purposes, that such Notes remained outstanding through such Interest Payment Date, if such

Redemption Date is before such Interest Payment Date) and (ii) the Holders of such Notes to be redeemed on the Redemption Date will be entitled to receive on such Redemption Date the Redemption Price in an amount in cash equal to the sum of 100% of the aggregate principal amount of such Notes plus the Redemption Premium on such Notes (including any such Notes previously issued as PIK Notes).

"***Redemption Price***" means, for any Notes to be redeemed pursuant to Section 16.01, (i) 100% of the aggregate principal amount of such Notes, plus (ii) accrued and unpaid interest at the full amount of Stated Interest (including the cash and PIK Interest components thereof) to, but excluding, the Redemption Date (unless the Redemption Date falls after an Interest Record Date but on or prior to the immediately succeeding Interest Payment Date, in which case the Company shall instead pay, on such Interest Payment Date, to the Holders of record of such Notes to be redeemed as of the close of business on such Interest Record Date the full amount of the accrued and unpaid interest at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would have accrued on such Notes to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Notes remained outstanding through such Interest Payment Date) plus (iii) the applicable Redemption Premium on such Notes (including any such Notes previously issued as PIK Notes).

"***Reference Property***" shall have the meaning specified in Section 14.07(a).

"***Reportable Compliance Event***" means any of the Company, the Subsidiary Guarantors or their respective Subsidiaries, or any of their respective officers or directors, (a) becomes a Designated Person (b) is charged by indictment, criminal complaint or similar charging instrument under Anti-Terrorism Laws, Anti-Corruption Laws, Export/Import Controls, or Sanctions; or (c) receives a subpoena or other notification from a Governmental Authority pursuant to the laws, rules and regulations relating to information technology and communication supply chain (including U.S. Executive Order 13873 and 15 C.F.R. Part 7).

"***Required Holders***" means, as of any date of determination, Holders (or, in the case of Lynrock, beneficial owners) of more than 50% of the aggregate outstanding principal amount of the Notes. The Trustee and/or the Collateral Agent shall be entitled to accept a written certification from Lynrock that Lynrock constitutes the Required Holders, together with indemnity and/or security satisfactory to the Trustee and/or the Collateral Agent, and the Trustee and/or Collateral Agent shall be entitled to conclusively rely on such certification in taking any action or inaction requested by Lynrock (in its capacity as Required Holders) permitted by the Indenture Documents to be taken at the direction of the Required Holders, which shall be binding on all Holders to the extent permitted under the Indenture Documents.

"***Requirements of Law***" means, as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case, binding upon such Person or any of its property or to which such Person or any of its property is subject.

"***Resale Restriction Termination Date***" shall have the meaning specified in Section 2.05(c).

"***Responsible Officer***" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter relating to this Indenture is referred because of such person's

knowledge of and familiarity with the particular subject and who, in each case, shall have direct responsibility for the administration of this Indenture.

"***Restricted Investment***" shall have the meaning specified in Section 4.12(a)(iv).

"***Restricted Payments***" shall have the meaning specified in Section 4.12(a).

"***Restricted Securities***" shall have the meaning specified in Section 2.05(d).

"***Rule 144***" means Rule 144 as promulgated under the Securities Act.

"***Rule 144A***" means Rule 144A as promulgated under the Securities Act.

"***Sale Leaseback Transaction***" means any arrangement with any Person or Persons, whereby in contemporaneous or substantially contemporaneous transactions the Company or any of its Subsidiaries sells substantially all of its right, title and interest in any property and, in connection therewith, acquires, leases or licenses back the right to use any portion of such property.

"***Sanction(s)***": any economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the United States Government (including those administered by OFAC and the U.S. Department of State and the U.S. Department of Commerce), (b) the United Nations Security Council, (c) the European Union, (d) the United Kingdom (including His Majesty's Treasury), or (e) Canada.

"***Scheduled Trading Day***" means a day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange or market on which the Common Stock is listed or admitted for trading. If the Common Stock is not so listed or admitted for trading, "Scheduled Trading Day" means a Business Day.

"***Securities Act***" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"***Security Agreement***" means that certain U.S. Security and Pledge Agreement, dated as of the Original Issue Date, by and among the Collateral Agent and the Company and the Subsidiary Guarantors party thereto, as amended, restated, modified and/or supplemented in accordance with the provisions hereof.

"***Security Documents***" means the Security Agreement, each control agreement and all other security agreements, pledge agreements, collateral assignments, patent, copyright and trademark security agreements, and other agreements or documents executed and delivered by the Company or any Subsidiary Guarantor creating (or purporting to create) or perfecting or purporting to perfect) a Lien upon Collateral in favor of the Collateral Agent, and all amendments, restatements, modifications or supplements thereof or thereto.

"***Share Exchange Event***" shall have the meaning specified in Section 14.07(a).

"***Significant Subsidiary***" for purposes of Section 6.01(g), 6.01(h), 6.01(i) and 6.01(j), means any Subsidiary of the Company, other than any Immaterial Subsidiary.

"***Spin-Off***" shall have the meaning specified in Section 14.04(c).

"***Stated Interest***" shall have the meaning specified in Section 2.03(c).

"***Stated Maturity***" means June 15, 2029.

"***Stock Adjustment Event***" shall have the meaning specified in Section 14.01(b).

"***Stock Price***" shall have the meaning specified in Section 14.03(c).

"***Subordinated Indebtedness***" means any Indebtedness of the Company or any of its Subsidiaries that is expressly contractually subordinated in right of payment to the Notes Obligations.

"***Subsidiary***" means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person. Unless the context otherwise requires, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Company.

"***Subsidiary Guarantor***" means, collectively, each Subsidiary that is not an Excluded Subsidiary that executes this Indenture as a guarantor on the Original Issue Date and each other Subsidiary that incurs a Note Guarantee; provided, that upon the release or discharge of such Person from its Note Guarantee in accordance with the terms of this Indenture, such Subsidiary automatically ceases to be a Subsidiary Guarantor.

"***Subsidiary Guarantee***" means the joint and several guarantee pursuant to Article 12 hereof by a Subsidiary Guarantor of the Notes Obligations.

"***Successor Company***" shall have the meaning specified in Section 11.01(a).

"***Swap Contract***" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "master agreement"), including any such obligations or liabilities under any master agreement. For the avoidance of doubt, none of the Company's equity securities that are issued or distributed pursuant to any of the Company's equity incentive plans shall be considered a Swap Contract.

"***Trading Day***" means a day on which (i) trading in the Common Stock (or other security for which a closing sale price must be determined) generally occurs on The Nasdaq Global Select Market or, if the Common Stock (or such other security) is not then listed on The Nasdaq Global Select Market, on

the principal other U.S. national or regional securities exchange on which the Common Stock (or such other security) is then listed or, if the Common Stock (or such other security) is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock (or such other security) is then traded and (ii) a Last Reported Sale Price for the Common Stock (or closing sale price for such other security) is available on such securities exchange or market; provided, that if the Common Stock (or such other security) is not so listed or traded, "***Trading Day***" means a Business Day; and provided, further, that for purposes of determining amounts due upon conversion only, "***Trading Day***" means a day on which (x) there is no Market Disruption Event and (y) trading in the Common Stock generally occurs on The Nasdaq Global Select Market or, if the Common Stock is not then listed on The Nasdaq Global Select Market, on the principal other U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then listed or admitted for trading, except that if the Common Stock is not so listed or admitted for trading, "***Trading Day***" means a Business Day.

"***Trading Price***" of the Notes on any date of determination means the average of the secondary market bid quotations obtained by the Bid Solicitation Agent for $2,000,000 principal amount of Notes at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers the Company selects for this purpose; provided, that if three such bids cannot reasonably be obtained by the Bid Solicitation Agent but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can reasonably be obtained by the Bid Solicitation Agent, then that one bid shall be used. If the Bid Solicitation Agent cannot reasonably obtain at least one bid for $2,000,000 principal amount of Notes from a nationally recognized securities dealer on any determination date, then the Trading Price per $1,000 principal amount of Notes on such determination date shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the Common Stock and the product of (x) the quotient of (i) the Conversion Amount in respect of $1,000 principal amount of Notes on such Trading Day divided by (ii) 1,000 times (y) the Conversion Rate.

"***transfer***" shall have the meaning specified in Section 2.05(c).

"***Trigger Event***" shall have the meaning specified in Section 14.04(c).

"***Trust Indenture Act***" means the Trust Indenture Act of 1939, as amended.

"***Trustee***" means the Person named as the "***Trustee***" in the first paragraph of this Indenture until a successor trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "***Trustee***" shall mean or include each Person who is then a Trustee hereunder.

"***Uniform Commercial Code***" or "***UCC***": the Uniform Commercial Code (or any similar or equivalent legislation) as in effect from time to time in the State of New York, or as the context may require, any other applicable jurisdiction.

"***unit of Reference Property***" shall have the meaning specified in Section 14.07(a).

"***Valuation Period***" shall have the meaning specified in Section 14.04(c).

"***Warrants***" shall have the meaning specified in Section 14.04(j).

"***Wholly Owned Subsidiary***" means, with respect to any Person, any Subsidiary of such Person, except that, solely for purposes of this definition, the reference to "more than 50%" in the definition of "Subsidiary" shall be deemed replaced by a reference to "100%".

Section 1.02 Rules of Construction.

For purposes of this Indenture:

(a) "or" is not exclusive;

(b) "including" means "including without limitation";

(c) "will" expresses a command;

(d) the "average" of a set of numerical values refers to the arithmetic average of such numerical values;

(e) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;

(f) "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision of this Indenture, unless the context requires otherwise;

(g) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise;

(h) references to "principal amount" of Notes include the principal amount of any PIK Notes issued as a PIK Payment (whether by increase of the principal amount of Global Notes or by issuance of new Physical Notes to Holders of Physical Notes); and, for avoidance of doubt, the aggregate principal amount of all the Notes at any time shall include not only the aggregate principal amount of all Notes then outstanding issued as Initial Notes pursuant to Section 2.01(a) or as Additional Notes issued pursuant to Section 2.10 but also the aggregate principal amount of all Notes then outstanding issued as PIK Notes pursuant to Section 2.11.

(i) the exhibits, schedules and other attachments to this Indenture are deemed to form part of this Indenture;

(j) the term "***interest***", when used with respect to a Note, includes any Additional Interest, unless the context requires otherwise;

(k) unless otherwise provided in this Indenture or in any Note, the words "execute," "execution," "signed" and "signature" and words of similar import used in or related to any document to be signed in connection with this Indenture, any Note or any of the transactions contemplated hereby (including amendments, waivers, consents and other modifications) shall be deemed to include electronic signatures, which shall be of the same legal effect, validity or enforceability as a manually executed signature in ink to the fullest extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other similar state laws based on the Uniform Electronic Transactions Act. All notices, approvals, consents, requests and any communications hereunder must be in writing, (provided,

that any communication sent to the Trustee hereunder that is required to be signed must be in the form of a document that is signed manually or by way of a digital signature provided by DocuSign (or such other digital signature provider as specified in writing to the Trustee by the authorized representative), in English. The Company agrees to assume all risks arising out of the use of digital signatures and electronic methods to submit this Indenture or any document to be signed in connection with this Indenture to the Trustee or the Collateral Agent, including without limitation the risk of the Trustee or the Collateral Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties;

(l) except to the extent specifically and explicitly provided for, the Trust Indenture Act shall not apply to this Indenture;

(m) the term "to, but excluding," when used with respect to establishing the accrual of interest from a first date to, but excluding, a last date, means the number of days for which interest is computed and includes the first date but excludes the last date; as an example and for the avoidance of doubt, interest accrued from May 1 to, but excluding, May 5 comprises 4 days of interest; and

(n) any terms (whether capitalized or lower case) used in this Indenture that are defined in the UCC (including, without limitation, Account, Account Debtor, Chattel Paper, Commercial Tort Claims, Commodities Account, Deposit Account, Drafts, Documents, Equipment, Farm Products, Fixtures, General Intangibles, Inventory, Instruments, Letters of Credit, Letter-of-Credit Rights, Promissory Notes, Proceeds, Securities Account and Supporting Obligations) shall be construed and defined as set forth in the UCC unless otherwise defined herein or in the Security Documents; provided, that to the extent that the UCC is used to define any term used herein and if such term is defined differently in different Articles of the UCC, the definition of such term contained in Article 9 of the UCC shall govern.

ARTICLE 2
ISSUE, DESCRIPTION, EXECUTION, REGISTRATION AND EXCHANGE OF NOTES

Section 2.01 Designation and Amount; Maturity Date.

(a) The Notes shall be designated as the "First Lien Convertible Senior Notes due 2029." The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is limited to $150,000,000, subject to the issuance of (i) Additional Notes in an aggregate principal amount of up to $50,000,000 in accordance with Section 2.10; (ii) PIK Notes issuable from time to time on each Interest Payment Date in connection with the PIK Payment required to be made on such Interest Payment Date in accordance with Section 2.11; and (iii) Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes to the extent expressly permitted hereunder (such Notes referred to in this clause (iii), "***Replacement Notes***"). For the avoidance of doubt, the Company may not supplement or amend this Indenture to issue additional notes except solely as provided in clauses (i), (ii) and (iii) of the second sentence of this Section 2.01(a).

(b) The aggregate principal amount of all outstanding Notes together with all accrued and unpaid interest thereon (including both the cash interest and PIK Interest portions thereof) and, if the Maturity Date is the Existing Notes Test Date, the Existing Notes Test Maturity Premium, shall become due and payable on the Maturity Date.

Section 2.02 Form of Notes. The Notes and the Trustee's certificate of authentication to be borne by such Notes shall be substantially in the respective forms set forth in Exhibit A, the terms and provisions of which shall constitute, and are hereby expressly incorporated in and made a part of this

Indenture. To the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. In the case of any conflict between this Indenture and a Note or any other Indenture Document, the provisions of this Indenture shall control and govern to the extent of such conflict (for the avoidance of doubt, the foregoing shall not limit or modify the determination of a breach of the Exchange Agreement in accordance with the terms therein).

Any Global Note may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Indenture as may be required by the Custodian or the Depositary, or as may be required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange or automated quotation system upon which the Notes may be listed or traded or designated for issuance or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Notes are subject.

Any of the Notes may have such letters, numbers or other marks of identification and such notations, legends or endorsements as the Officer executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, or to conform to usage or to indicate any special limitations or restrictions to which any particular Notes are subject.

Each Global Note shall represent such principal amount of the outstanding Notes as shall be specified therein and shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be increased or reduced to reflect issuances of Additional Notes or PIK Notes, redemptions, repurchases, cancellations, conversions, transfers or exchanges permitted hereby. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in such manner and upon instructions given by the Holder of such Notes in accordance with this Indenture. Payment of principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, and any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium on, a Global Note shall be made to the Holder of such Note on the date of payment, unless a record date or other means of determining Holders eligible to receive payment is provided for herein. With respect to any PIK Interest payable on any Interest Payment Date, any reference in this Indenture to the execution, authentication or delivery of Notes shall be deemed to refer to and include increasing the principal amount of any then outstanding Global Note in payment of such PIK Interest pursuant to Section 2.11. With respect to any PIK Payment on any Global Note, except to the extent otherwise provided in a Company Order delivered to the Trustee as provided under Section 2.11, the Trustee shall increase the principal amount of such Global Note by an amount equal to the interest payable thereon as PIK Interest, rounded up to the nearest whole dollar, on the relevant Interest Payment Date on the principal amount of such Global Note, and an adjustment shall be made on the books and records of the Trustee with respect to such Global Note to reflect such increase.

Section 2.03 Date and Denomination of Notes; Interest.

(a) The Notes shall be issuable in registered form in Authorized Denominations. Each Note shall be dated the date of its authentication and shall accrue interest in the manner specified in Section 2.03(c). Interest on the Notes shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

(b) The Person in whose name any Note (or its Predecessor Note) is registered on the Note Register at the close of business on any Interest Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date. The principal amount of any Note (x) in the case of any Physical Note, shall be payable at the office or agency of the Company designated by the Company for such purposes in the continental United States of America, which shall initially be the Corporate Trust Office and (y) in the case of any Global Note, shall be payable by wire transfer in immediately available funds to the account of the Depositary or its nominee. The Company shall pay, or cause the Paying Agent to pay, interest payable in cash (i) on any Physical Notes (A) to Holders holding Physical Notes of an aggregate principal amount of $5,000,000 or less of the Notes, by check mailed to the Holders of these Notes at their address as it appears in the Note Register and (B) to Holders holding Physical Notes of an aggregate principal amount of more than $5,000,000 of the Notes, either by check mailed to each such Holder or, upon application by such a Holder to the Note Registrar (containing the requisite information for the Trustee or Paying Agent to make such wire transfer) not later than the relevant Interest Record Date, by wire transfer in immediately available funds to that Holder's account within the United States of America, which application shall remain in effect until the Holder notifies, in writing, the Note Registrar to the contrary or (ii) on any Global Note by wire transfer of immediately available funds to the account of the Depositary or its nominee.

(c) Each Note will accrue interest (the "***Stated Interest***") at a rate per annum (i) from the Original Issue Date until the earlier of (x) the Additional Notes Issue Date and (y) December 15, 2026, equal to 10.83%, consisting of interest payable solely in cash accruing at a rate per annum equal to 4.17% and interest payable solely in the form of PIK Interest accruing at a rate per annum equal to 6.66%; (ii) if any Additional Notes are issued, from the Additional Notes Issue Date to, but excluding, December 15, 2026, equal to 11.375%, consisting of interest payable solely in cash accruing at a rate per annum equal to 4.375% and interest payable solely in the form of PIK Interest accruing at a rate per annum equal to 7.00%, and (iii) on and after December 15, 2026, equal to 13.00%, consisting of interest payable solely in cash accruing at a rate per annum equal to 5.00% and interest payable solely in the form of PIK Interest accruing at a rate per annum equal to 8.00%, plus, in each case, any Additional Interest. Stated Interest on each Note will accrue from, and including, the most recent date to which Stated Interest has been paid or duly provided for (or, if no Stated Interest has theretofore been paid or duly provided for, the date set forth in such Note as the date from, and including, which Stated Interest will begin to accrue in such circumstance) to, but excluding, the date of payment of such Stated Interest and be, subject to any provision herein expressly providing for payment of interest on any date other than an Interest Payment Date (and without duplication of any payment of interest), payable semiannually in arrears on each Interest Payment Date, beginning on the first Interest Payment Date set forth in such Note, to the Holder of such Note as of the close of business on the immediately preceding Interest Record Date. Any references in this Indenture to accrued interest and unpaid on or in respect of any Note shall be deemed to refer to both the cash interest and PIK Interest portions of such interest that has accrued and that has not been paid.

(d) Notwithstanding any other provision hereof, any accrued but unpaid interest otherwise payable in the form of PIK Interest (i) on any Acceleration Date, Redemption Date, Fundamental Change Repurchase Date, Asset Sale Offer Repurchase Date or Maturity Date; (ii) if any

Notes mature or are repurchased or redeemed, as applicable, on an Asset Sale Offer Repurchase Date, Existing Notes Test Maturity Date, Fundamental Change Repurchase Date or Redemption Date that falls after an Interest Record Date but on or prior to the immediately succeeding Interest Payment Date, on such immediately succeeding Interest Payment Date in accordance with the proviso to Section 4.13(b)(i), the proviso to Section 15.01(a), the proviso to Section 15.02(a) or the third sentence of Section 16.03(a), as applicable; or (iii) upon an exercise of remedies upon an Event of Default or otherwise pursuant to Section 6.04, Section 6.05, Section 6.06, Section 6.09, Section 6.10 or Section 6.11 shall, in any such case, accrue at the rate specified in Section 2.03(c) for PIK Interest but be payable solely in cash.

(e) Any Defaulted Amounts shall forthwith cease to be payable to the Holder on the relevant payment date but such Defaulted Amounts shall accrue interest per annum at a rate equal to the rate per annum at which Stated Interest accrues (including both the cash interest and PIK Interest portions thereof), subject to the enforceability thereof under applicable law, from, and including, such relevant payment date to, but excluding, the date on which such Defaulted Amounts shall have been paid by the Company, and such Defaulted Amounts together with any such interest thereon shall be paid solely in cash by the Company, at its election in each case, as provided in clause (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Amounts to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a special record date for the payment of such Defaulted Amounts, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of the Defaulted Amounts proposed to be paid on each Note and the date of the proposed payment (which shall be not less than 25 days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Amounts or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Amounts as in this clause provided. Thereupon the Company shall fix a special record date for the payment of such Defaulted Amounts which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment, and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee in writing of such special record date and the Trustee, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Amounts and the special record date therefor to be delivered to each Holder at its address as it appears in the Note Register, or by electronic means to the Depositary in the case of Global Notes, not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Amounts and the special record date therefor having been so delivered, such Defaulted Amounts shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such special record date and shall no longer be payable pursuant to the following clause (ii) of this Section 2.03(e). The Trustee shall have no responsibility whatsoever for the calculation of the Defaulted Amounts.

(ii) The Company may make payment of any Defaulted Amounts in any other lawful manner not inconsistent with the requirements of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, and upon such notice as may be required by such exchange or automated quotation system, if, after written notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(f) On each Interest Payment Date, upon the Trustee's receipt of a Company Order in accordance with Section 2.04, there will be originally issued such aggregate principal amount of PIK Notes as is required for issuance in connection with the PIK Payment required to be made on such Interest Payment Date.

Section 2.04 Execution, Authentication and Delivery of Notes. The Notes shall be signed in the name and on behalf of the Company by the manual, facsimile or other electronic signature of any of its Chief Executive Officer, President, Chief Financial Officer, Treasurer, Secretary or any of its Executive or Senior Vice Presidents.

At any time and from time to time after the execution and delivery of this Indenture, subject to Section 2.01(a), the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, and the Trustee in accordance with such Company Order shall authenticate and deliver such Notes, without any further action by the Company hereunder; provided, that the Trustee shall be entitled to receive an Officer's Certificate and an Opinion of Counsel of the Company with respect to the issuance, authentication and delivery of such Notes.

Only such Notes as shall bear thereon a certificate of authentication substantially in the form set forth on the Form of Note attached as Exhibit A hereto, executed manually by an authorized signatory of the Trustee (or an authenticating agent appointed by the Trustee as provided by Section 17.09), shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Trustee (or such an authenticating agent) upon any Note executed by the Company shall be conclusive evidence that the Note so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

In case any Officer of the Company who shall have signed any of the Notes shall cease to be such Officer before the Notes so signed shall have been authenticated and delivered by the Trustee, or disposed of by the Company, such Notes nevertheless may be authenticated and delivered or disposed of as though the Person who signed such Notes had not ceased to be such Officer of the Company; and any Note may be signed on behalf of the Company by such persons as, at the actual date of the execution of such Note, shall be the Officers of the Company, although at the date of the execution of this Indenture any such Person was not such an Officer.

Section 2.05 Exchange and Registration of Transfer of Notes; Restrictions on Transfer; Depositary.

(a) The Company shall cause to be kept at the Corporate Trust Office a register (the register maintained in such office or in any other office or agency of the Company designated pursuant to Section 4.02, the "***Note Register***") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes. Such register shall be in written form or in any form capable of being converted into written form within a reasonable period of time. The Trustee is hereby initially appointed the "***Note Registrar***" for the purpose of registering Notes and transfers of Notes as herein provided. The Company may appoint one or more co-Note Registrars in accordance with Section 4.02.

Upon surrender for registration of transfer of any Note to the Note Registrar or any co-Note Registrar, and satisfaction of the requirements for such transfer set forth in this Section 2.05, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated

transferee or transferees, one or more new Notes of any Authorized Denominations and of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture.

Notes may be exchanged for other Notes of any Authorized Denominations and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at any such office or agency maintained by the Company pursuant to Section 4.02. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

All Notes presented or surrendered for registration of transfer or for exchange, repurchase or conversion shall (if so required by the Company, the Trustee, the Note Registrar or any co-Note Registrar) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and duly executed, by the Holder thereof or its attorney-in-fact duly authorized in writing.

No service charge shall be imposed by the Company, the Trustee, the Note Registrar, any co-Note Registrar or the Paying Agent for any exchange or registration of transfer of Notes, but the Company may require a Holder to pay a sum sufficient to cover any documentary, stamp or similar issue or transfer tax or other similar governmental charge required in connection therewith as a result of the name of the Holder of new Notes issued upon such exchange or registration of transfer being different from the name of the Holder of the old Notes surrendered for exchange or registration of transfer or otherwise required by law.

None of the Company, the Trustee, the Note Registrar or any co-Note Registrar shall be required to exchange or register a transfer of (i) any Notes surrendered for conversion or, if a portion of any Note is surrendered for conversion, such portion thereof surrendered for conversion, (ii) any Notes, or a portion of any Note, surrendered for repurchase (and not withdrawn) in accordance with Article 15 or (iii) any Notes selected for redemption in accordance with Article 16, except the unredeemed portion of any Note being redeemed in part.

All Notes issued upon any registration of transfer or exchange of Notes in accordance with this Indenture shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(b) So long as the Notes are eligible for book-entry settlement with the Depositary, unless otherwise required by law, subject to the fourth paragraph from the end of Section 2.05(c) all Notes shall be represented by one or more Notes in global form (each, a "***Global Note***") registered in the name of the Depositary or the nominee of the Depositary. Each Global Note shall bear the legend required on a Global Note set forth in Exhibit A hereto. The transfer and exchange of beneficial interests in a Global Note that does not involve the issuance of a Physical Note shall be effected through the Depositary (but not the Trustee or the Custodian) in accordance with this Indenture (including the restrictions on transfer set forth herein) and the Applicable Procedures therefor.

(c) Every Note that bears or is required under this Section 2.05(c) to bear the legend set forth in this Section 2.05(c) (the "***Restricted Securities***") shall be subject to the restrictions on transfer set forth in this Section 2.05(c) (including those contained in the legend set forth below), unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Company, and

the Holder of each such Restricted Security, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 2.05(c) and Section 2.05(d), the term "***transfer***" encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

Until the date (the "***Resale Restriction Termination Date***") that is the later of (1) the date that is one year after the last Issue Date of the Notes, or such shorter period of time as permitted by Rule 144 or any successor provision thereto, and (2) such later date, if any, as may be required by applicable law, any certificate evidencing such Note (and all securities issued in exchange therefor or substitution thereof) shall bear a legend in substantially the following form (unless such Notes have been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or unless otherwise agreed by the Company in writing, with notice thereof to the Trustee):

THIS SECURITY AND THE RELATED NOTE GUARANTEES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***SECURITIES ACT***"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(A) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "***QUALIFIED INSTITUTIONAL BUYER***" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(B) AGREES FOR THE BENEFIT OF LIVEPERSON, INC. (THE "***COMPANY***") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR THE RELATED NOTE GUARANTEES OR ANY BENEFICIAL INTEREST HEREIN OR THEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ISSUE DATE OF THE SERIES OF NOTES OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

i. TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

ii. PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

iii. TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

iv. PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(B)(iv) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS

MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

No transfer of any Note prior to the Resale Restriction Termination Date will be registered by the Note Registrar unless the applicable box on the Form of Assignment and Transfer has been checked.

Any Note (or security issued in exchange or substitution therefor) (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred pursuant to a registration statement that has become effective or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (iii) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of such Note for exchange to the Note Registrar in accordance with the provisions of this Section 2.05, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the restrictive legend required by this Section 2.05(c) and shall not be assigned a restricted CUSIP number. The Company shall be entitled to instruct the Custodian in writing to so surrender any Global Note as to which any of the conditions set forth in clause (i) through (iii) of the immediately preceding sentence have been satisfied, and, upon such instruction, the Custodian shall so surrender such Global Note for exchange; and any new Global Note so exchanged therefor shall not bear the restrictive legend specified in this Section 2.05(c) and shall not be assigned a restricted CUSIP number. The Company shall promptly notify the Trustee in writing upon the occurrence of the Resale Restriction Termination Date and promptly after a registration statement, if any, with respect to the Notes has been declared effective under the Securities Act. Any exchange pursuant to the foregoing paragraph shall be in accordance with the Applicable Procedures.

Notwithstanding any other provisions of this Indenture (other than the provisions set forth in this Section 2.05(c)), a Global Note may not be transferred as a whole or in part except (i) by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary and (ii) for exchange of a Global Note or a portion thereof for one or more Physical Notes in accordance with the second immediately succeeding paragraph.

The Depositary shall be a clearing agency registered under the Exchange Act. The Company initially appoints The Depository Trust Company to act as Depositary with respect to each Global Note. Initially, each Global Note shall be issued to the Depositary, registered in the name of Cede & Co., as the nominee of the Depositary, and deposited with the Custodian.

If (i) the Depositary notifies the Company at any time that the Depositary is unwilling or unable to continue as depositary for the Global Notes and a successor depositary is not appointed within 90 days, (ii) the Depositary ceases to be registered as a clearing agency under the Exchange Act and a successor depositary is not appointed within 90 days or (iii) an Event of Default with respect to the Notes has occurred and is continuing and, subject to the Applicable Procedures, a beneficial owner of any Note requests that its beneficial interest therein be issued as a Physical Note, the Company shall execute, and the Trustee, upon receipt of an Officer's Certificate, an Opinion of Counsel and a Company Order for the authentication and delivery of Notes, shall authenticate and deliver (x) in the case of clause (iii), a Physical Note to such beneficial owner in a principal amount equal to the principal amount of such Note corresponding to such beneficial owner's beneficial interest and (y) in the case of clause (i) or (ii),

Physical Notes to each beneficial owner of the related Global Notes (or a portion thereof) in an aggregate principal amount equal to the aggregate principal amount of such Global Notes in exchange for such Global Notes, and upon delivery of the Global Notes to the Trustee such Global Notes shall be canceled.

Physical Notes issued in exchange for all or a part of the Global Note pursuant to this Section 2.05(c) shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, or, in the case of clause (iii) of the immediately preceding paragraph, the relevant beneficial owner, shall instruct the Trustee. Upon execution and authentication, the Trustee shall deliver Physical Notes to the Persons in whose names such Physical Notes are so registered.

At such time as all interests in a Global Note have been converted, canceled, redeemed, repurchased or transferred, such Global Note shall be, upon receipt thereof, canceled by the Trustee in accordance with its customary procedures. At any time prior to such cancellation, if any interest in a Global Note is exchanged for Physical Notes, converted, canceled, redeemed, repurchased or transferred to a transferee who receives Physical Notes therefor or any Physical Note is exchanged or transferred for part of such Global Note, the principal amount of such Global Note shall, in accordance with the standing procedures and instructions existing between the Depositary and the Custodian, be appropriately reduced or increased, as the case may be, and an endorsement shall be made on such Global Note, by the Trustee or the Custodian, at the direction of the Trustee, to reflect such reduction or increase.

None of the Company, the Trustee (including in its capacity as Paying Agent) or any agent of the Company or the Trustee shall have any responsibility or liability for the payment of amounts to owners of beneficial interest in a Global Note, for any aspect of the records relating to or payments made on account of those interests by the Depositary, or for maintaining, supervising or reviewing any records of the Depositary relating to such beneficial ownership interests.

(d) [Reserved].

(e) Any Note issued upon the conversion or exchange of a Note that is repurchased or owned by any Affiliate of the Company (or any Person who was an Affiliate of the Company at any time during the three months immediately preceding) may not be resold by such Affiliate (or such Person, as the case may be) unless registered under the Securities Act or resold pursuant to an exemption from the registration requirements of the Securities Act in a transaction that results in such Note no longer being a "restricted security" (as defined under Rule 144). The Company shall cause any Note that is repurchased or owned by it to be surrendered to the Trustee for cancellation in accordance with Section 2.08.

(f) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any securities laws or restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(g) Neither the Trustee nor any agent shall have any responsibility or liability for any actions taken or not taken by the Depositary, and may assume performance absent written notice to the contrary.

Section 2.06 Mutilated, Destroyed, Lost or Stolen Notes. In case any Note shall become mutilated or be destroyed, lost or stolen, the Company in its discretion may execute, and upon its written request the Trustee or an authenticating agent appointed by the Trustee shall authenticate and deliver, a new Note, bearing a registration number not contemporaneously outstanding, in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. In every case the applicant for a substituted Note shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless from any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company, to the Trustee and, if applicable, to such authenticating agent evidence to their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

The Trustee or such authenticating agent may authenticate any such substituted Note and deliver the same upon the receipt of such security or indemnity as the Trustee, the Company and, if applicable, such authenticating agent may require. No service charge shall be imposed by the Company, the Trustee, the Note Registrar, any co-Note Registrar or the Paying Agent upon the issuance of any substitute Note, but the Company may require a Holder to pay a sum sufficient to cover any documentary, stamp or similar issue or transfer tax or other similar governmental charge required in connection therewith as a result of the name of the Holder of the new substitute Note being different from the name of the Holder of the old Note that became mutilated or was destroyed, lost or stolen. In case any Note that has matured or is about to mature or has been surrendered for required repurchase or for redemption or is about to be converted in accordance with Article 14 shall become mutilated or be destroyed, lost or stolen, the Company may, in its sole discretion, instead of issuing a substitute Note, pay or authorize the payment of or convert or authorize the conversion of the same (without surrender thereof except in the case of a mutilated Note), as the case may be, if the applicant for such payment or conversion shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, evidence satisfactory to the Company, the Trustee and, if applicable, any Paying Agent or Conversion Agent of the destruction, loss or theft of such Note and of the ownership thereof.

Every substitute Note issued pursuant to the provisions of this Section 2.06 by virtue of the fact that any Note is destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be found at any time, and shall be entitled to all the benefits of (but shall be subject to all the limitations set forth in) this Indenture equally and proportionately with any and all other Notes duly issued hereunder. To the extent permitted by law, all Notes shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement, payment, redemption, conversion or repurchase of mutilated, destroyed, lost or stolen Notes and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement, payment, redemption, conversion or repurchase of negotiable instruments or other securities without their surrender.

Section 2.07 Temporary Notes. Pending the preparation of Physical Notes, the Company may execute and the Trustee or an authenticating agent appointed by the Trustee shall, upon written request of the Company, authenticate and deliver temporary Notes (printed or lithographed). Temporary Notes shall be issuable in any Authorized Denomination, and substantially in the form of the Physical Notes but with such omissions, insertions and variations as may be appropriate for temporary Notes, all as may be determined by the Company. Every such temporary Note shall be executed by the Company and authenticated by the Trustee or such authenticating agent upon the same conditions and in substantially

the same manner, and with the same effect, as the Physical Notes. Without unreasonable delay, the Company shall execute and deliver to the Trustee or such authenticating agent Physical Notes (other than any Global Note) and thereupon any or all temporary Notes (other than any Global Note) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 4.02 and the Trustee or such authenticating agent shall authenticate and deliver in exchange for such temporary Notes an equal aggregate principal amount of Physical Notes. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Physical Notes authenticated and delivered hereunder.

Section 2.08 Cancellation of Notes Paid, Converted, Etc. The Company shall cause all Notes surrendered for payment, repurchase, redemption, registration of transfer or exchange or conversion, if surrendered to any Person other than the Trustee (including any of the Company's agents, Subsidiaries or Affiliates), to be delivered to the Trustee for cancellation. All Notes delivered to the Trustee shall be canceled promptly by it in accordance with its customary procedures, and no Notes shall be authenticated in exchange therefor except for Notes surrendered for registration of transfer or exchange. The Trustee shall dispose of canceled Notes in accordance with its customary procedures and, after such disposition, shall deliver a certificate of such disposition to the Company upon the Company's written request.

Section 2.09 CUSIP Numbers. The Company in issuing the Notes may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in all notices issued to Holders as a convenience to such Holders; provided, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or on such notice and that reliance may be placed only on the other identification numbers printed on the Notes. The Company shall promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

Section 2.10 Additional Notes; Repurchases. Subject to the terms and conditions of the Exchange Agreement, the Company may, without the consent of or notice to the Holders and notwithstanding Section 2.01(a), reopen this Indenture to issue Additional Notes hereunder solely to satisfy the Company's obligations in relation to the Delayed Draw Purchase. Any Additional Notes issued shall have the same terms as the Notes initially issued hereunder (other than differences in the issue date, the issue price, and, if applicable, restrictions on transfer in respect of such Additional Notes (including pursuant to Section 2.05 hereunder)); provided, that if any such Additional Notes are not fungible with the Notes initially issued hereunder for U.S. federal securities law or income tax purposes, such Additional Notes shall have one or more separate CUSIP numbers. The Initial Notes, any Additional Notes and any PIK Notes (and any Replacement Notes in respect thereof) shall be treated as a single series for all purposes under this Indenture, including directions, waivers, amendments, consents, liquidating distributions and offers to purchase, and none of the Holders of any Initial Notes, any Additional Notes or any PIK Notes (and any Replacement Notes in respect thereof) shall have the right to vote or consent as a separate class on any matter to which such Holders are entitled to vote or consent. Prior to the issuance of any such Additional Notes, the Company shall deliver to the Trustee a Company Order, an Officer's Certificate and an Opinion of Counsel, such Officer's Certificate and Opinion of Counsel to cover such matters required by Section 17.05. In addition, subject to the Exchange Agreement, the Company may, to the extent permitted by law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or its Subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash-settled swaps or other derivatives, in each case, without prior written notice to Holders. The Company shall cause any Notes so repurchased to be surrendered to the Trustee for

cancellation in accordance with Section 2.08 and such Notes shall no longer be considered outstanding under this Indenture upon their repurchase.

Section 2.11 Issuance of PIK Notes.

(a) In connection with any payment of the portion of Stated Interest in respect of the Notes that the Company is required pursuant to Section 2.03(c) to effect payment in the form of PIK Interest, the Company shall, without the consent of the Holders of the Notes, make such payment of PIK Interest by increasing the principal amount of the Global Notes to reflect such PIK Interest payable on such Global Notes or by issuing additional Physical Notes to Holders of Physical Notes to reflect such PIK Interest payable on such Physical Notes (the Notes represented by the increase to the principal amount of Global Notes or by such additional Physical Notes, as applicable, the "***PIK Notes***") under this Indenture on the same terms and conditions as the Notes (in each case, a "***PIK Payment***"); and upon any PIK Payment being so effected, such portion of Stated Interest shall be deemed to have been paid in full; provided, that any such amount of PIK Interest shall be rounded up to the nearest $1.00; provided, further, that in the case of any PIK Payment on a Global Note, the Company shall deliver a Company Order to the Trustee and the Trustee shall, upon receipt of such a Company Order, increase the principal amount of such Global Note by such PIK Payment. The Initial Notes, any Additional Notes and any PIK Notes (and any Replacement Notes in respect thereof) shall be treated as a single class for all purposes under this Indenture, including directions, waivers, amendments, consents, liquidating distributions and offers to purchase, and none of the Holders of any Initial Notes, any Additional Notes or any PIK Notes (and any Replacement Notes in respect thereof) shall have the right to vote or consent as a separate class on any matter to which such Holders are entitled to vote or consent. Any PIK Payment made with respect to an unrestricted Note shall be in the form of (i) with respect to owners of beneficial interests in an unrestricted Global Note, an increase of the principal amount of such unrestricted Global Note or (ii) with respect to Holders of unrestricted Physical Notes, by issuance of new unrestricted Physical Notes. Following an increase in the principal amount of the outstanding Global Notes as a result of a PIK Payment, the Global Notes shall bear interest on such increased principal amount from and after the date of such PIK Payment. Any PIK Notes issued as Physical Notes shall be dated as of the applicable Interest Payment Date and shall bear interest from and after such date. All PIK Notes issued pursuant to a PIK Payment shall be governed by, and subject to the terms, provisions and conditions of, this Indenture and shall have the same rights and benefits as the Notes issued on the Original Issue Date.

(b) With respect to any PIK Notes to be authenticated by the Trustee (including by increasing the principal amount of any Global Notes), the Company shall set forth in a Company Order, a copy of which shall be delivered to the Trustee at or prior to original issuance thereof, the following information:

(i) the aggregate principal amount of such PIK Notes to be authenticated and delivered pursuant to this Indenture;

(ii) the issue date (and the corresponding date from which interest shall accrue thereon and the first Interest Payment Date therefor), the CUSIP and/or ISIN number of such PIK Notes;

(iii) whether such PIK Notes shall be subject to the restrictions on transfer set forth herein relating to restricted Global Notes and restricted Physical Notes; and

(iv) (a) the principal amount of such PIK Notes to be issued by increasing the principal amount of the outstanding Global Notes held in book-entry form and (b) the principal amount of such PIK Notes to be issued by issuing new Physical Notes.

ARTICLE 3
SATISFACTION AND DISCHARGE

Section 3.01 Satisfaction and Discharge. This Indenture, the Notes and the other Indenture Documents shall upon request of the Company contained in an Officer's Certificate cease to be of further effect, and the Trustee and the Collateral Agent, at the expense of the Company, shall execute such instruments reasonably requested by the Company acknowledging satisfaction and discharge of this Indenture, the Notes and each other Indenture Document, when (a) (i) all Notes theretofore authenticated and delivered (other than (x) Notes which have been destroyed, lost or stolen and which have been replaced, paid or converted as provided in Section 2.06 and (y) Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 4.04(d)) have been delivered to the Trustee for cancellation; or (ii) the Company has irrevocably deposited with the Trustee, after all of the Notes have become due and payable, whether on the Maturity Date, any Redemption Date, any Fundamental Change Repurchase Date or any Asset Sale Offer Repurchase Date or otherwise, cash in an amount sufficient to pay all of the outstanding Notes and all other sums due and payable under this Indenture or the Notes and the other Indenture Documents by the Company; and (b) the Company has delivered to the Trustee and the Collateral Agent an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture and the Notes have been complied with. Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee and the Collateral Agent under Section 7.06 shall survive.

ARTICLE 4
PARTICULAR COVENANTS OF THE COMPANY

Section 4.01 Payment of Principal, Interest and Notes Premium. The Company covenants and agrees that it will cause to be paid the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, and any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, each of the Notes at the places, at the respective times and in the manner provided herein and in the Notes. All amounts payable by the Company or any Subsidiary Guarantor under the Notes, this Indenture or any other Indenture Document (other than solely any portion of Stated Interest payable in the form of PIK Interest pursuant to Section 2.03 and Section 2.11 (except as otherwise provided in Section 2.03(d))) shall be paid solely in cash in U.S. dollars.

Section 4.02 Maintenance of Office or Agency. The Company will maintain in the continental United States of America an office or agency where the Notes may be presented for registration of transfer or exchange or for payment, redemption or repurchase ("***Paying Agent***") or for conversion ("***Conversion Agent***") and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office

in the continental United States of America as a place where Notes may be presented for payment or for registration of transfer.

The Company may also from time to time designate as co-Note Registrars one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the continental United States of America so designated by the Trustee as a place for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. The terms "***Paying Agent***" and "***Conversion Agent***" include any such additional or other offices or agencies, as applicable.

The Company hereby initially designates the Trustee as the Paying Agent, Note Registrar, Custodian and Conversion Agent and the Corporate Trust Office as the office or agency in the continental United States of America where Notes may be presented for registration of transfer or exchange or for payment, redemption or repurchase or for conversion and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served; provided, that the Corporate Trust Office shall not be a place for service of legal process on the Company.

Section 4.03 Appointments to Fill Vacancies in Trustee's Office. The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.09, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 4.04 Provisions as to Paying Agent.

(a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 4.04:

(i) that it will hold all sums held by it as such agent for the payment of the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, and any accrued and unpaid interest and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, the Notes in trust for the benefit of the Holders of the Notes;

(ii) that it will give the Trustee prompt written notice of any failure by the Company to make any payment of the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, and any accrued and unpaid interest and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, the Notes when the same shall be due and payable; and

(iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, or any accrued and unpaid cash interest and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, the Notes, deposit with the Paying Agent a sum sufficient to pay such principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) or any such accrued and unpaid cash interest and any applicable Notes

Premium (to the extent not duplicative of the foregoing), and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of any failure to take such action; provided, that if such deposit is made on the due date, such deposit must be received by the Paying Agent by 11:00 a.m., New York City time, on such date.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, and any accrued and unpaid cash interest and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, the Notes, set aside, segregate and hold in trust for the benefit of the Holders of the Notes a sum sufficient to pay such principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) and such accrued and unpaid cash interest, if any, and any applicable Notes Premium (to the extent not duplicative of the foregoing) so becoming due and will promptly notify the Trustee in writing of any failure to take such action and of any failure by the Company to make any payment of the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, or any accrued and unpaid interest and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, the Notes when the same shall become due and payable.

(c) Anything in this Section 4.04 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay, cause to be paid or deliver to the Trustee all sums or amounts held in trust by the Company or any Paying Agent hereunder as required by this Section 4.04, such sums or amounts to be held by the Trustee upon the trusts herein contained and upon such payment or delivery by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability but only with respect to such sums or amounts.

(d) Subject to applicable law, any money deposited with the Trustee, the Conversion Agent or any Paying Agent, or then held by the Company, in trust for the payment of the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, any accrued and unpaid interest on and any applicable Notes Premium (to the extent not duplicative of the foregoing) and remaining unclaimed for two years after such principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable), any accrued and unpaid interest and any applicable Notes Premium (to the extent not duplicative of the foregoing) has become due and payable shall be paid to the Company on request of the Company contained in an Officer's Certificate, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee, the Conversion Agent or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease. Upon any Event of Default pursuant to Section 6.01(i) or 6.01(j), the Trustee shall automatically be the Paying Agent, if the Trustee is not the Paying Agent at such time.

Section 4.05 Existence. Subject to Article 11, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 4.06 Rule 144A Information Requirement and Annual Reports.

(a) At any time the Company is not subject to Section 13 or 15(d) of the Exchange Act, the Company shall, so long as any of the Notes at such time constitute "restricted securities" within

the meaning of Rule 144(a)(3) under the Securities Act, promptly provide to the Trustee and will, upon written request, provide to any Holder, beneficial owner or prospective purchaser of such Notes the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes pursuant to Rule 144A.

(b) The Company shall file with the Trustee, within 15 days after the same are required to be filed with the Commission (giving effect to all applicable grace periods under the Exchange Act or otherwise permitted by the Commission), copies of any documents or reports that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act (excluding any such information, documents or reports, or portions thereof, subject to confidential treatment and any correspondence with the Commission). Any such document or report that the Company files with the Commission via the Commission's EDGAR system (or any successor thereto) shall be deemed to be filed with the Trustee for purposes of this Section 4.06(b) at the time such documents are filed via the EDGAR system (or any successor thereto), it being understood that the Trustee shall not be responsible for determining whether such filings have been made.

(c) Delivery of the reports, information and documents described in subsection (b) above to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to conclusively rely on an Officer's Certificate).

(d) If, at any time during the six-month period beginning on, and including, the date that is six months after the Original Issue Date, or if the Delayed Draw Purchase occurs, six months after the Additional Notes Issue Date, the Company fails to timely file any document or report that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (after giving effect to all applicable grace periods thereunder or otherwise permitted by the Commission and other than reports on Form 8-K), or the Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates or Holders that have been the Company's Affiliates at any time during the three months immediately preceding (as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes), the Company shall pay Additional Interest on the Notes. Such Additional Interest shall accrue on the Notes at the rate of 0.25% per annum of the aggregate principal amount of the Notes outstanding for each day during the first 90 days after the Company's failure to file has occurred and is continuing or the Notes are not otherwise freely tradable as described above by Holders other than the Company's Affiliates (or Holders that have been the Company's Affiliates at any time during the three months immediately preceding), and 0.50% per annum of the aggregate principal amount of the Notes outstanding for each day during the period from the 91st day after the Company's failure to file has occurred and is continuing or the Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates (or Holders that have been the Company's Affiliates at any time during the three months immediately preceding) as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes. As used in this Section 4.06(d), documents or reports that the Company is required to "file" with the Commission pursuant to Section 13 or 15(d) of the Exchange Act does not include documents or reports that the Company furnishes to the Commission pursuant to Section 13 or 15(d) of the Exchange Act.

(e) If, and for so long as, the restrictive legend on the Notes specified in Section 2.05(c) has not been removed, the Notes are assigned a restricted CUSIP number or the Notes are not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates or Holders that have been the Company's Affiliates at any time during the three months immediately preceding (as a

result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes) from and after the 380th calendar day after the Original Issue Date, or if the Delayed Draw Purchase occurs, six months after the Additional Notes Issue Date, the Company shall pay Additional Interest on such Notes at a rate equal to 0.25% per annum of the aggregate principal amount of Notes outstanding for each day during the first 90 calendar days, and 0.50% per annum of the aggregate principal amount of the Notes outstanding thereafter, in each case, until the restrictive legend on the Notes has been removed in accordance with Section 2.05(c), the Notes are assigned an unrestricted CUSIP number and the Notes are freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates (or Holders that have been the Company's Affiliates at any time during the three months immediately preceding) (as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes).

(f) Additional Interest will be payable in arrears on each Interest Payment Date following accrual on the Notes in the same manner as the cash portion of Stated Interest.

(g) [Reserved].

(h) If Additional Interest is payable by the Company pursuant to Section 4.06(d) or Section 4.06(e), the Company shall deliver to the Trustee an Officer's Certificate to that effect stating (i) the amount of such Additional Interest that is payable and (ii) the date on which such Additional Interest is payable. Unless and until a Responsible Officer of the Trustee receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such Additional Interest is payable and the Trustee shall not have any duty to verify the Company's calculation of Additional Interest. If the Company has paid Additional Interest directly to the Persons entitled to it, the Company shall deliver to the Trustee an Officer's Certificate setting forth the particulars of such payment.

Section 4.07 Stay, Extension and Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law that would prohibit or forgive the Company from paying all or any portion of the principal of or any interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or that may affect the covenants or the performance of this Indenture; and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 4.08 Compliance Certificate; Statements as to Defaults. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company (beginning with the fiscal year ending on December 31, 2024) an Officer's Certificate stating whether the signers thereof know of any Default or Event of Default that occurred during the previous year and, if so, specifying each such Default or Event of Default and the nature thereof.

Section 4.09 Further Instruments and Acts. Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture and the other Indenture Documents.

Section 4.10 Limitation on Incurrence of Additional Indebtedness.

(a) The Company shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly, create, incur, issue, assume, enter into a guarantee of or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "***incur***") any Indebtedness, and the

Company shall not permit any of its Subsidiaries to issue any preferred stock or preferred interests. Notwithstanding anything to the contrary herein, the foregoing covenant will not prohibit the Company or its Subsidiaries from incurring Permitted Indebtedness. For purposes of determining compliance with this Section 4.10, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Indebtedness, the Company will be permitted to classify all or a portion of such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness (based on circumstances existing on the date of reclassification), in any manner that complies with this covenant.

(b) The accrual of interest, the accrual of dividends, the accretion or amortization of original issue discount, the amortization of debt discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, the reclassification of operating leases as Capital Leases due to a change in accounting principles and the payment of dividends on Redeemable Equity or preferred stock or preferred interests in the form of additional shares of the same class of Redeemable Equity will not be deemed to be an incurrence of Indebtedness for purposes of this covenant. For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness, the U.S. dollar equivalent principal amount of Indebtedness denominated in a foreign currency shall be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred (or, in the case of revolving Indebtedness, on the date such Indebtedness was first committed); provided, that if any such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company or any of its Subsidiaries may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

(c) The amount of any Indebtedness outstanding as of any date will be:

(i) [reserved];

(ii) the amount of Redeemable Equity or preferred stock or preferred interests deemed to be outstanding at any time for purposes of this Indenture will be the maximum amount that the Company or its Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Redeemable Equity or preferred stock or preferred interests, exclusive of accrued dividends;

(iii) the principal amount of the Indebtedness, in the case of any other Indebtedness; and

(iv) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:

(A) the Fair Market Value of such assets at the date of determination; and

(B) the amount of the Indebtedness of the other Person.

Section 4.11 Limitation on Liens. The Company shall not, nor shall it permit any of its Subsidiaries to create, assume or suffer to exist any Lien to secure Indebtedness or otherwise on any asset now owned or hereafter acquired by the Company or any of its Subsidiaries except for Permitted Liens.

Section 4.12 Limitation on Restricted Payments.

(a) The Company shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any other payment or distribution on or in respect of the Company's or any of its Subsidiary's Capital Stock (excluding payments in lieu of the issuance of fractional shares in connection with a reverse share split or any such payment in connection with any merger or consolidation involving the acquisition by the Company or any of its Subsidiaries of any Person), except dividends or distributions (x) payable solely in Capital Stock (other than Redeemable Equity, except to the extent permitted under Section 4.10) or the proceeds thereof of the Company or any such Subsidiary or (y) payable solely to the Company or any of its Subsidiaries (or, if such Subsidiary is not a Wholly Owned Subsidiary, to its other Capital Stock holders on a pro rata basis with respect to the class of Capital Stock on which such dividend or distribution is made, or on a basis that results in the receipt by the Company or any of its Subsidiaries of dividends or distributions of greater value than it would receive on a pro rata basis);

(ii) purchase, redeem or otherwise acquire or retire for value (including, without limitation, in connection with any merger or consolidation involving the Company) any of the Company's Capital Stock;

(iii) make any principal payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Junior Indebtedness of the Company or any Subsidiary, except a payment of principal at the stated maturity thereof (or as otherwise expressly permitted hereby and by the applicable intercreditor or subordination agreement); or

(iv) make any Investment other than a Permitted Investment (a "***Restricted Investment***")

(all such payments and other actions set forth in these clauses (i) through (iv) above being collectively referred to as "***Restricted Payments***").

(b) Notwithstanding anything to the contrary therein, this covenant will not prohibit:

(i) Restricted Payments from any Subsidiary to the Company or any Subsidiary Guarantor;

(ii) any repurchase, exchange or other retirement of the Existing Notes (including the making of cash payments in connection therewith or exchanging the Existing Notes for Permitted Indebtedness of the type described in clause (b) of the definition thereof) in accordance with the terms and conditions of the Exchange Agreement, subject to compliance with Section 4.24 (on a pro forma basis for such cash payment);

(iii) if applicable, payments in amounts sufficient to make, any "AHYDO catch-up payment" with respect to any Indebtedness of the Company or any of its Subsidiaries permitted to be incurred under this Indenture; and

(iv) the payment of cash in satisfaction of the Company's obligations under the warrants issued on the Original Issue Date to the Designated Holder as the same may be transferred from time to time, to the extent such payment would otherwise constitute a Restricted Payment.

Notwithstanding anything to the contrary herein or in any other Indenture Document, (I) no Subsidiary that is not a Subsidiary Guarantor may own or hold an exclusive license to any intellectual property that is material to the business of the Company and its Subsidiaries, taken as a whole, and (II) the Company and the Subsidiary Guarantors shall not sell, dispose of or otherwise transfer to any Subsidiary that is not a Subsidiary Guarantor any assets (including intellectual property) that are material to the business of the Company and its Subsidiaries, taken as a whole.

Section 4.13 Limitation on Asset Sales.

(a) The Company shall not, nor shall it permit any of its Subsidiaries to, consummate an Asset Sale unless:

(i) the Company (or its Subsidiaries, as the case may be) receive consideration at the time of the Asset Sale at least equal to the Fair Market Value (measured as of the date of the definitive agreement with respect to such Asset Sale) of the assets or Capital Stock issued or sold or otherwise disposed of; and

(ii) 85% of the consideration received in the Asset Sale by the Company or its Subsidiaries is in the form of cash or Cash Equivalents.

(b) Asset Sale Offer.

(i) Notwithstanding anything to the contrary in this Indenture, at any time when the Company and its Subsidiaries receive Net Proceeds in connection with an Asset Sale (other than the Asset Sales identified in the Exchange Agreement and other non-ordinary course Asset Sales for which the Company and its Subsidiaries receive Net Proceeds in an aggregate amount not in excess of $1,000,000 during the term of this Indenture) (such event, an "***Asset Sale Trigger***"), the Company will make an offer (an "***Asset Sale Offer***") to all Holders to repurchase Notes for an amount of cash equal to 100% of such Net Proceeds (excluding, for the avoidance of doubt, any Net Proceeds previously applied to the repurchase of any Notes pursuant to any preceding Asset Sale Offer) (the "***Asset Sale Offer Consideration Amount***"), on the date (the "***Asset Sale Offer Repurchase Date***") specified by the Company that is not less than 20 days or more than 35 days following the date of such Asset Sale Trigger, at a repurchase price per Note equal to 100% of the principal amount thereof, plus the Asset Sale Offer Repurchase Premium, plus accrued and unpaid interest at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) thereon to, but excluding, the Asset Sale Offer Repurchase Date (the "***Asset Sale Offer Repurchase Price***"), provided, however, that, if the Asset Sale Offer Repurchase Date falls after a Record Date but on or prior to the Interest Payment Date to which such Record Date relates, then (i) the Company shall instead pay, on such Interest Payment Date, to the Holder of record of such Note as of the close of business on such Record Date the full amount of accrued and unpaid interest (including both the cash interest and PIK

Interest portions thereof) that would have accrued on such Notes to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Notes remained outstanding through such Interest Payment Date); and (ii) the Holder of such Note on the Asset Sale Offer Repurchase Date will be entitled to receive on such Asset Sale Offer Repurchase Date an amount in cash equal to the aggregate principal amount of such Note to be repurchased pursuant to this Section 4.13(b) plus the Asset Sale Offer Repurchase Premium. The Asset Sale Offer Repurchase Date shall be subject to postponement in order to allow the Company to comply with applicable law.

(ii) To the extent that the aggregate Asset Sale Offer Repurchase Price of Notes tendered and accepted pursuant to an Asset Sale Offer is less than the Net Proceeds (such shortfall constituting a "***Net Proceeds Deficiency***"), the Company may use the Net Proceeds Deficiency, or a portion thereof, for general corporate purposes, but only after tendering any declined amounts to the remaining Holders.

(iii) Repurchases of Notes under this Section 4.13(b) shall be made, at the option of the Holder thereof, upon:

(A) delivery to the Paying Agent by a Holder of a duly completed notice (the "***Asset Sale Offer Repurchase Notice***") in the form of the Form of Asset Sale Offer Repurchase Notice, if the Notes are Physical Notes, or in compliance with the Applicable Procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case on or before the close of business on the Business Day immediately preceding the Asset Sale Offer Repurchase Date; and

(B) delivery of the Notes, if the Notes are Physical Notes, to the Paying Agent at any time after delivery of the Asset Sale Offer Repurchase Notice (together with all necessary endorsements for transfer) at the office of the Paying Agent, or book- entry transfer of the Notes, if the Notes are Global Notes, in compliance with the procedures of the Depositary, in each case such delivery being a condition to receipt by the Holder of the Asset Sale Offer Repurchase Price therefor;

provided, that, with respect to any Asset Sale Offer, if Holders opt to tender (for repurchase pursuant to this Section 4.13(b)) Notes, the Asset Sale Offer Repurchase Price of which would in the aggregate exceed the Asset Sale Offer Consideration Amount, then the aggregate principal amount of Notes to be repurchased shall be limited to an aggregate principal amount of Notes for which the Asset Sale Offer Repurchase Price does not exceed the Asset Sale Offer Consideration Amount. If fewer than all tendered Notes are to be repurchased pursuant to the preceding sentence and (x) the Notes to be repurchased are Global Notes, the Notes to be repurchased shall be selected by the Company on a pro rata basis in accordance with the Applicable Procedures of the Depositary, or (y) the Notes to be repurchased are not Global Notes, the Company shall select the Notes or portions thereof of a Global Note or the Notes in certificated form to be repurchased in Authorized Denominations on a pro rata basis (subject to adjustment to maintain the Authorized Denominations of the Notes). If any Note selected for partial repurchase is submitted for conversion in part after such selection, the portion of the Note submitted for conversion shall be deemed (so far as may be possible) to be the portion selected for repurchase.

The Asset Sale Offer Repurchase Notice in respect of any Notes to be repurchased shall state:

(A) in the case of Physical Notes, the certificate numbers of the Notes to be delivered for repurchase;

(B) the portion of the principal amount of Notes to be repurchased, which must be in Authorized Denominations; and

(C) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture;

provided, however, that if the Notes are Global Notes, the Asset Sale Offer Repurchase Notice must comply with the Applicable Procedures.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Asset Sale Offer Repurchase Notice contemplated by this Section 4.13(b) shall have the right to withdraw, in whole or in part, such Asset Sale Offer Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Asset Sale Offer Repurchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 4.13(b)(vii).

The Paying Agent shall promptly notify the Company of the receipt by it of any Asset Sale Offer Repurchase Notice or written notice of withdrawal thereof.

(iv) On or before the 20th day after the occurrence of the effective date of an Asset Sale Trigger, the Company shall provide to all Holders of Notes, the Trustee, the Conversion Agent (if other than the Trustee) and the Paying Agent (in the case of a paying agent other than the Trustee) a written notice (the "***Asset Sale Offer Company Notice***") of the occurrence of the effective date of the Asset Sale Trigger and of the repurchase right at the option of the Holders arising as a result thereof. In the case of Physical Notes, such notice shall be by first class mail or, in the case of Global Notes, such notice shall be delivered in accordance with the Applicable Procedures of the Depositary. Each Asset Sale Offer Company Notice shall specify:

(A) a brief description of the Asset Sale Trigger;

(B) the effective date of the Asset Sale Trigger;

(C) the last date on which a Holder may exercise the repurchase right pursuant to this Section 4.13(b);

(D) the Asset Sale Offer Consideration Amount;

(E) the Asset Sale Offer Repurchase Price;

(F) the Asset Sale Offer Repurchase Date;

(G) the name and address of the Paying Agent and the Conversion Agent, if applicable;

(H) the Conversion Rate;

(I) that the Notes with respect to which an Asset Sale Offer Repurchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Asset Sale Offer Repurchase Notice and validly delivers a Notice of Conversion, each in accordance with the terms of this Indenture;

(J) the "Conversion Amount" on the Scheduled Trading Day prior to the Asset Sale Offer Repurchase Date applicable to each $1,000 principal amount of a Note; and the procedures a converting Holder must follow to convert its Notes;

(K) the place or places where such Notes are to be surrendered for payment of the principal and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and the Asset Sale Offer Repurchase Premium on the Notes; and

(L) the procedures that Holders must follow to require the Company to repurchase their Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 4.13(b). Simultaneously with providing such notice, the Company will publish such information on its website or through such other public medium as the Company may use at that time.

At the Company's written request, given at least five days prior to the date the Asset Sale Offer Company Notice is to be sent (or such shorter period as agreed by the Paying Agent), the Paying Agent shall give such notice in the Company's name and at the Company's expense; provided, however, that, in all cases, the text of such Asset Sale Offer Company Notice shall be prepared by the Company.

(v) Notwithstanding the foregoing, no Notes may be repurchased by the Company on any date at the option of the Holders in connection with an Asset Sale Offer if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Asset Sale Offer Repurchase Price with respect to such Notes). The Paying Agent will promptly return to the respective Holders thereof any Physical Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Asset Sale Offer Repurchase Price with respect to such Notes), or any instructions for book-entry transfer of the Notes in compliance with the Applicable Procedures shall be deemed to have been cancelled, and, upon such return or cancellation, as the case may be, the Asset Sale Offer Repurchase Notice with respect thereto shall be deemed to have been withdrawn.

(vi) For purposes of this Section 4.13(b), the Paying Agent may be any agent, depositary, tender agent, Paying Agent or other agent appointed by the Company to accomplish the purposes set forth herein.

(vii) An Asset Sale Offer Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the office of the Paying Agent in accordance with this Section 4.13(b)(vii) at any time prior to the close of business on the Business Day immediately preceding the Asset Sale Offer Repurchase Date, specifying:

(A) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted, which must be in an Authorized Denominations,

(B) if Physical Notes have been issued, the certificate number of the Note in respect of which such notice of withdrawal is being submitted, and

(C) the principal amount, if any, of such Note that remains subject to the original Asset Sale Offer Repurchase Notice, which portion must be in Authorized Denominations;

provided, however, that if the Notes are Global Notes, the notice of withdrawal must comply with appropriate procedures of the Depositary.

(viii) The Company will deposit with the Trustee (or other Paying Agent appointed by the Company), or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04 on or prior to 11:00 a.m., New York City time, on the Asset Sale Offer Repurchase Date (subject to extension in order to allow the Company to comply with applicable law) an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Asset Sale Offer Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not validly withdrawn prior to the close of business on the Business Day immediately preceding the Asset Sale Offer Repurchase Date) will be made on the later of (i) the Asset Sale Offer Repurchase Date (provided the Holder has satisfied the conditions of this Section 4.13(b)) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by this Section 4.13(b) by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Note Register; provided, however, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the amount necessary to repurchase all of the Notes to be repurchased at the appropriate Asset Sale Offer Repurchase Price.

(ix) If by 11:00 a.m. New York City time, on the Asset Sale Offer Repurchase Date, the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to make payment on all the Notes or portions thereof that are to be repurchased on such Asset Sale Offer Repurchase Date, or, if extended in order to allow the Company to comply with applicable law, such later date, then, with respect to the Notes that have been properly surrendered for repurchase and have not been validly withdrawn in accordance with the provisions of this Indenture and the Applicable Procedures of the Depositary, (i) such Notes will cease to be outstanding, (ii) except in the circumstances specified in the proviso to Section 4.13(b)(i), interest will cease to accrue on such Notes on the Asset Sale Offer Repurchase Date or, if extended in order to allow the Company to comply with applicable law, such later date (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or Paying Agent) and (iii) all other rights of the Holders of such Notes with respect to the Notes will terminate on the Asset Sale Offer Repurchase Date or, if extended in order to allow the Company to comply with applicable law, such later date (other than the right to receive (x) the Asset Sale Offer Repurchase Price and (y) to the extent not included in the Asset Sale

Offer Repurchase Price as specified in the proviso to Section 4.13(b)(i), accrued and unpaid interest, if applicable).

(x) Upon surrender of a Physical Note that is to be repurchased in part pursuant to this Section 4.13(b), the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Physical Note in Authorized Denominations equal in principal amount to the unrepurchased portion of the Physical Note surrendered.

(xi) In connection with any repurchase offer upon an Asset Sale Trigger pursuant to this Section 4.13(b), the Company will, if required:

(A) comply with the provisions of any tender offer rules under the Exchange Act that may then be applicable;

(B) file a Schedule TO or any other required schedule under the Exchange Act; and

(C) otherwise comply in all material respects with all federal and state securities laws in connection with any offer by the Company to repurchase the Notes;

in each case, so as to permit the rights and obligations under this Section 4.13(b) to be exercised in the time and in the manner specified in this Section 4.13(b) subject to postponement in order to allow the Company to comply with applicable law. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture relating to the Company's obligations to purchase the Notes upon an Asset Sale Trigger, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under such provisions of this Indenture by virtue of such conflict.

Section 4.14 Transactions with Affiliates. The Company shall not, nor shall it permit any of its Subsidiaries to, enter into any transaction, including any purchase, sale, lease or exchange of property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate unless such transaction is (a) otherwise permitted under this Indenture, (b) in the ordinary course of business of the Company or the relevant Subsidiary and consistent with past practice, (c) upon fair and reasonable terms no less favorable to the Company or the relevant Subsidiary than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate; provided, that solely with respect to this clause (c), (i) with respect to any such transaction or series of related transactions involving aggregate payments or consideration in excess of $250,000, the Company shall deliver to the Trustee a Board Resolution, and (ii) with respect to any such transaction or series of transactions involving aggregate payments or consideration in excess of $500,000, the Company shall deliver to the Trustee an opinion issued by an accounting, appraisal or investment banking firm of nationally recognized standing stating that such transaction is, or series of related transactions are, fair to the Company or its relevant Subsidiary from a financial point of view or (d) any transaction between or among the Issuer and/or one or more Subsidiary Guarantors.

Section 4.15 Further Assurances.

(a) The Company will complete, or cause to be completed, the post-closing requirements set forth on Schedule 4.15.

(b) Promptly following (and in any event, within the applicable time periods specified by any Security Document) the Company's or any Subsidiary Guarantor's acquisition of any assets or property (other than Excluded Property) after the date hereof, which in each case constitutes Collateral ("***After-Acquired Collateral***"), the Company shall, and shall cause each such Subsidiary Guarantor to, execute and deliver such security instruments and deliver such financing statements as shall be reasonably necessary to vest in the Collateral Agent a perfected security interest in such After-Acquired Collateral and to have such After-Acquired Collateral added to the Collateral, in each case to the extent required by and subject to the limitations under this Indenture and the Security Documents and subject to limitations customary in foreign jurisdictions with respect to Foreign Subsidiaries, and thereupon all provisions of this Indenture relating to the Collateral shall be deemed to relate to such After-Acquired Collateral to the same extent and with the same force and effect.

(c) The Company shall, and shall cause each Subsidiary Guarantor to, at its own cost and expense, execute any and all further Security Documents, agreements and instruments and take all further action that may be required under applicable law, or that the Collateral Agent at the direction of the Required Holders may reasonably request (including without limitation, the delivery of Officer's Certificates and Opinions of Counsel), in order to grant, preserve, protect and perfect the validity and priority of the security interests and Liens created or intended to be created by the Security Documents, in each case, subject to the limitations set forth in this Indenture and the Security Documents and subject to limitations customary in foreign jurisdictions with respect to Foreign Subsidiaries. The Company shall, and shall cause each Subsidiary Guarantor to, take all actions necessary to ensure the recordation of appropriate evidence of the Liens and security interests granted hereunder and/or under the Security Documents in the Company's intellectual property with the United States Patent and Trademark Office and the United States Copyright Office, file financing statements in the appropriate jurisdictions and take such other actions as appropriate to record and perfect the Liens and security interests granted under the Security Documents, in each case subject to the limitations on required perfection actions set out in this Indenture and the Security Documents and subject to limitations customary in foreign jurisdictions with respect to Foreign Subsidiaries. Such security interests and Liens will be created under the Security Documents and other security agreements and other instruments and documents.

Section 4.16 Additional Subsidiary Guarantors.

(a) Subject to guarantee limitations customary in foreign jurisdictions with respect to Foreign Subsidiaries on and after the date hereof, the Company will cause each of the Company's Subsidiaries that is not an Excluded Subsidiary to promptly (but in any event within (i) thirty (30) calendar days (or such later date as may be agreed by the Required Holders in their reasonable discretion) in the case of a Domestic Subsidiary and (ii) seventy-five (75) calendar days in the case of a Foreign Subsidiary, in each such case of (x) such Subsidiary that was previously deemed an Excluded Subsidiary ceasing to be an Excluded Subsidiary, or (y) the acquisition or formation of a Subsidiary which is not an Excluded Subsidiary) execute and deliver a supplemental indenture to this Indenture, pursuant to which such Subsidiary will agree to be a Subsidiary Guarantor under this Indenture and be bound by the terms of this Indenture applicable to Subsidiary Guarantors, including, but not limited to, Article 18; provided, that such Subsidiary Guarantor shall deliver to the Trustee and the Collateral Agent an Opinion of Counsel. In addition, the Company shall cause each Subsidiary Guarantor to become a party to the applicable Security Documents and take such actions required thereby to grant to the Collateral Agent, for the benefit of itself, the Trustee and the Holders, a perfected security interest in any Collateral held by such Subsidiary Guarantor and subject to Permitted Liens and subject to limitations customary in foreign jurisdictions with respect to Foreign Subsidiaries.

Section 4.17 ERISA. The Company shall not, nor shall it permit any of its Subsidiaries or any ERISA Affiliate to, enter into any new Pension Plan or modify any existing Pension Plan so as to increase its obligations thereunder, in each case, which could reasonably be expected to result in a Material Adverse Effect.

Section 4.18 Sale Leaseback Transactions. The Company shall not, nor shall it permit any of its Subsidiaries, enter into any Sale Leaseback Transaction.

Section 4.19 Accounting Changes. The Company shall not, nor shall it permit any of its Subsidiaries to, make any Accounting Changes or any other change in its accounting policies or reporting practices, except as required by U.S. GAAP, or make any change to its fiscal year, in each case, unless such Accounting Changes or other change could not reasonably be expected to be materially adverse to the Holders.

Section 4.20 Negative Pledge Clauses. The Company shall not, nor shall it permit any of its Subsidiaries to, enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of the Company or any Subsidiary Guarantor to create, incur, assume or suffer to exist any Lien upon any of its property or revenues constituting Collateral, whether now owned or hereafter acquired, to secure its Notes Obligations under the Indenture Documents to which it is a party, other than (a) this Indenture and the other Indenture Documents, (b) customary restrictions on the assignment of leases, licenses and other agreements, (c) any restriction pursuant to any document, agreement or instrument governing or relating to any Lien permitted under Section 4.11 or any agreement or option to dispose of any asset of the Company or any of its Subsidiaries, the disposition of which is permitted by any other provision of this Indenture (in each case, provided, that any such restriction relates only to the assets or property subject to such Lien or being disposed), or (d) restrictions existing under Requirements of Law.

Section 4.21 Clauses Restricting Subsidiary Distributions. The Company shall not, nor shall it permit any of its Subsidiaries to, enter into or suffer to exist or become effective any consensual encumbrance or restriction on the ability of any Subsidiary of the Company to (a) make Restricted Payments in respect of any Capital Stock of such Subsidiary held by, or to pay any Indebtedness owed to, the Company or any Subsidiary Guarantor, (b) make loans or advances to, or other Investments in, the Company or any Subsidiary Guarantor, or (c) transfer any of its assets to the Company or any Subsidiary Guarantor, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Indenture Documents, (ii) any restrictions with respect to a Subsidiary imposed pursuant to an agreement that has been entered into in connection with a disposition permitted hereby of the Capital Stock or assets of such Subsidiary or a disposition that is conditioned on the satisfaction and discharge of this Indenture, (iii) customary restrictions on the assignment of leases, licenses and other agreements or (iv) consisting of restrictions existing under Requirements of Law.

Section 4.22 [Reserved]

Section 4.23 Amendments to Organizational Agreements and Junior Indebtedness Documents. The Company shall not, nor shall it permit any of its Subsidiaries to, amend or permit any amendments to (i) the Company's or any Subsidiary Guarantor's organizational documents or (ii) any documentation evidencing Junior Indebtedness, in each case, to the extent such amendment could reasonably be expected to be materially adverse to the Holders.

Section 4.24 Minimum Qualified Cash. The Company shall not permit Qualified Cash, at any time, to be less than $60,000,000 (excluding any proceeds received on account of the Notes).

Section 4.25 Payment of Obligations. The Company shall, and shall cause each of its Subsidiaries to, pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its obligations and liabilities of whatever nature (including any tax liabilities), except where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves in conformity with U.S. GAAP with respect thereto have been provided on the books of the Company or the relevant Subsidiary, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 4.26 Maintenance of Existence; Compliance. The Company shall, and shall cause each of its Subsidiaries to, (a)(i) preserve, renew and keep in full force and effect its organizational existence; provided, that any Subsidiary of the Company shall not be required to preserve any such existence if the Company or such Subsidiary shall determine that the preservation thereof is no longer desirable or necessary in the conduct of the business of such Subsidiary, and the failure to preserve such existence could not reasonably be expected to have a Material Adverse Effect and (ii) take all reasonable action to maintain or obtain all Governmental Approvals and all other rights, privileges and franchises necessary in the normal conduct of its business or necessary for the performance by such Person of its Notes Obligations, except, in each case, as otherwise permitted by Section 4.13 and except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; (b) comply with all Requirements of Law except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect; and (c) comply with all Governmental Approvals, and any term, condition, rule, filing or fee obligation, or other requirement related thereto, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, the Company shall, and shall cause each ERISA Affiliate to: (1) maintain each Pension Plan in compliance in all material respects with the applicable provisions of ERISA, the Code or other applicable law; (2) cause each Qualified Plan to maintain its qualified status under Section 401(a) of the Code; (3) make all required contributions to any Pension Plan; (4) make all required contributions to any Multiemployer Plan; (5) ensure that all liabilities under each Pension Plan are funded to at least the minimum level required by law or, if higher, to the level required by the terms governing such Plan; and (6) ensure that the contributions or premium payments to or in respect of each Plan are and continue to be promptly paid at no less than the rates required under the rules of such Plan and in accordance with the most recent actuarial advice received in relation to such Pension Plan (if any) and applicable law, except, with respect to (1) through (6), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 4.27 Maintenance of Property; Insurance. The Company shall, and shall cause each of its Subsidiaries to (a) keep all property useful and necessary in its business in good working order and condition, ordinary wear and tear and obsolescence excepted except where the failure to do so could reasonably be expected to have a Material Adverse Effect and (b) maintain with financially sound and reputable insurance companies insurance on all its property in at least such amounts and against at least such risks as are usually insured against by companies engaged in similar businesses and owning similar properties in localities where the Company and the Subsidiary Guarantors operate, except where the failure to do so could reasonably be expected to have a Material Adverse Effect.

Section 4.28 Inspection of Property; Books and Records; Audits; Discussions. The Company shall, and shall cause each of its Subsidiaries to (a) keep proper books of record and account, that are full, true and correct in all material respects in accordance with U.S. GAAP of all material dealings and transactions in relation to its business and (b) at any reasonable time, from time to time, during regular business hours and upon reasonable advance notice, permit representatives (including independent contractors) of the Required Holders to visit and inspect any of its properties and examine and make

abstracts from any of its books and records and to discuss the business, operations, properties and financial and other condition of the Company and its Subsidiaries with officers of the Company and its Subsidiaries and with their independent certified public accountants (subject to such accountants' policies and procedures); provided, that a representative of the Company and the Subsidiary Guarantors shall be permitted to participate in any discussion with the accountants. The foregoing inspections and audits shall be at the Company's expense. Notwithstanding the foregoing, such visits, inspections and audits shall not be undertaken more frequently than once per year, unless an Event of Default has occurred and is continuing, in which case such inspections and audits shall occur as often as the Required Holders shall reasonably determine is necessary during regular business hours and upon reasonable advance notice. Notwithstanding anything to the contrary herein, neither the Company nor any Subsidiary shall be required to disclose, permit the inspection, examination or making of copies of or taking abstracts from, or discuss any document, information, or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information of the Company and/or any of its Subsidiaries, customers and/or suppliers, (ii) in respect of which disclosure to the Required Holders (or any of their representatives) is prohibited by applicable Requirements of Law; provided, that, with respect to this clause (ii), the Company shall (A) provide written notice to the Trustee or the Collateral Agent, as applicable, making it aware that information is being withheld (to the extent permitted by Requirements of Law) and (B) use commercially reasonable efforts to communicate the relevant information in a way that does not violate such Requirements of Law, (iii) that is subject to attorney-client or other legal privilege or constitutes attorney work product; provided, that, with respect to this clause (iii), the Company shall (A) provide written notice to the Trustee or the Collateral Agent, as applicable, making it aware that information is being withheld and (B) use commercially reasonable efforts to communicate the relevant information in a way that does not violate such attorney-client or other legal privilege or (iv) in respect of which the Company or any Subsidiary owes confidentiality obligations to any third party; provided, that, with respect to this clause (iv), the Company shall (A) provide written notice to the Trustee or the Collateral Agent, as applicable, making it aware of such confidentiality obligations (to the extent permitted under the applicable confidentiality obligation) and (B) use commercially reasonable efforts to communicate the relevant information in a way that does not violate such confidentiality obligations.

Section 4.29 Notices. The Company shall, and shall cause each of its Subsidiaries to, give prompt written notice to the Trustee, the Collateral Agent and the Designated Holders or their designee of:

(a) the occurrence of any Default or Event of Default of which the Company has knowledge or becomes aware;

(b) [reserved];

(c) promptly after the Company has knowledge or becomes aware of (i) any material development that has had or would reasonably be expected to have a Material Adverse Effect or (ii) the written threat or commencement of any dispute, litigation, arbitration, investigation or proceeding that may exist at any time between the Company and any Subsidiary, on the one hand, and any Governmental Authority, on the other hand, that would reasonably be expected to have a Material Adverse Effect;

(d) any litigation or proceeding with any of the Company or any Subsidiary as a party (i) in which the amount involved is $500,000 or more and not covered by insurance, or (ii) which relates to any Indenture Document; and

(e) (i) promptly after the Company has knowledge or becomes aware of the occurrence of any of the following events affecting the Company, any Subsidiary or any ERISA Affiliate that could reasonably be expected to have a Material Adverse Effect (but in no event more than fifteen days after such event), the occurrence of any of the following events, and shall provide the Trustee and the Collateral Agent with a copy of any notice with respect to such event that may be required to be filed with a Governmental Authority and any notice delivered by a Pension Plan or a Governmental Authority to the Company, any Subsidiary or any ERISA Affiliate with respect to such event: (A) an ERISA Event or a Foreign Plan Event, (B) the adoption of any new Pension Plan by the Company, any Subsidiary Guarantor or any ERISA Affiliate, (C) the adoption of any amendment to a Pension Plan, if such amendment will result in an increase in benefits or unfunded benefit liabilities (as defined in Section 4001(a)(18) of ERISA), or (D) the commencement of contributions by the Company, any Subsidiary or any ERISA Affiliate to any Multiemployer Plan or Pension Plan; (ii)(A) promptly after the giving, sending or filing thereof, or the receipt thereof, copies of (1) each Schedule SB (Actuarial Information) to the annual report (Form 5500 Series) filed by the Company, any Subsidiary or any ERISA Affiliate with the IRS with respect to each Pension Plan, (2) all notices received by the Company, any Subsidiary or any ERISA Affiliate from a Multiemployer Plan sponsor concerning an ERISA Event, and (3) copies of such other documents or governmental reports or filings relating to any Pension Plan as the Trustee or the Collateral Agent at the direction of the Required Holders shall reasonably request; and (B) without limiting the generality of the foregoing, such certifications or other evidence of compliance with the provisions of Section 4.17 as the Trustee or the Collateral Agent may from time to time reasonably request; and (iii) the Company or any Subsidiary Guarantor becoming a "benefit plan investor" under Section 3(42) of ERISA and/or the Company or any Subsidiary Guarantor's assets being deemed to include "plan assets" under Section 3(42) of ERISA or under any similar law applicable to the Company or such Subsidiary Guarantor.

Section 4.30 [Reserved].

Section 4.31 Anti-Corruption Laws; Anti-Terrorism Laws; Sanctions.

The Company shall, and shall cause each of its Subsidiaries to:

(a) conduct its business, and cause each of its Subsidiaries to conduct its business, in compliance with all Anti-Corruption Laws, Anti-Terrorism Laws, Export/Import Controls and Sanctions and maintain and enforce policies and procedures designed to ensure compliance with such laws. The Company shall deliver to the Trustee any certificate or other evidence reasonably requested from time to time by the Trustee confirming the Company's compliance with this Section 4.31; and

(b) provide prompt written notice to the Trustee the Collateral Agent and the Designated Holders or their designee upon the occurrence of a Reportable Compliance Event.

Section 4.32 Use of Proceeds. All proceeds of the Notes (i) shall be held in a deposit or money market account in the name of the Company and/or a Subsidiary Guarantor, which account will be at all times (no later than 30 Business Days after the Original Issue Date unless otherwise agreed by Lynrock in its sole discretion) subject to a deposit account control agreement or securities account control agreement, as applicable, in favor of the Collateral Agent, and (ii) will be used solely to (v) make cash interest payments on, or cash settlement of, the Notes, (w) cash settle the Warrants, (x) exchange, repurchase, redeem, replace or otherwise refinance the Existing Notes in whole or in part, (y) replenish or refund any cash of the Company or any of its subsidiaries that was used to exchange, repurchase, redeem, replace or otherwise refinance any Existing Notes after the date of the Exchange Agreement, and (z) pay or

reimburse any fees, costs and expenses in connection with the foregoing (including, for the avoidance of doubt, cash tax payments triggered by the exchange or repurchase of any Existing Notes or any guarantee or Collateral with respect to the Notes) and the other transactions contemplated by the Exchange Agreement and the Company's obligations under the Exchange Agreement and that certain letter agreement dated as of the Original Issue Date between the Company and the Noteholder related to the reimbursement of certain fees and expenses.

Section 4.33 [Reserved].

Section 4.34 Registration Rights. Upon the written request of Lynrock (Lynrock with its Affiliates, collectively, the "Designated Holders") or any of its designated Affiliates, the Company shall, within 30 days thereafter, enter into a registration rights agreement with the Designated Holders with respect to the Notes, which shall contain customary terms and provide that:

(a) the Designated Holders shall have customary demand, shelf and piggyback registration rights and obligations, including rights with respect to shelf registration on Form S-1 (or any similar or successor form) if the Company is not eligible to use Form S-3 (or any similar or successor form) at such time; and

(b) such registration rights shall include customary indemnities and the right to receive customary cooperation from the Company and its directors and officers in connection with any dispositions (which may take the form of underwritten offerings, block trades, derivative transactions and other lawful means of disposition) pursuant to the applicable registration statement(s) (including entering into customary agreements with underwriters and other counterparties and providing such underwriters and other counterparties with customary indemnities, opinions, certificates and due diligence cooperation). The Trustee shall have no obligation to determine beneficial ownership in connection with this Section 4.35.

ARTICLE 5
LISTS OF HOLDERS AND REPORTS BY THE COMPANY AND THE TRUSTEE

Section 5.01 Lists of Holders. The Company covenants and agrees that it will furnish or cause to be furnished to the Trustee, semi-annually, not more than 5 days after each June 1 or December 1 in each year beginning with December 1, 2024, and at such other times as the Trustee may request in writing, within 5 days after receipt by the Company of any such request (or such lesser time as the Trustee may reasonably request in order to enable it to timely provide any notice to be provided by it hereunder), a list in such form as the Trustee may reasonably require of the names and addresses of the Holders as of a date not more than 15 days (or such other date as the Trustee may reasonably request in order to so provide any such notices) prior to the time such information is furnished, except that no such list need be furnished so long as the Trustee is acting as Note Registrar.

Section 5.02 Preservation and Disclosure of Lists. The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the Holders contained in the most recent list furnished to it as provided in Section 5.01 or maintained by the Trustee in its capacity as Note Registrar, if so acting. The Trustee may destroy any list furnished to it as provided in Section 5.01 upon receipt of a new list so furnished.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 Events of Default. Each of the following events shall be an "***Event of Default***" with respect to the Notes:

(a) default in any payment of any interest (including any cash interest or any PIK Interest portion thereof) on any Note when due and payable, and the default continues for a period of 20 days;

(b) default in the payment of principal of, or the Redemption Price, Fundamental Change Repurchase Price or Asset Sale Offer Repurchase Price for, or the applicable Notes Premium (to the extent not duplicative of the foregoing) on, any Note when due and payable on the Maturity Date, upon Optional Redemption, upon any required repurchase, upon declaration of acceleration or otherwise;

(c) failure by the Company to comply with its obligation to convert the Notes (and satisfy the Conversion Obligation) in accordance with this Indenture upon exercise of a Holder's conversion right and such failure continues for a period of five (5) Business Days;

(d) failure by the Company to issue a Fundamental Change Company Notice in accordance with Section 15.02(c), Asset Sale Offer Repurchase Notice in accordance with Section 4.13, Existing Notes Test Date Notice in accordance with Section 15.01(c), notice of a Make-Whole Fundamental Change in accordance with Section 14.03(b) or notice of a specified distribution or Corporate Event in accordance with Section 14.01(b)(ii) or Section 14.01(b)(iii), in each case when due and such failure continues for a period of five (5) Business Days;

(e) failure by the Company to comply with its obligations under Section 4.15(a) and Article 11;

(f) failure by the Company for 40 days after written notice from the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding has been received by the Company to comply with any of its other agreements contained in the Notes, this Indenture or any other Indenture Document (other than the Exchange Agreement);

(g) default by the Company or any Significant Subsidiary of the Company with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed in excess of $5,000,000 (or its foreign currency equivalent) in the aggregate of the Company and/or any such Significant Subsidiary (provided, that such materiality threshold will not apply in respect of obligations incurred under clause (b) of the definition of "Permitted Indebtedness"), whether such indebtedness now exists or shall hereafter be created (i) either (x) resulting in such indebtedness becoming or being declared due and payable before its stated maturity, or (y) in the case of obligations incurred under clause (b) of the definition of "Permitted Indebtedness", permitting the holders thereof to cause or declare such indebtedness to be, due and payable before its stated maturity or (ii) constituting a failure to pay the principal or interest of any such indebtedness when due and payable at its stated maturity, upon required repurchase, upon declaration of acceleration or otherwise, in each case after the expiration of any applicable grace period, and, in the cases of clauses (i)(x) and (ii), as applicable, such acceleration shall not have been rescinded or annulled or such failure to pay or default shall not have been cured or waived, or such indebtedness is not paid or discharged, as the case may be, within 20 days after written notice to the Company by the Trustee or to the Company and the Trustee by Holders of at least 25% in aggregate principal amount of Notes then outstanding in accordance with this Indenture;

(h) a final judgment or judgments for the payment of $5,000,000 (or its foreign currency equivalent) or more (excluding any amounts covered by insurance) in the aggregate rendered against the Company or any Significant Subsidiary of the Company, which judgment is not discharged, bonded, paid, waived or stayed within 40 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished;

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

(j) an involuntary case or other proceeding shall be commenced against the Company or any Significant Subsidiary seeking liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 30 consecutive days;

(k) the obligation of any Subsidiary Guarantor under its Note Guarantee herein or any other Indenture Document to which any Subsidiary Guarantor is a party is limited or terminated (other than, in each case, in accordance with the terms of this Indenture or such other Indenture Documents and limitations customary in foreign jurisdictions with respect to Foreign Subsidiaries), or any Subsidiary Guarantor fails to perform any obligation under its Note Guarantee, or repudiates or revokes or purports to repudiate or revoke in writing any obligation under its Note Guarantee herein, or any Subsidiary Guarantor ceases to exist for any reason (other than in accordance with the terms of this Indenture);

(l) any Security Document after delivery thereof shall for any reason cease (or shall be asserted in writing by the Company or any Subsidiary Guarantor to cease) to create a valid and perfected Lien to the extent required by the Security Documents, subject to no other Liens other than Permitted Liens, on any material portion of the Collateral that is purported to be covered thereby (other than in accordance with the terms of this Indenture or the terms of the Intercreditor Agreement or the Security Documents or limitations customary in foreign jurisdictions with respect to Foreign Subsidiaries);

(m) the validity or enforceability of any Indenture Document shall at any time for any reason be declared to be null and void by a court of competent jurisdiction, or a proceeding shall be commenced by the Company or any Subsidiary Guarantor, or a proceeding shall be commenced by any Governmental Authority having jurisdiction over the Company or any Subsidiary Guarantor, seeking to establish the invalidity or unenforceability thereof, or the Company shall deny in writing that the Company or any Subsidiary Guarantor has any liability on account of the Notes Obligations; and

(n) so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, failure by the Company for 30 days after written notice from Lynrock has been received by the Company to comply with any covenant, agreement or requirement under the Exchange Agreement, including, for the avoidance of doubt, breach or default in the observance or performance of any covenant, agreement or requirement set forth on the exhibits, annexes and schedules thereto (for the avoidance of doubt, so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, if the Company fails to comply with any covenant, agreement or requirement under the Exchange Agreement, including, for the avoidance of doubt, breach or default in the observance or performance of any covenant, agreement or requirement set forth on the exhibits, annexes and schedules thereto, an Event of Default will result after 30 days following receipt of such written notice by the Company from Lynrock regarding same).

Each of the events set forth in Section 6.01 will constitute an Event of Default regardless of the cause thereof or whether voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

Section 6.02 Acceleration; Rescission and Annulment. If one or more Events of Default shall have occurred and be continuing (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body), then, and in each and every such case (other than an Event of Default specified in Section 6.01(i) or Section 6.01(j)), unless the principal of all of the Notes shall have already become due and payable, either the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding determined in accordance with Section 8.04 (or, in the case of Section 6.01(n), so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, Lynrock, individually), by notice in writing to the Company (and to the Trustee if given by Holders) may declare 100% of the aggregate principal of, and any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and the applicable Acceleration Premium on, all the then outstanding Notes to be due and payable immediately, and upon any such declaration the same shall become and shall automatically be immediately due and payable, anything contained in this Indenture or in the Notes to the contrary notwithstanding. If an Event of Default specified in Section 6.01(i) or Section 6.01(j) occurs and is continuing, 100% of the aggregate principal of, and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and the applicable Acceleration Premium on, all Notes shall become and shall automatically be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder. For the avoidance of doubt, so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, Lynrock, acting individually, may accelerate the Notes as provided above after the occurrence and during the continuance of an Event of Default specified in Section 6.01(n).

The immediately preceding paragraph, however, except in the case of Events of Default specified in Section 6.01(n), is subject to the conditions that if, at any time after the principal of the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay any overdue installments of any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) upon all Notes and the principal of and any applicable Notes Premium on any and all Notes that shall have become due otherwise than by acceleration (with interest on overdue installments of any accrued and unpaid interest and on such principal and any applicable Note Premium, all at the rate borne by the Notes at such time) and amounts due to the Trustee and the Collateral Agent pursuant to Section 7.06, and if (1) rescission would not

conflict with any judgment or decree of a court of competent jurisdiction and (2) any and all existing Events of Default under this Indenture, other than the nonpayment of the principal of and any applicable Notes Premium on and any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) on Notes that shall have become due solely by such acceleration, shall have been cured or waived pursuant to Section 6.09 and amounts due to the Trustee or the Collateral Agent pursuant to Section 7.06 have been paid, then and in every such case (except as provided in the immediately succeeding sentence) the Required Holders, by written notice to the Company and to the Trustee, may waive all Defaults or Events of Default with respect to the Notes and rescind and annul such declaration and its consequences and such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent Default or Event of Default, or shall impair any right consequent thereon. Notwithstanding anything to the contrary herein, no such waiver or rescission and annulment shall extend to or shall affect any Default or Event of Default resulting from (i) the nonpayment of the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, or any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium on, any Notes, (ii) a failure to repurchase any Notes when required or (iii) a failure to pay or deliver, as the case may be, the consideration due upon conversion of the Notes. For the avoidance of doubt, so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, only Lynrock will have the ability to waive, rescind and annul any Event of Default specified in Section 6.01(n) and any acceleration of the Notes as a result thereof.

It is understood and agreed that if the Notes are accelerated or otherwise become due prior to the Stated Maturity (including as a result of the occurrence and continuance of any Event of Default and any acceleration as a result thereof (including the acceleration of claims by operation of law), upon an Optional Redemption, on an Existing Notes Test Maturity Date or upon an Asset Sale Offer Repurchase Date or Fundamental Change Repurchase Date, or the Notes are converted in the circumstances specified in Section 14.03), the applicable Notes Premium will also automatically be due and payable and shall constitute part of the Notes Obligations with respect to the Notes. In view of the impracticability and extreme difficulty of ascertaining actual damages and by mutual agreement of the parties as to a reasonable calculation of the applicable Holder's lost profits as a result thereof, any such applicable Notes Premium payable shall be presumed to be the liquidated damages sustained by the applicable Holder as the result of such early prepayment or such conversion and the Company and each of the Subsidiary Guarantors agrees that it is reasonable under the circumstances currently existing. EACH OF THE COMPANY AND THE SUBSIDIARY GUARANTORS EXPRESSLY WAIVES (TO THE FULLEST EXTENT IT MAY LAWFULLY DO SO) THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING AMOUNTS IN CONNECTION WITH ANY SUCH ACCELERATION OR REPAYMENT OR REDEMPTION OR REPURCHASE OR CONVERSION, ANY RESCISSION OF SUCH ACCELERATION OR THE COMMENCEMENT OF ANY PROCEEDING UNDER DEBTOR RELIEF LAWS. Each of the Company and the Subsidiary Guarantors expressly agrees (to the fullest extent it may lawfully do so) that: (A) the applicable Notes Premium is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel; (B) the applicable Notes Premium shall be payable notwithstanding the then prevailing market rates at the time payment is made; (C) there has been a course of conduct between the applicable Holder and the Company and the Subsidiary Guarantors giving specific consideration in this transaction for such agreement to pay such applicable Notes Premium; and (D) each of the Company and the Subsidiary Guarantors shall be estopped hereafter from claiming differently than as agreed to in this paragraph. Each of the Company

and the Subsidiary Guarantors expressly acknowledges that its agreement to pay such applicable Notes Premium to the Holders as herein described is a material inducement to the Holders to acquire the Notes.

Section 6.03 [Reserved].

Section 6.04 Payments of Notes on Default; Suit Therefor. If an Event of Default described in clause (a) or (b) of Section 6.01 shall have occurred and be continuing, the Company shall, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of the Notes, the whole amount then due and payable on the Notes for principal and interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium thereon and, to the extent the payment thereof shall be legally enforceable, interest on any overdue principal and on any applicable Notes Premium and on any overdue interest at the rate of the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) borne by Notes at such time and, in addition thereto, such further amount as shall be sufficient to cover any amounts due to the Trustee and the Collateral Agent under Section 7.06. If the Company shall fail to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, or the Collateral Agent, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Notes, wherever situated.

In the event there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Notes under Bankruptcy Law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Company or such other obligor, the property of the Company or such other obligor, or in the event of any other judicial proceedings relative to the Company or such other obligor upon the Notes, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section 6.04, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium in respect of the Notes, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents and to take such other actions as it may deem necessary or advisable in order to have the claims of the Trustee and the Collateral Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, the Collateral Agent, their agents and counsel) and of the Holders allowed in such judicial proceedings relative to the Company or any other obligor on the Notes, its or their creditors, or its or their property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of any amounts due to the Trustee and the Collateral Agent under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization, liquidator, custodian or similar official is hereby authorized by each of the Holders to make such payments to the Trustee, as administrative expenses, and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to each of the Trustee and the Collateral Agent any amount due it for reasonable compensation, expenses, advances and disbursements, including agents and counsel fees, and including any other amounts due to the Trustee and the Collateral Agent under Section 7.06, incurred by it up to the date of such distribution. To the extent that such payment of reasonable compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions,

dividends, monies, securities and other property that the Holders of the Notes may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting such Holder or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

All rights of action and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Trustee without the possession of any of the Notes, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, the Collateral Agent, their agents and counsel, be for the ratable benefit of the Holders of the Notes.

In any proceedings brought by the Trustee (and in any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the Holders of the Notes, and it shall not be necessary to make any Holders of the Notes parties to any such proceedings.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of any waiver pursuant to Section 6.09 or any rescission and annulment pursuant to Section 6.02 or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, the Holders, the Trustee and the Collateral Agent shall, subject to any determination in such proceeding, be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Holders and the Trustee and the Collateral Agent shall continue as though no such proceeding had been instituted.

Section 6.05 Application of Monies Collected by Trustee. Any monies or property collected by the Trustee pursuant to this Article 6 with respect to the Notes shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such monies or property, upon (in the case of Physical Notes) presentation of the several Physical Notes, and stamping thereon the payment, if only partially paid, and the surrender thereof, if fully paid:

First, to the payment of all amounts due the Trustee and the Collateral Agent (in each of its capacities under this Indenture) hereunder;

Second, in case the principal of the outstanding Notes shall not have become due and be unpaid, to the payment of any interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium on, and any cash due upon conversion of, the Notes in default in the order of the date due of the payments of such interest and any applicable Notes Premium and cash due upon conversion, as the case may be, with interest (to the extent that any such interest is payable pursuant to this Indenture and has been collected by the Trustee) upon such overdue payments at the rate of the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) borne by the Notes at such time, such payments to be made ratably to the Persons entitled thereto;

Third, in case the principal of the outstanding Notes shall have become due, by declaration or otherwise, and be unpaid to the payment of the whole amount (including, if applicable, the Redemption

Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price and any cash due upon conversion) then owing and unpaid upon the Notes for principal and interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium (to the extent not duplicative of the foregoing) with interest on the overdue principal, and overdue installments of interest at the rate of the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) borne by the Notes at such time and in case such monies shall be insufficient to pay in full the whole amounts so due and unpaid upon the Notes, then to the payment of such principal (including, if applicable, the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price and any cash due upon conversion) and interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium (to the extent not duplicative of the foregoing) without preference or priority of any kind, including any preference or priority of principal over interest, or of interest over principal or of any installment of interest over any other installment of interest, or of any Note over any other Note, ratably to the aggregate of such principal (including, if applicable, the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price and any cash due upon conversion) and any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium (to the extent not duplicative of the foregoing); and

Fourth, to the payment of the remainder, if any, to the Company.

Section 6.06 Proceedings by Holders. Without limiting in any way Lynrock's ability, acting individually (so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes), to accelerate the Notes as provided above after the occurrence and during the continuance of an Event of Default specified in Section 6.01(n), except to enforce the right to receive payment of principal (including, if applicable, the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price) or any interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium when due, or the right to receive payment or delivery of the consideration due upon conversion, no Holder of any Note shall have any right by virtue of or by availing of any provision of this Indenture or the Notes to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture, or for the appointment of a receiver, trustee, liquidator, custodian or other similar official, or for any other remedy hereunder, unless:

(a) such Holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof, as herein provided;

(b) Holders of at least 25% in aggregate principal amount of the Notes then outstanding (or, in the case of an Event of Default specified in Section 6.01(n), so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, Lynrock, acting individually, as the case may be) shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder;

(c) such Holders shall have offered to the Trustee such indemnity or security reasonably satisfactory to it against any loss, liability or expense to be incurred therein or thereby;

(d) the Trustee for 35 days after its receipt of such notice, request and offer of such indemnity or security, shall have neglected or refused to institute any such action, suit or proceeding; and

(e) no direction that, in the opinion of the Trustee, is inconsistent with such written request shall have been given to the Trustee by the Required Holders (or, in the case of an Event of Default specified in Section 6.01(n), so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, Lynrock, acting individually, as the case may be) within such 20-day period pursuant to Section 6.09, it being understood and intended, and being expressly covenanted by the taker and Holder of every Note with every other taker and Holder and the Trustee that no one or more Holders shall have any right in any manner whatever by virtue of or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other Holder, or to obtain or seek to obtain priority over or preference to any other such Holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Holders (except as otherwise provided herein). For the protection and enforcement of this Section 6.06, each and every Holder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Notwithstanding any other provision of this Indenture and any provision of any Note, the right of any Holder to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable) of, (y) accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium on and (z) the consideration due upon conversion of, such Note, on or after the respective due dates expressed or provided for in such Note or in this Indenture, and the right to institute suit for the enforcement of any such payment or delivery, as the case may be, on or after such respective dates against the Company shall not be impaired or affected without the consent of such Holder.

Section 6.07 Proceedings by Trustee. In case of an Event of Default, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as are necessary to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Section 6.08 Remedies Cumulative and Continuing. Except as provided in the last paragraph of Section 2.06, all powers and remedies given by this Article 6 to the Trustee or to the Holders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the Holders of the Notes, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any Holder of any of the Notes to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Default or Event of Default or any acquiescence therein; and, subject to the provisions of Section 6.06, every power and remedy given by this Article 6 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders.

Section 6.09 Direction of Proceedings and Waiver of Defaults by Required Holders. Subject to the Trustee's and the Collateral Agent's right to receive security or indemnity from the relevant Holders as described herein, the Required Holders or, in the case of an Event of Default specified in Section 6.01(n), so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, Lynrock, acting individually, as the case may be, shall have the right to direct

the time, method and place of conducting any proceeding for any remedy available to the Trustee or the Collateral Agent or exercising any trust or power conferred on the Trustee or the Collateral Agent with respect to the Notes; provided, however, that (a) such direction shall not be in conflict with any rule of law or with this Indenture, and (b) the Trustee and the Collateral Agent, as applicable, may take any other action deemed proper by the Trustee or the Collateral Agent, as applicable, that is not inconsistent with such direction. Without limiting in any way Lynrock's ability, acting individually, to accelerate the Notes as provided above after the occurrence and during the continuance of an Event of Default specified in Section 6.01(n) (so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes), each of the Trustee and the Collateral Agent may refuse to follow any direction that it determines is unduly prejudicial to the rights of any other Holder or that would involve the Trustee or the Collateral Agent in personal liability or that conflicts with applicable law or this Indenture. The Required Holders may on behalf of the Holders of all of the Notes waive any past Default or Event of Default hereunder and its consequences except (i) a default in the payment of accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium on, or the principal (including any Redemption Price, the Fundamental Change Repurchase Price and any Asset Sale Offer Repurchase Price) of, the Notes when due that has not been cured pursuant to the provisions of Section 6.01, (ii) a failure by the Company to pay or deliver, as the case may be, the consideration due upon conversion of the Notes or (iii) a default in respect of a covenant or provision hereof which under Article 10 cannot be modified or amended without the consent of each Holder of an outstanding Note affected; provided, that, so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, only Lynrock will have the ability to waive, rescind and annul any Event of Default specified in Section 6.01(n) and any acceleration of the Notes as a result thereof. Upon any such waiver the Company, the Trustee, the Collateral Agent and the Holders of the Notes shall be restored to their former positions and rights hereunder; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Whenever any Default or Event of Default hereunder shall have been waived as permitted by this Section 6.09, said Default or Event of Default shall for all purposes of the Notes and this Indenture be deemed to have been cured and to be not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 6.10 Notice of Defaults. The Trustee shall, within 45 days after it receives written notice of the occurrence and continuance of a Default of which the Trustee has actual knowledge, deliver to all Holders notice of all such Defaults, unless such Defaults shall have been cured or waived before the giving of such notice; provided, that, except in the case of a Default in the payment of the principal of (including the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price, if applicable), or any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) on and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, any of the Notes or a Default in the payment or delivery of the consideration due upon conversion, the Trustee shall be protected in withholding such notice if and so long as it in good faith determines that the withholding of such notice is in the interests of the Holders.

Section 6.11 Undertaking to Pay Costs. All parties to this Indenture agree, and each Holder of any Note by its acceptance thereof shall be deemed to have agreed, that any court may, in its discretion, require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; provided,

that the provisions of this Section 6.11 (to the extent permitted by law) shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 8.04, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium on any Note (including, but not limited to, the Redemption Price, the Fundamental Change Repurchase Price and the Asset Sale Offer Repurchase Price with respect to the Notes being redeemed or repurchased as provided in this Indenture) on or after the due date expressed or provided for in such Note or to any suit for the enforcement of the right to convert any Note, or receive the consideration due upon conversion, in accordance with the provisions of Article 14.

ARTICLE 7
CONCERNING THE TRUSTEE

Section 7.01 Duties and Responsibilities of Trustee. The Trustee, prior to the occurrence of an Event of Default of which the Trustee has written notice or actual knowledge and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In the event an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers conferred on it by this Indenture as directed by the Required Holders (or, so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, in the case of an Event of Default specified in Section 6.01(n), Lynrock, acting individually, as the case may be); provided, that if an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the Holders unless such Holders have offered (and, if requested, provided) to the Trustee indemnity or security satisfactory to it against any loss, liability or expense that might be incurred by it in compliance with such request or direction.

No provision of this Indenture shall be construed to relieve the Trustee or the Collateral Agent from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, except that:

(a) prior to the occurrence of an Event of Default of which a Responsible Officer of the Trustee has written notice or actual knowledge and after the curing or waiving of all Events of Default that may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith or willful misconduct on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions that by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein);

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless it shall be proved that the Trustee was grossly negligent in ascertaining the pertinent facts;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Required Holders (or, so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, in the case of an Event of Default specified in Section 6.01(n), Lynrock, acting individually, as the case may be) relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(d) whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section 7.01;

(e) the Trustee shall not be liable in respect of any payment (as to the correctness of amount, entitlement to receive or any other matters relating to payment) or notice effected by the Company or any Paying Agent or any records maintained by any co-Note Registrar with respect to the Notes;

(f) if any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred;

(g) in the event that the Trustee is also acting as Custodian, Note Registrar, Paying Agent, Conversion Agent, Bid Solicitation Agent, Collateral Agent or transfer agent hereunder, the rights and protections afforded to the Trustee pursuant to this Article 7 shall also be afforded to such Custodian, Note Registrar, Paying Agent, Conversion Agent, Bid Solicitation Agent, Collateral Agent or transfer agent;

(h) in the absence of written investment direction from the Company, all cash received by the Trustee shall be placed in a non-interest bearing trust account and in no event shall the Trustee be liable for the selection of investments or for investment losses incurred thereon or for losses incurred as a result of the liquidation of any such investment prior to its maturity date or the failure of the party directing such investments prior to its maturity date or the failure of the party directing such investment to provide timely written investment direction, and the Trustee shall have no obligation to invest or reinvest any amounts held hereunder in the absence of such written investment direction from the Company; and

(i) under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Notes.

None of the provisions contained in this Indenture shall require the Trustee or the Collateral Agent to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

Section 7.02 Reliance on Documents, Opinions, Etc. Except as otherwise provided in Section 7.01:

(a) the Trustee may conclusively rely and shall be fully protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, note, coupon or other paper or document (whether in its original or facsimile form) believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any Board Resolution may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company;

(c) the Trustee may consult with counsel of its selection and require an Opinion of Counsel and any advice of such counsel or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel;

(d) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;

(e) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, custodian, nominee or attorney appointed by it with due care hereunder;

(f) the permissive rights of the Trustee enumerated herein shall not be construed as duties;

(g) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder; and

(h) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture; and

(i) the Trustee shall have no obligation to monitor or enforce the terms of the Exchange Agreement or any registration rights agreement entered into between any beneficial owner and the Company.

In no event shall the Trustee be liable for any consequential, punitive, special or indirect loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action. The Trustee shall not be charged with knowledge of any Default or Event of Default with respect to the Notes, unless either (1) a Responsible Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been given to a Responsible Officer of the Trustee by the Company or by any Holder of the Notes at the Corporate Trust Office and such notice references the Notes and/or this Indenture.

Section 7.03 No Responsibility for Recitals, Etc. The recitals contained herein and in the Notes (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity, sufficiency or enforceability of this Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds of any Notes authenticated and delivered by the Trustee in conformity with the provisions of this Indenture or any money paid to the Company or upon the Company's direction under any provision of the Indenture.

Section 7.04 Trustee, Paying Agents, Conversion Agents, Bid Solicitation Agent or Note Registrar May Own Notes. The Trustee, any Paying Agent, any Conversion Agent, Bid Solicitation Agent (if other than the Company or any Affiliate thereof), Collateral Agent or Note Registrar, in its individual or any other capacity, may become the owner or pledgee of Notes with the same rights it would have if it were not the Trustee, Paying Agent, Conversion Agent, Bid Solicitation Agent, Collateral Agent or Note Registrar.

Section 7.05 Monies to Be Held in Trust. All monies received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds or property except to the extent required by law. The Trustee shall be under no liability for interest or investment income on any money received by it hereunder except as may be agreed from time to time by the Company and the Trustee.

Section 7.06 Compensation and Expenses of Trustee. The Company and the Subsidiary Guarantors, jointly and severally, covenant and agree to pay to the Trustee and Collateral Agent (in each of their capacities under this Indenture) from time to time, and the Trustee and Collateral Agent shall be entitled to, compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as mutually agreed to in writing between the Trustee, Collateral Agent and the Company, and the Company will pay or reimburse the Trustee and Collateral Agent upon its request for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee and Collateral Agent in accordance with any of the provisions of this Indenture or the Security Documents in any capacity hereunder or thereunder (including the reasonable compensation and the expenses and disbursements of its agents and counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as shall have been caused by its gross negligence, willful misconduct or bad faith. The Company and the Subsidiary Guarantors, jointly and severally, also covenant to indemnify the Trustee and Collateral Agent in any capacity under this Indenture, the Security Documents and any other document or transaction entered into in connection herewith and its officers, directors, attorneys, employees and agents and any authenticating agent for, and to hold them harmless against, any loss, claim (whether asserted by the Company, a Holder or any Person), damage, liability or expense incurred without gross negligence, willful misconduct or bad faith on the part of the Trustee or Collateral Agent, as the case may be, its officers, directors, attorneys, agents or employees, or such agent or authenticating agent, as the case may be, and arising out of or in connection with the acceptance or administration of this Indenture, the Security Documents or in any other capacity hereunder or thereunder, including the reasonable costs and expenses of defending themselves against any claim or liability (including the obligations under this Section 7.06). The obligations of the Company under this Section 7.06 to compensate or indemnify the Trustee and Collateral Agent and to pay or reimburse the Trustee and Collateral Agent for expenses, disbursements and advances shall be secured by a senior lien to which the Notes are hereby made subordinate on all money or property held or collected by the Trustee, except, subject to the effect of Section 6.05, funds held in trust herewith for the benefit of the Holders of particular Notes. The Trustee's and Collateral

Agent's right to receive payment of any amounts due under this Section 7.06 shall not be subordinate to any other liability or indebtedness of the Company. The obligation of the Company under this Section 7.06 shall survive the satisfaction and discharge of this Indenture, the payment or conversion of the Notes and the earlier resignation or removal of the Trustee or Collateral Agent, as applicable. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld. The indemnification provided in this Section 7.06 shall extend to the officers, directors, attorneys, agents and employees of the Trustee and Collateral Agent.

Without prejudice to any other rights available to the Trustee and the Collateral Agent under applicable law, when the Trustee, the Collateral Agent and their agents and any authenticating agent incur expenses or render services after an Event of Default specified in Section 6.01(i) or Section 6.01(j) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any bankruptcy, insolvency or similar laws.

Section 7.07 Officer's Certificate and Opinion of Counsel as Evidence. Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee or Collateral Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence, willful misconduct and bad faith on the part of the Trustee or Collateral Agent, as applicable, be deemed to be conclusively proved and established by an Officer's Certificate and an Opinion of Counsel delivered to the Trustee and Collateral Agent, if applicable, and such Officer's Certificate and Opinion of Counsel, in the absence of gross negligence, willful misconduct and bad faith on the part of the Trustee and Collateral Agent, if applicable, shall be full warrant to the Trustee and Collateral Agent, if applicable, for any action taken or omitted by it under the provisions of this Indenture and the Security Documents upon the faith thereof.

Section 7.08 Eligibility of Trustee. There shall at all times be a Trustee hereunder which shall be a Person that is eligible pursuant to the Trust Indenture Act (as if, for this purpose, the Trust Indenture Act were applicable hereto) to act as such and has a combined capital and surplus of at least $50,000,000. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section 7.08, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 7.08, it shall resign immediately in the manner and with the effect hereinafter specified in this Article 7.

Section 7.09 Resignation or Removal of Trustee.

(a) The Trustee may at any time resign by giving written notice of such resignation to the Company and by delivering notice thereof to the Holders. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 60 days after the giving of such notice of resignation to the Holders, the resigning Trustee may, upon ten Business Days' notice to the Company and the Holders and at the expense of the Company, petition any court of competent jurisdiction for the appointment of a successor trustee, or any Holder who has been a bona fide holder of a Note or Notes for at least six months (or since the date of this Indenture) may, subject to the provisions of Section 6.11, on behalf of himself or herself and all others similarly situated, petition any such court for the appointment of a

successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.08 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(ii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in either case, the Company may by a Board Resolution remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 6.11, any Holder who has been a bona fide holder of a Note or Notes for at least six months (or since the date of this Indenture) may, on behalf of himself or herself and all others similarly situated, petition any court of competent jurisdiction at the expense of the Company for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Required Holders may at any time remove the Trustee and nominate a successor trustee that shall be deemed appointed as successor trustee unless within ten days after notice to the Company of such nomination the Company objects thereto, in which case the Trustee so removed or any Holder, upon the terms and conditions and otherwise as in Section 7.09(a) provided, may petition any court of competent jurisdiction for an appointment of a successor trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 7.09 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 7.10.

Section 7.10 Acceptance by Successor Trustee. Any successor trustee appointed as provided in Section 7.09 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the trustee ceasing to act shall, upon payment of any amounts then due it pursuant to the provisions of Section 7.06, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien prior to the Notes on all money or property held or collected by such trustee as such, except for funds held in trust for the benefit of Holders of particular Notes, to secure any amounts then due it pursuant to the provisions of Section 7.06.

No successor trustee shall accept appointment as provided in this Section 7.10 unless at the time of such acceptance such successor trustee shall be eligible under the provisions of Section 7.08.

Upon acceptance of appointment by a successor trustee as provided in this Section 7.10, each of the Company and the successor trustee, at the written direction and at the expense of the Company shall deliver or cause to be delivered notice of the succession of such trustee hereunder to the Holders. If the Company fails to deliver such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be delivered at the expense of the Company.

Section 7.11 Succession by Merger, Etc. Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee (including the administration of this Indenture), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided, that in the case of any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee such corporation or other entity shall be eligible under the provisions of Section 7.08.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee or authenticating agent appointed by such predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee or an authenticating agent appointed by such successor trustee may authenticate such Notes either in the name of any predecessor trustee hereunder or in the name of the successor trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided, that the certificate of the Trustee shall have; provided, however, that the right to adopt the certificate of authentication of any predecessor trustee or to authenticate Notes in the name of any predecessor trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 7.12 Trustee's Application for Instructions from the Company. Any application by the Trustee for written instructions from the Company (other than with regard to any action proposed to be taken or omitted to be taken by the Trustee that affects the rights of the Holders of the Notes under this Indenture) may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable to the Company for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three (3) Business Days after notice to the Company has been deemed to have been given pursuant to Section 17.03, unless any such officer shall have consented in writing to any earlier date), unless, prior to taking any such action (or the effective date in the case of any omission), the Trustee shall have received written instructions in accordance with this Indenture in response to such application specifying the action to be taken or omitted.

Section 7.13 Limitation on Duty of Trustee in Respect of Collateral. The Trustee and Collateral Agent shall not be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity

of the title of the Company to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral (except with respect to certificates actually delivered to the Collateral Agent representing securities pledged under the Security Documents). The Trustee and Collateral Agent shall have no duty to ascertain or inquire as to the performance or observance of any of the terms of this Indenture or the Security Documents by the Company or any Subsidiary Guarantor.

ARTICLE 8
CONCERNING THE HOLDERS

Section 8.01 Action by Holders. Whenever in this Indenture it is provided, that the Holders of a specified percentage of the aggregate principal amount of the Notes may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action, the Holders of such specified percentage have joined therein may be evidenced (a) by any instrument or any number of instruments of similar tenor executed by Holders in person or by agent or proxy appointed in writing, or (b) by the record of the Holders voting in favor thereof at any meeting of Holders duly called and held in accordance with the provisions of Article 9, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Holders. Whenever the Company, the Trustee or the Collateral Agent solicits the taking of any action by the Holders of the Notes, the Company, the Trustee or the Collateral Agent may, but shall not be required to, fix in advance of such solicitation, a date as the record date for determining Holders entitled to take such action. The record date if one is selected shall be not more than fifteen days prior to the date of commencement of solicitation of such action.

Section 8.02 Proof of Execution by Holders. Subject to the provisions of Section 7.01, Section 7.02 and Section 9.05, proof of the execution of any instrument by a Holder or its agent or proxy shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Notes shall be proved by the Note Register or by a certificate of the Note Registrar. The record of any Holders' meeting shall be proved in the manner provided in Section 9.06.

Section 8.03 Who Are Deemed Absolute Owners. The Company, the Trustee, the Collateral Agent, any authenticating agent, any Paying Agent, any Conversion Agent and any Note Registrar shall deem the Person in whose name a Note shall be registered upon the Note Register to be, and may treat it as, the absolute owner of such Note (whether or not such Note shall be overdue and notwithstanding any notation of ownership or other writing thereon made by any Person other than the Company or any Note Registrar) for the purpose of receiving payment of or on account of the principal (including any Redemption Price, any Fundamental Change Repurchase Price and any Asset Sale Offer Repurchase Price) of and (subject to Section 2.03) any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium (to the extent not duplicative of the foregoing) on such Note, for conversion of such Note and for all other purposes under this Indenture; and neither the Company nor the Trustee nor the Collateral Agent nor any Paying Agent nor any Conversion Agent nor any Note Registrar shall be affected by any notice to the contrary. The sole registered holder of a Global Note shall be the Depositary or its nominee. All such payments or deliveries so made to any Holder for the time being, or upon its order, shall be valid, and, to the extent of the sums so paid or delivered, effectual to satisfy and discharge the liability for monies payable upon any such Note. Notwithstanding anything to the contrary in this Indenture or the Notes following an Event of Default, any owner of a beneficial interest in a Global Note may directly enforce against the Company, without the consent, solicitation, proxy, authorization or any other action of the Depositary or any other Person, such

owner's right to exchange such beneficial interest for a Physical Note in accordance with the provisions of this Indenture.

Section 8.04 Company-Owned Notes Disregarded. In determining whether the Holders of the requisite aggregate principal amount of Notes have concurred in any direction, consent, waiver or other action under this Indenture, Notes that are owned by the Company or by any Subsidiary thereof shall be disregarded and deemed not to be outstanding for the purpose of any such determination; provided, that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action, only Notes with respect to which a Responsible Officer has received written notice that such Notes are so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as outstanding for the purposes of this Section 8.04 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to so act with respect to such Notes and that the pledgee is not the Company or a Subsidiary thereof. In the case of a dispute as to such right, any decision or indecision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Notes, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and, subject to Section 7.01, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Notes not listed therein are outstanding for the purpose of any such determination.

Section 8.05 Revocation of Consents; Future Holders Bound. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the Holders of the percentage of the aggregate principal amount of the Notes specified in this Indenture in connection with such action, any Holder of a Note that is shown by the evidence to be included in the Notes the Holders of which have consented to such action may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Note. Except as aforesaid, any such action taken by the Holder of any Note shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Note and of any Notes issued in exchange or substitution therefor or upon registration of transfer thereof, irrespective of whether any notation in regard thereto is made upon such Note or any Note issued in exchange or substitution therefor or upon registration of transfer thereof.

ARTICLE 9
HOLDERS' MEETINGS

Section 9.01 Purpose of Meetings. A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article 9 for any of the following purposes:

(a) to give any notice to the Company or to the Trustee or to give any directions to the Trustee permitted under this Indenture, or to consent to the waiving of any Default or Event of Default hereunder (in each case, as permitted under this Indenture) and its consequences, or to take any other action authorized to be taken by Holders pursuant to any of the provisions of Article 6;

(b) to remove the Trustee and nominate a successor trustee pursuant to the provisions of Article 7;

(c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Article 10; or

(d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Notes under any other provision of this Indenture or under applicable law.

Section 9.02 Call of Meetings by Trustee. The Trustee may at any time call a meeting of Holders to take any action specified in Section 9.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of the Holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting and the establishment of any record date pursuant to Section 8.01, shall be delivered to Holders of such Notes. Such notice shall also be delivered to the Company. Such notices shall be delivered not less than 20 nor more than 90 days prior to the date fixed for the meeting.

Any meeting of Holders shall be valid without notice if the Holders of all Notes then outstanding are present in person or by proxy or if notice is waived before or after the meeting by the Holders of all Notes then outstanding, and if the Company and the Trustee are either present by duly authorized representatives or have, before or after the meeting, waived notice.

Section 9.03 Call of Meetings by Company or Holders. In case at any time the Company, pursuant to a Board Resolution, or the Holders of at least 10% of the aggregate principal amount of the Notes then outstanding, shall have requested the Trustee to call a meeting of Holders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have delivered the notice of such meeting within 20 days after receipt of such request, then the Company or such Holders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 9.01, by delivering notice thereof as provided in Section 9.02.

Section 9.04 Qualifications for Voting. To be entitled to vote at any meeting of Holders a Person shall (a) be a Holder of one or more Notes on the record date pertaining to such meeting or (b) be a Person appointed by an instrument in writing as proxy by a Holder of one or more Notes on the record date pertaining to such meeting. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 9.05 Regulations. Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders, in regard to proof of the holding of Notes and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders as provided in Section 9.03, in which case the Company or the Holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Required Holders.

Subject to the provisions of Section 8.04, at any meeting of Holders each Holder or proxyholder shall be entitled to one vote for each $1,000 principal amount of Notes held or represented by him or her; provided, however, that no vote shall be cast or counted at any meeting in respect of any Note challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Notes held by it or instruments in writing as

aforesaid duly designating it as the proxy to vote on behalf of other Holders. Any meeting of Holders duly called pursuant to the provisions of Section 9.02 or Section 9.03 may be adjourned from time to time by the Required Holders represented at the meeting, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

Section 9.06 Voting. The vote upon any resolution submitted to any meeting of Holders shall be by written ballot on which shall be subscribed the signatures of the Holders or of their representatives by proxy and the outstanding aggregate principal amount of the Notes held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was delivered as provided in Section 9.02. The record shall show the aggregate principal amount of the Notes voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 9.07 No Delay of Rights by Meeting. Nothing contained in this Article 9 shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Holders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders under any of the provisions of this Indenture or of the Notes. Nothing contained in this Article 9 shall be deemed or construed to limit any Holder's actions pursuant to the Applicable Procedures so long as the Notes are Global Notes.

ARTICLE 10
SUPPLEMENTAL INDENTURES

Section 10.01 Supplemental Indentures Without Consent of Holders. Without the consent of any Holder, the Company, the Subsidiary Guarantors and the Trustee and the Collateral Agent, if applicable, at the Company's expense, may from time to time and at any time amend or supplement this Indenture, the Notes, the Security Documents or the Intercreditor Agreement in writing for one or more of the following purposes:

(a) to cure any ambiguity, omission, mistake, defect, error or inconsistency in this Indenture or the other Indenture Documents;

(b) to provide for the assumption by a Successor Company of the obligations of the Company under this Indenture and the other Indenture Documents pursuant to Article 11 or a Subsidiary Guarantor under this Indenture and the other Indenture Documents pursuant to Article 11;

(c) to add a Subsidiary Guarantor or otherwise to add guarantees with respect to Notes Obligations under this Indenture, the Notes and any of the other Indenture Documents, or to confirm the release of a Subsidiary Guarantor from its Note Guarantee in accordance with this Indenture, the Notes and the Security Documents;

(d) to add additional assets as Collateral to secure the Notes or any Note Guarantee;

(e) to add to the covenants or Events of Default of the Company for the benefit of the Holders or surrender any right or power conferred upon the Company or any Subsidiary under this Indenture or the Notes or any other Indenture Document;

(f) to make any change that does not adversely affect the rights of any Holder under this Indenture or the Notes or any other Indenture Document in any material respect as determined in good faith by the Company;

(g) in connection with any Share Exchange Event, to provide that the Notes are convertible into an amount of cash based upon Reference Property, subject to the provisions of Section 14.02 and in accordance with Section 14.07;

(h) to evidence or provide for the acceptance of appointment by a successor trustee or collateral agent in accordance with the terms of this Indenture or to facilitate the administration of the trusts under this Indenture by more than one trustee or collateral agent;

(i) [reserved];

(j) to comply with the rules of any applicable securities depositary, including The Depository Trust Company, so long as such amendment does not adversely affect the rights of any Holder;

(k) to provide for the issuance of Additional Notes pursuant to Section 2.10;

(l) to provide for or confirm the issuance of, or to comply with any Applicable Procedures with respect to the issuance of, PIK Notes issued in accordance with Section 2.11;

(m) to confirm and evidence the release, termination, discharge or retaking of any Subsidiary Guarantee of or Lien with respect to or securing the Notes when such release, termination, discharge or retaking is permitted by this Indenture and the Security Documents and any applicable Intercreditor Agreement;

(n) to increase the Conversion Rate as provided in this Indenture;

(o) to release Collateral from the Lien pursuant to this Indenture or the Security Documents in accordance with the terms of this Indenture and the Security Documents;

(p) to make, complete or confirm any grant of Collateral to secure the Note Obligations and, solely to the extent constituting "Permitted Liens" pursuant to clause (c) of the definition thereof, and at all times subject to the Intercreditor Agreement, Junior Indebtedness, permitted or required under this Indenture, the Notes, the Security Documents or the other Indenture Documents in accordance with the terms thereof; or

(q) with respect to the Security Documents and any applicable Intercreditor Agreement, as provided in the relevant Security Document, such Intercreditor Agreement.

Upon the written request of the Company, the Trustee and, as applicable, the Collateral Agent, are each hereby authorized to, and shall join with the Company and the Subsidiary Guarantors, as

applicable, in the execution of any such supplemental indenture, amendment or supplement, except that neither the Trustee nor the Collateral Agent shall be obligated to, but each may in its discretion, enter into any such supplemental indenture, amendment or supplement that affects such Person's own rights, duties, liabilities or immunities under this Indenture or otherwise.

Any supplemental indenture or amendment to any Security Document authorized by the provisions of this Section 10.01 may be executed by the Company, the Subsidiary Guarantors, the Trustee and, as applicable, the Collateral Agent, without the consent of the Holders of any of the Notes at the time outstanding, notwithstanding any of the provisions of Section 10.02.

Section 10.02 Supplemental Indentures with Consent of Holders. With the consent (evidenced as provided in Article 8) of the Required Holders (including, without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, the Notes), the Company, the Subsidiary Guarantors, as applicable, and the Trustee and the Collateral Agent, if applicable, at the Company's expense, may from time to time and at any time amend or supplement the Indenture Documents or enter into an indenture or indentures supplemental hereto, or to enter into any amendment to any Security Document or Intercreditor Agreement, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture, the Notes or any other Indenture Document or any supplemental indenture or of modifying in any manner the rights of the Holders; provided, however, that, without the consent of each Holder of an outstanding Note affected, no such supplemental indenture or other such amendment or supplement shall:

(a) reduce the principal amount of Notes whose Holders must consent to an amendment or waiver;

(b) reduce the rate of or extend the stated time for, or change the manner of, payment of interest on any Note;

(c) reduce the principal of or extend the Maturity Date of any Note;

(d) make any change that adversely affects the conversion rights of any Note;

(e) reduce the Redemption Price, the Fundamental Change Repurchase Price or the Asset Sale Offer Repurchase Price of, or the applicable Notes Premium payable on, any Note or amend or modify in any manner adverse to the Holders the Company's obligation to make such payments, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

(f) make any Note payable in money, or at a place of payment, other than that stated in the Notes;

(g) change the ranking or priority of the Notes;

(h) impair the right of any Holder to receive payment of principal and interest and any applicable Notes Premium on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(i) release all or substantially all of the Note Guarantees of the Subsidiary Guarantors;

(j) release all or substantially all of the Collateral from the Liens securing the Notes Obligations created by the Security Documents;

(k) permit the designation of unrestricted subsidiaries; or

(l) make any change in this Article 10 that requires each Holder's consent or in the waiver provisions in Section 6.02 or Section 6.09.

For the avoidance of doubt, pursuant to clauses (a), (b), (c), (d), (e) and (f) of the proviso to the first paragraph of this Section 10.02, no amendment or supplement to this Indenture or the Notes or any of the other Indenture Documents, or waiver of any provision of this Indenture or the Notes or any of the other Indenture Documents, may change the amount or type of consideration due on any Note (whether on an Interest Payment Date, Redemption Date, Fundamental Change Repurchase Date, Asset Sale Offer Repurchase Date or the Maturity Date or upon acceleration, conversion or otherwise), or the date(s) or time(s) such consideration is payable or deliverable, as applicable, without the consent of each affected Holder.

Upon the written request of the Company, and upon the delivery to the Trustee and, if applicable, the Collateral Agent, of evidence of the consent of the requisite Holders as aforesaid and subject to Section 10.05, the Trustee and, if applicable, the Collateral Agent, shall join with the Company and the Subsidiary Guarantors, as applicable, in the execution of such supplemental indenture or amendment or supplement to the other Indenture Documents except that the Trustee and Collateral Agent shall not be obligated to, but may in their respective discretion, enter into any supplemental indenture or amendment or supplement to the Indenture Documents that affects the Trustee's or the Collateral Agent's own rights, duties, liabilities or immunities under this Indenture or otherwise.

Holders do not need under this Section 10.02 to approve the particular form of any proposed supplemental indenture or amendment or supplement to any Indenture Document. It shall be sufficient if such Holders approve the substance thereof. After any such supplemental indenture or amendment becomes effective, the Company shall deliver to the Holders (with a copy to the Trustee) a notice briefly describing such supplemental indenture or amendment. However, the failure to give such notice to all the Holders, or any defect in the notice, will not impair or affect the validity of the supplemental indenture or amendment.

Notwithstanding the foregoing, so long as the Designated Holders are the beneficial owners of at least $20,000,000 in aggregate principal amount of Notes, no amendment, supplement, waiver or modification may be made to this Indenture or any other Indenture Document that would have the effect of removing or impairing (i) the Event of Default specified in Section 6.01(n), (ii) the right of Lynrock, acting individually, to accelerate the Notes as provided in Article 6 after the occurrence and during the continuance of an Event of Default specified in Section 6.01(n) or (iii) the right of Lynrock, in its sole discretion, to waive, rescind and annul any Event of Default specified in Section 6.01(n) and any acceleration of the Notes as a result thereof.

Section 10.03 Effect of Supplemental Indentures. Upon the execution of any supplemental indenture pursuant to the provisions of this Article 10, this Indenture shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitation of rights, obligations, duties and immunities under this Indenture or any other Indenture Document of the Trustee, the Collateral Agent, the Company and the Holders shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments and all the terms and conditions of any such

supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 10.04 Notation on Notes. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article 10 may, at the Company's request and expense, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Company, to any modification of this Indenture or any other Indenture Document contained in any such supplemental indenture may, at the Company's expense, be prepared and executed by the Company, authenticated by the Trustee (or an authenticating agent duly appointed by the Trustee pursuant to Section 17.09) and delivered in exchange for the Notes then outstanding, upon surrender of such Notes then outstanding.

Section 10.05 Evidence of Compliance of Supplemental Indenture to Be Furnished to Trustee and Collateral Agent. In addition to the documents required by Section 17.05, the Trustee and the Collateral Agent, if applicable, shall receive, and the Trustee and the Collateral Agent shall join in any supplemental indenture or amendment to any Security Document specified in Section 10.01 or Section 10.02 only upon receiving, an Officer's Certificate and an Opinion of Counsel to the effect that any supplemental indenture or amendment to any Security Document executed pursuant hereto complies with the requirements of this Article 10 and is permitted or authorized by this Indenture and the Security Documents and all the conditions precedent thereunder with respect thereto have been satisfied, and that the supplemental indenture or amendment constitutes the legal, valid and binding obligation of the Company enforceable in accordance with its terms and that such amendments, supplements or other instruments have been duly executed, filed and recorded in such jurisdictions as may be required by applicable law (subject to the limitations set forth in this Indenture and the other Indenture Documents) to preserve and protect the Lien on the Collateral owned by or transferred to the surviving Person, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions.

ARTICLE 11
CONSOLIDATION, MERGER, SALE, CONVEYANCE AND LEASE

Section 11.01 Company May Consolidate, Etc. on Certain Terms.

(a) Subject to the provisions of Section 11.03, the Company shall not consolidate with, merge with or into, or sell, convey, transfer or lease all or substantially all of its consolidated properties and assets to another Person, in one transaction or a series of related transactions, unless:

(i) the resulting, surviving or transferee Person (the "***Successor Company***"), if not the Company, shall be a corporation organized and existing under the laws of the United States of America, any State thereof or the District of Columbia, and the Successor Company (if not the Company) shall expressly assume by supplemental indenture all of the obligations of the Company under the Notes and this Indenture and each other Indenture Document;

(ii) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing under this Indenture;

(iii) if the Company is not the Successor Company, the Successor Company shall have delivered to the Trustee and Collateral Agent an Officer's Certificate and Opinion of Counsel, each (x) stating that such consolidation, merger, sale, conveyance, transfer or lease complies with this Indenture and (y) satisfying the requirements of Article 10 herein; and

(iv) to the extent the Company is not the Successor Company, (x) each Subsidiary Guarantor (other than (x) any Subsidiary Guarantor that pursuant to the terms of Section 18.06 shall be released from its obligations under its Note Guarantee in connection with such transactions and (y) any Subsidiary Guarantor that is a party to the transactions in this Section 11.01, in which case Section 11.02 shall apply) shall have by supplemental indenture confirmed that its Note Guarantee (other than any Note Guarantee that pursuant to the terms of Section 18.06 shall be discharged or terminated in connection with such transactions) shall apply to the Successor Company's obligations in respect of this Indenture and the Notes shall have by written agreement confirmed that its obligations under the other Indenture Documents shall continue to be in effect and (y) the Successor Company shall cause such amendments, supplements or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law (subject to the limitations set forth in this Indenture and the other Indenture Documents) to preserve and protect the Liens on the Collateral owned by or transferred to such Successor Company, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral that may be perfected by the filing of a financing statement or similar document under the UCC or other similar statute or regulation of the relevant statutes or jurisdictions.

For purposes of this Section 11.01, the sale, conveyance, transfer or lease of all or substantially all of the properties and assets of one or more Subsidiaries of the Company to another Person, in one transaction or a series of related transactions, which properties and assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Company on a consolidated basis, shall be deemed to be the sale, conveyance, transfer or lease of all or substantially all of the consolidated properties and assets of the Company to another Person.

Section 11.02 Subsidiary Guarantors May Consolidate, Etc. on Certain Terms.

(a) The Company shall not permit any Subsidiary Guarantor to, and no Subsidiary Guarantor shall, consolidate with, merge with or into, or sell, convey, transfer or lease all or substantially all of its properties and assets to another Person, in one transaction or a series of related transactions, unless:

(i) immediately after giving effect to such transaction, no Default or Event of Default has occurred and is continuing under this Indenture;

(ii) either:

(1) unless the provisions of Section 18.06 of this Indenture result in the release of the Note Guarantee by such Subsidiary Guarantor in connection with such consolidation, merger or sale conveyance, transfer or lease, the Person acquiring the assets in any such sales, conveyance, transfer or lease or the Person formed by or surviving any such consolidation or merger (any such Person, a "***Surviving Guarantor***"), subject to limitations customary in foreign jurisdictions with respect to any Surviving Guarantor that is a Foreign Subsidiary, expressly assumes, by a supplemental indenture in a form reasonably satisfactory to the Trustee, executed and delivered to the

Trustee and Collateral Agent, all of such Subsidiary Guarantor's obligations under the Notes, this Indenture and the other Indenture Documents and causes such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law (subject to the limitations set forth in this Indenture and the other Indenture Documents) to preserve and protect the Lien on the Collateral owned by or transferred to the Surviving Guarantor, subject to limitations customary in foreign jurisdictions with respect to any Surviving Guarantor that is a Foreign Subsidiary, together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions subject to limitations customary in foreign jurisdictions with respect to any Surviving Guarantor that is a Foreign Subsidiary; or

(2) if the provisions of Section 18.06 of this Indenture result in the release of the Note Guarantee by such Subsidiary Guarantor in connection with such consolidation, merger or sale, conveyance, transfer or lease, (x) such sale, conveyance, transfer or lease is otherwise permitted under this Indenture and (y) if such Subsidiary Guarantor is merging with or into or consolidating with the Company or another Subsidiary Guarantor wherein the Company or such other Subsidiary Guarantor, as applicable, is the surviving Person in such merger or consolidation or such Subsidiary Guarantor is transferring all or substantially all of its assets to the Company or another Subsidiary Guarantor, the Company or such other Subsidiary Guarantor, as applicable, causes such amendments, supplements, or other instruments to be executed, filed and recorded in such jurisdictions as may be required by applicable law (subject to the limitations set forth in this Indenture and the other Indenture Documents) to preserve and protect the Lien on the Collateral owned by or transferred to the Company or such other Subsidiary Guarantor, subject to limitations customary in foreign jurisdictions with respect to any Surviving Guarantor that is a Foreign Subsidiary, as applicable together with such financing statements or comparable documents as may be required to perfect any security interests in such Collateral which may be perfected by the filing of a financing statement or a similar document under the UCC or other similar statute or regulation of the relevant states or jurisdictions subject to limitations customary in foreign jurisdictions with respect to any Surviving Guarantor that is a Foreign Subsidiary; and

(iii) the Company shall have delivered to the Trustee and Collateral Agent an Officer's Certificate and Opinion of Counsel, each stating that such consolidation, merger, sale, conveyance, transfer or lease complies with this Indenture and, in such transaction in which there is a Surviving Guarantor, that such supplemental indenture and other amendments and supplements are authorized or permitted by this Indenture and the other Indenture Documents and an Opinion of Counsel stating that the supplemental indenture is the valid and binding obligation of the surviving Person, subject to customary exceptions and subject to limitations customary in foreign jurisdictions with respect to any Surviving Guarantor that is a Foreign Subsidiary.

Section 11.03 Successor Company or Surviving Guarantor to Be Substituted.

(a) In case of any such consolidation, merger, sale, conveyance, transfer or lease and upon the assumption by the Successor Company (if other than the Company) by supplemental indenture,

executed and delivered to the Trustee and the Collateral Agent and satisfactory in form to the Trustee, of the due and punctual payment of the principal of and accrued and unpaid interest and any applicable Notes Premium on all of the Notes, the due and punctual delivery and/or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture and the other Indenture Documents to be performed by the Company, all in accordance with Section 11.01, such Successor Company (if not the Company) shall succeed to and, except in the case of a lease of all or substantially all of the consolidated properties and assets of the Company, shall be substituted for the Company, with the same effect as if it had been named herein as the party of the first part, and may thereafter exercise every right and power of, the Company under this Indenture and each other Indenture Document. Such Successor Company thereupon may cause to be signed, and may issue either in its own name or in the name of the Company any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture and each other Indenture Document prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that previously shall have been signed and delivered by the Officers of the Company to the Trustee for authentication, and any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. In the event of any such consolidation, merger, sale, conveyance or transfer (but not in the case of a lease), upon compliance with this Article 11 the Person named as the "Company" in the first paragraph of this Indenture (or any successor that shall thereafter have become such in the manner prescribed in this Article 11) may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture, the Notes and each other Indenture Document.

(b) In case of any such consolidation, merger, sale, conveyance, transfer or lease and upon the assumption by a Surviving Guarantor (if not the applicable Subsidiary Guarantor) by supplemental indenture, executed and delivered to the Trustee and the Collateral Agent and satisfactory in form to the Trustee, of the due and punctual performance of all of the covenants and conditions of this Indenture and the other Indenture Documents to be performed by the applicable Subsidiary Guarantor, all in accordance with Section 11.02, such Surviving Guarantor (if not the applicable Subsidiary Guarantor) shall succeed to and, except in the case of a lease of all or substantially all of the consolidated properties and assets of the applicable Subsidiary Guarantor, shall be substituted for the applicable Subsidiary Guarantor with the same effect as if it had been named herein as the party of the first part, and may thereafter exercise every right and power of the applicable Subsidiary Guarantor under this Indenture and each other Indenture Document.

(c) In case of any such consolidation, merger, sale, conveyance, transfer or lease, such changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

Section 11.04 Officer's Certificate and Opinion of Counsel to Be Given to Trustee. No such consolidation, merger, sale, conveyance, transfer or lease shall be effective unless the Trustee shall receive (and shall be conclusively entitled to rely upon) an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent in this Article 11 to such transaction and any related supplemental indenture have been satisfied and that the supplemental indenture is the valid, binding

obligations of the Successor Company, enforceable against such Successor Company in accordance with its terms, such Opinion of Counsel to be subject to customary exceptions.

ARTICLE 12
IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

Section 12.01 Indenture and Notes Solely Corporate Obligations. No recourse for the payment of the principal of or any accrued and unpaid interest and any applicable Notes Premium on any Note or Note Guarantee, nor the payment or delivery of consideration due upon conversion of, any Note, nor for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company, any Subsidiary of the Company or any of their respective Affiliates in this Indenture or in any supplemental indenture or in any Note, Notes Guarantee or any other Indenture Document, nor because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, Officer or director or Subsidiary, as such, past, present or future, of the Company or of any successor corporation, either directly or through the Company, any Subsidiary of the Company or any successor corporation, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture and the issue of the Notes and Notes Guarantees.

ARTICLE 13
SECURITY

Section 13.01 Security Interest; Collateral Agent. The due and punctual payment of the principal (including the Redemption Price, Fundamental Change Repurchase Price or the Asset Sale Offer Repurchase Price, if applicable) of, and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, and Conversion Obligation with respect to, the Notes when and as the same shall be due and payable, whether on an Interest Payment Date, at maturity, by acceleration, repurchase, redemption, prepayment, demand or otherwise, and interest on the overdue principal (including the Redemption Price, Fundamental Change Repurchase Price or the Asset Sale Offer Repurchase Price, if applicable) of, and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium (to the extent not duplicative of the foregoing) on, the Notes and performance of all other obligations of the Company and the Subsidiary Guarantors to the Holders, the Trustee and the Collateral Agent under this Indenture, the Notes and the Note Guarantees, according to the terms hereunder or thereunder, are secured as provided in the Security Documents.

(a) Each Holder of Notes, by its acceptance thereof, and the Trustee hereby appoints U.S. Bank Trust Company, National Association, as Collateral Agent, and consents and agrees to the terms of the Security Documents (including, without limitation, the provisions providing for foreclosure and release of Collateral and authorizing the Collateral Agent to enter into any Security Document on its behalf) and the Intercreditor Agreement, in each case, as the same may be in effect or may be amended or otherwise modified from time to time in accordance with their terms and this Indenture, and authorizes and directs the Collateral Agent to enter into the Intercreditor Agreement and the Security Documents and to perform its obligations and exercise its rights thereunder in accordance therewith. The Collateral Agent shall be entitled to all rights, privileges, immunities and protections of the Trustee set forth in this Indenture, including but not limited to the right to be compensated, reimbursed and indemnified under Section 7.06, in the acceptance, execution, delivery and performance of its role as Collateral Agent

hereunder and under the Intercreditor Agreement and the Security Documents as though fully set forth therein. Notwithstanding any provision to the contrary contained elsewhere in this Indenture and the Security Documents, the Collateral Agent shall not have any duties or responsibilities hereunder nor shall the Collateral Agent have or be deemed to have any fiduciary relationship with the Trustee, any Holder or the Company, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Indenture, the Intercreditor Agreement and the Security Documents or otherwise exist against the Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Indenture with reference to the Collateral 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.

(b) The Company consents and agrees to be bound, and, subject to Section 13.05, to cause the Subsidiary Guarantors to consent and agree to be bound by the terms of the Intercreditor Agreement and the Security Documents, as the same may be in effect from time to time, and agrees to perform its, and to cause the Subsidiary Guarantors to perform their, obligations thereunder in accordance therewith. The Company will deliver to the Trustee copies of all documents delivered to the Collateral Agent pursuant to the Security Documents, and the Company will, and, subject to Section 13.05, the Company will cause each Subsidiary Guarantor to, do or cause to be done all such acts and things as may be required by the provisions of the Security Documents to assure and confirm to the Trustee that the Collateral Agent holds for the benefit of itself, the Trustee and the Holders duly created, enforceable and perfected Liens as contemplated by the Intercreditor Agreement and the Security Documents or any part thereof, as from time to time constituted.

(c) Neither the Trustee nor the Collateral Agent shall (i) be liable for any action taken or omitted to be taken by it under or in connection with this Indenture or the transactions contemplated hereby (except for its own gross negligence or willful misconduct as determined by a final order of a court of competent jurisdiction) or under or in connection with the Intercreditor Agreement or any Security Document or the transactions contemplated thereby (except for its own gross negligence or willful misconduct as determined by a final order of a court of competent jurisdiction), or (ii) be responsible in any manner to any of the Trustee or any Holder for any recital, statement, representation, warranty, covenant or agreement made by the Company or any Affiliate of the Company, or any officer or Affiliate thereof, contained in this Indenture, the Intercreditor Agreement, any Security Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Collateral Agent under or in connection with, this Indenture, the Intercreditor Agreement or the Security Documents, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Indenture, the Intercreditor Agreement or the Security Documents, or for any failure of any other party to this Indenture, the Intercreditor Agreement or the Security Documents to perform its obligations hereunder or thereunder. The Collateral Agent shall not be under any obligation to the Trustee or any Holder to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Indenture, the Intercreditor Agreement or the Security Documents or to inspect the properties, books, or records of the Company or any of its Affiliates.

(d) No provision of this Indenture, the Intercreditor Agreement or any Security Document shall require the Collateral Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder or to take or omit to take any action hereunder or thereunder or take any action at the request or direction of Holders or the Trustee if it shall have reasonable grounds for believing that repayment of such funds is not assured to it. Notwithstanding anything to the contrary contained in this Indenture, the Intercreditor Agreement or the Security

Documents, in the event the Collateral Agent is entitled or required to commence an action to foreclose or otherwise exercise its remedies to acquire control or possession of the Collateral, the Collateral Agent shall not be required to commence any such action or exercise any remedy or take any such other action if the Collateral Agent has determined that the Collateral Agent may incur personal liability as a result of the presence at, or release on or from, the Collateral or such property, of any hazardous substances unless the Collateral Agent has received security or indemnity from the Holders in an amount and in a form satisfactory to the Collateral Agent in its sole discretion, protecting the Collateral Agent from all such liability. The Collateral Agent shall at any time be entitled to cease taking any action described in this clause if it no longer reasonably deems any indemnity, security or undertaking from the Company or the Holders to be sufficient.

(e) Subject to Section 13.05 hereof, in each case that the Collateral Agent may or is required hereunder to take any action (an "***Action***"), including without limitation to make any determination, to give consents, to exercise rights, powers or remedies, to release or sell Collateral or otherwise to act hereunder, under the Intercreditor Agreement or under any Security Document, the Collateral Agent may seek direction from the Trustee or the Required Holders or Lynrock, as applicable. Neither the Trustee nor the Collateral Agent shall be liable with respect to any Action taken or omitted to be taken by it in accordance with the direction from the Required Holders or Lynrock, as applicable. Subject to Section 17.05 hereof, if the Trustee or the Collateral Agent shall request direction from the Required Holders or Lynrock, as applicable, with respect to any Action, the Trustee and the Collateral Agent shall be entitled to refrain from such Action unless and until the Trustee or Collateral Agent, as applicable, shall have received direction from the Required Holders or Lynrock, as applicable, and neither the Trustee nor the Collateral Agent shall incur liability to any Person by reason of so refraining.

(f) The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless the Collateral Agent shall have received written notice from the Trustee, a Holder or the Company referring to this Indenture, describing such Default or Event of Default and stating that such notice is a "notice of default." The Collateral Agent shall take such action with respect to such Default or Event of Default as may be requested by the Trustee in accordance with Article 6 or the Required Holders or Lynrock, as applicable.

(g) Beyond the exercise of reasonable care in the custody thereof, neither the Trustee nor the Collateral Agent shall have any duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee or any income thereon or as to preservation of rights against prior parties or any other rights pertaining thereto and neither the Trustee nor the Collateral Agent shall be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. Each of the Trustee and the Collateral Agent shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property and shall not be liable or responsible for any loss or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee selected by the Trustee or the Collateral Agent, as applicable, in good faith.

(h) Each successor Trustee may become the successor Collateral Agent as and when the successor Trustee becomes the Trustee.

Section 13.02 Recording and Opinion. The Company shall furnish to the Trustee and the Collateral Agent (if other than the Trustee), on or within one month of December 15 of each year,

commencing December 15, 2025, (a) an Opinion of Counsel to the effect that no further action was necessary to maintain the perfection of the security interest in the Collateral described in both the applicable UCC-1 financing statement and the Security Agreement, and (b) an Officer's Certificate stating that all action required by the Security Documents to maintain and perfect or continue the perfection of the security interests created by the Security Documents have been taken, and reciting the details of such action or referring to prior Officer's Certificates in which such details are given.

Section 13.03 Authorization of Actions to Be Taken by the Trustee or the Collateral Agent Under the Intercreditor Agreement and the Security Documents.

(a) Subject to the provisions of Section 7.01, the Intercreditor Agreement and the terms of the Security Documents, the Trustee may (but shall have no obligation to), in its sole discretion and without the consent of the Holders, direct, on behalf of the Holders of Notes, the Collateral Agent to take all actions it deems necessary or appropriate in order to:

(i) enforce any of the terms of the Intercreditor Agreement and the Security Documents; and

(ii) collect and receive any and all amounts payable in respect of the obligations of the Company and the Subsidiary Guarantors under this Indenture, the Notes, the Intercreditor Agreement and the Security Documents.

(b) Subject to the provisions of this Indenture, the Intercreditor Agreement and the Security Documents, the Trustee and/or the Collateral Agent will have power to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of this Indenture, the Intercreditor Agreement or the Security Documents, and such suits and proceedings as may be necessary to preserve or protect the interests of the Trustee, the Collateral Agent and the interests of the Holders of Notes in the Collateral (including the power to institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest under the Security Documents or be prejudicial to the interests of the Holders or of the Trustee and/or the Collateral Agent).

Section 13.04 Authorization of Receipt of Funds by the Trustee under the Security Documents and the Intercreditor Agreement. The Trustee and/or the Collateral Agent is authorized to receive any funds for the benefit of the Collateral Agent and the Holders distributed under the Security Documents or the Intercreditor Agreement, and to make further distributions of such funds to the Holders according to the provisions of this Indenture with respect to the Collateral.

Section 13.05 Termination of Security Interest; Release of Collateral.

(a) Collateral will be released automatically from the Liens securing the Notes Obligations of the Company and the Subsidiary Guarantors under this Indenture, the Notes, the Note Guarantees and the Security Documents without the consent or further action of any Person:

(i) in whole or in part, as applicable, upon the sale, transfer or other disposition of such property or assets (including a disposition resulting from eminent domain, condemnation or similar circumstances) by the Company or any Subsidiary Guarantor if (but only if) (x) such disposition is permitted pursuant to this Indenture and the Security Documents and complies with

any applicable provisions of Section 4.13; (y) such disposition does not constitute the sale, conveyance, transfer or lease by the Company or any Subsidiary Guarantor of all or substantially all of its consolidated properties and assets to another Person, in one transaction or a series of related transactions; and (z) the Company has delivered to the Trustee and the Collateral Agent an Officer's Certificate and Opinion of Counsel stating that such disposition complies with the provisions of this Section 13.05;

(ii) with the Required Holders (or, in the case of a release of all or substantially all of the Collateral from the Liens securing the Notes, the consent of all Holders) of the aggregate principal amount of the outstanding Notes;

(iii) with respect to any Collateral securing the Note Guarantee of any Subsidiary Guarantor, when the Note Guarantee of such Subsidiary Guarantor is released in accordance with the terms of Section 18.06(a) (except for a release of a Note Guarantee of a Subsidiary Guarantor pursuant to clause (ii) or clause (iii) of Section 18.06(a)); or

(iv) in accordance with the applicable provisions of the Intercreditor Agreement and the Security Documents.

(b) Neither the Trustee nor the Collateral Agent shall have any duty or liability for determining the Company's compliance with this Section 13.05, but instead may rely on the Officer's Certificates issued by the Company under this Section 13.05.

(c) The security interests granted under this Indenture and all Security Documents will terminate upon the full and final payment and performance of all Notes Obligations (other than contingent indemnification obligations for which no claim has been made) of the Company and any other obligors, if any and as applicable, under this Indenture, the Notes, the Note Guarantees and the Security Documents.

(d) The release of any Collateral from the terms of the Security Documents shall not be deemed to impair the security under this Indenture in contravention of the provisions hereof or affect the Lien of this Indenture or the Security Documents if and to the extent the Collateral is released pursuant to this Indenture or the Security Documents or upon the satisfaction and discharge of this Indenture. For the avoidance of doubt, the requirements of Section 314(d) of the Trust Indenture Act shall not apply to any release of the Collateral.

(e) Subject to the Intercreditor Agreement, upon such release or any release of Collateral or any part thereof in accordance with the provisions of this Indenture or the Security Documents, upon the request and at the sole cost and expense of the Company and the Subsidiary Guarantors, the Trustee shall direct the Collateral Agent to and upon such request and direction, the Collateral Agent shall:

(i) assign, transfer and deliver to the Company or the applicable Subsidiary Guarantor, as the case may be, against receipt and without recourse to or warranty by the Collateral Agent except as to the fact that the Collateral Agent has not encumbered the released assets, such of the Collateral or any part thereof to be released as may be in possession of the Collateral Agent and as shall not have been sold or otherwise applied pursuant to the terms of the Intercreditor Agreement and the Security Documents;

(ii) execute and deliver UCC financing statement amendments or releases (which shall be prepared by the Company or any Subsidiary Guarantor) to the extent necessary to delete

such Collateral or any part thereof to be released from the description of assets in any previously filed financing statements; and

(iii) execute and deliver such documents, instruments or statements (which shall be prepared by the Company) and take such other action as the Company may request to cause to be released and reconveyed to the Company, or the applicable Subsidiary Guarantor, as the case may be, such Collateral or any part thereof to be released and to evidence or confirm that such Collateral or any part thereof to be released has been released from the Liens of each of this Indenture and each of the Security Documents.

Section 13.06 Maintenance of Collateral. The Company shall, and shall cause each of its Subsidiaries to keep and maintain the Collateral and all properties material to the conduct of the business of the Company and its Subsidiaries, taken as a whole, in good working order and condition (ordinary wear and tear and casualty and condemnation excepted), except where the failure to do so could not reasonably be expected to have, individually or in the aggregate, a material adverse effect on the Company and its Subsidiaries' businesses, taken as a whole; provided, that nothing in this Section 13.06 shall prevent the Company or any Subsidiary from discontinuing the maintenance of any of such property if such discontinuance is, in the judgment of the Company, desirable to the conduct of the business of the Company and its Subsidiaries, taken as a whole.

Section 13.07 Collateral Agent.

(a) Each Holder agrees that any action taken by the Collateral Agent in accordance with the provisions of this Indenture and the Security Documents, and the exercise by the Collateral Agent of any rights or remedies set forth herein and therein shall be authorized and binding upon all Holders. Notwithstanding any provision to the contrary contained elsewhere in this Indenture and the Security Documents, the duties of the Collateral Agent shall be ministerial and administrative in nature, and the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein and in the Security Documents, to which the Collateral Agent is a party, nor shall the Collateral Agent have or be deemed to have any trust or other fiduciary relationship with the Trustee, any Holder or any grantor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Indenture and the Security Documents, or otherwise exist against the Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Indenture with reference to the Collateral 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.

(b) The Collateral Agent may perform any of its duties under this Indenture or the Security Documents by or through receivers, agents, employees, attorneys-in-fact or with respect to any specified Person, such Person's Affiliates, and the respective officers, directors, employees, agents, advisors and attorneys-in-fact of such Person and its Affiliates (a "***Related Person***"), and shall be entitled to advice of counsel concerning all matters pertaining to such duties, and shall be entitled to act upon, and shall be fully protected in taking action in reliance upon any advice or opinion given by legal counsel (absent gross negligence or willful misconduct as determined in an non-appealable judgment by a court of competent jurisdiction). The Collateral Agent shall not be responsible for the negligence or misconduct of any receiver, agent, employee, attorney-in-fact or Related Person that it selects as long as such selection was made in good faith and with due care.

(c) The Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, certification, telephone message, statement, or other communication, document or conversation (including those by telephone or e-mail) believed by it in good faith to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including, without limitation, counsel to the Company or any other grantor), independent accountants and other experts and advisors selected by the Collateral Agent (absent gross negligence or willful misconduct as determined in an non-appealable judgment by a court of competent jurisdiction). The Collateral Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document. Except as otherwise expressly provided herein, the Collateral Agent shall be fully justified in failing or refusing to take any action under this Indenture or the Security Documents unless it shall first receive such advice or concurrence of the Trustee or the Required Holders or Lynrock, as applicable, and, if it so requests, it shall first be indemnified to its satisfaction by the Holders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Indenture or the Security Documents in accordance with a request, direction, instruction or consent of the Trustee or the Required Holders or Lynrock, as applicable, and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Holders.

(d) The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless a Responsible Officer of the Collateral Agent shall have received written notice from the Trustee, a Holder or the Company referring to this Indenture, describing such Default or Event of Default and stating that such notice is a "notice of default." The Collateral Agent shall take such action with respect to such Default or Event of Default as may be requested by the Trustee in accordance with Article 6 or the Required Holders or Lynrock, as the case may be (subject to this Section 13.07 and the Intercreditor Agreement).

(e) The Collateral Agent may (i) resign at any time by 30 days' written notice to the Trustee and the Company or (ii) be removed at any time by 30 days' written notice to the Trustee, the Collateral Agent and the Company from the Required Holders, such resignation or removal to be effective upon the acceptance of a successor agent to its appointment as Collateral Agent. If the Collateral Agent resigns or is removed under this Indenture, the Required Holders, in consultation with the Company, shall appoint a successor collateral agent. If no successor collateral agent is appointed prior to the intended effective date of the resignation or removal of the Collateral Agent (as stated in the notice of resignation or removal), the Trustee, at the direction of the Required Holders, may appoint a successor collateral agent in consultation with the Company. If no successor collateral agent is appointed and consented to by the Company pursuant to the preceding sentence within thirty (30) days after the intended effective date of resignation (as stated in the notice of resignation or removal, as applicable) the Collateral Agent shall be entitled to petition a court of competent jurisdiction to appoint a successor. Upon the acceptance of its appointment as successor collateral agent hereunder, such successor collateral agent shall succeed to all the rights, powers and duties of the retiring Collateral Agent, and the term "***Collateral Agent***" shall mean such successor collateral agent, and the retiring Collateral Agent's appointment, powers and duties as the Collateral Agent shall be terminated. After the retiring Collateral Agent's resignation hereunder, the provisions of this Section 13.07 (and Section 7.06 and 7.13 hereof) shall continue to inure to its benefit and the retiring Collateral Agent shall not by reason of such resignation or removal be deemed to be released from liability as to any actions taken or omitted to be taken by it while it was the Collateral Agent under this Indenture.

(f) U.S. Bank Trust Company, National Association shall initially act as Collateral Agent and shall be authorized to appoint co-Collateral Agents as necessary in its sole discretion. Except as otherwise explicitly provided herein or in the Security Documents, neither the Collateral Agent nor any of its respective officers, directors, employees or agents or other Related Persons shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither the Collateral Agent nor any of its officers, directors, employees or agents shall be responsible for any act or failure to act hereunder, except for its own gross negligence or willful misconduct.

(g) The Collateral Agent is authorized and directed to (i) enter into the Security Documents and Intercreditor Agreement to which it is party, whether executed on or after the date of this Indenture, (ii) make the representations of the Holders set forth in the Security Documents, (iii) bind the Holders on the terms as set forth in the Security Documents, and (iv) perform and observe its obligations under the Security Documents.

(h) If at any time or times the Trustee shall receive (i) by payment, foreclosure, set-off or otherwise, any proceeds of Collateral or any payments with respect to the Notes Obligations arising under, or relating to, this Indenture, except for any such proceeds or payments received by the Trustee from the Collateral Agent pursuant to the terms of this Indenture, or (ii) payments from the Collateral Agent in excess of the amount required to be paid to the Trustee pursuant to Article 6, the Trustee shall promptly turn the same over to the Collateral Agent, in kind, and with such endorsements as may be required to negotiate the same to the Collateral Agent such proceeds to be applied by the Collateral Agent pursuant to the terms of this Indenture, the Security Documents and the Intercreditor Agreement.

(i) The Collateral Agent is each Holder's agent for the purpose of perfecting the Holders' security interest in assets which, in accordance with Article 9 of the Uniform Commercial Code, can be perfected only by possession. Should the Trustee obtain possession of any such Collateral, the Trustee shall notify the Collateral Agent thereof and promptly shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Collateral Agent's instructions.

(j) The Collateral Agent (and the Trustee) shall have no obligation whatsoever to the Trustee (in the case of the Collateral Agent) or any of the Holders to assure that the Collateral exists or is owned by any grantor or is cared for, protected, or insured or has been encumbered, or that the Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all of the grantor's property constituting Collateral intended to be subject to the Lien and security interest of the Security Documents has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto, or to exercise at all or in any particular manner or under any duty of care, disclosure, or fidelity, or to continue exercising, any of the rights, authorities, and powers granted or available to the Collateral Agent pursuant to this Indenture or any Security Document other than pursuant to the instructions of the Required Holders or Lynrock, as applicable, or as otherwise provided in the Security Documents.

(k) No provision of this Indenture or any Security Document shall require the Collateral Agent (or the Trustee) to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder or to take or omit to take any action

hereunder or thereunder or take any action at the request or direction of Holders (or the Trustee in the case of the Collateral Agent) unless it shall have received indemnity satisfactory to the Collateral Agent and the Trustee against potential costs and liabilities incurred by the Collateral Agent relating thereto. Notwithstanding anything to the contrary contained in this Indenture or the Security Documents, in the event the Collateral Agent is entitled or required to commence an action to foreclose or otherwise exercise its remedies to acquire control or possession of the Collateral, the Collateral Agent shall not be required to commence any such action or exercise any remedy or to inspect or conduct any studies of any property or take any such other action if the Collateral Agent has determined that the Collateral Agent may incur personal liability as a result of the presence at, or release on or from, the Collateral or such property, of any hazardous substances. The Collateral Agent shall at any time be entitled to cease taking any action described in this clause (k) if it no longer reasonably deems any indemnity, security or undertaking from the Company or the Holders to be sufficient.

(l) The Collateral Agent (i) shall not be liable for any action taken or omitted to be taken by it in connection with this Indenture, the Intercreditor Agreement and the Security Documents or instruments referred to herein or therein, except to the extent that any of the foregoing are found by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from its own gross negligence or willful misconduct, (ii) shall not be liable for interest on any money received by it except as the Collateral Agent may agree in writing with the Company (and money held in trust by the Collateral Agent need not be segregated from other funds except to the extent required by law) and (iii) may consult with counsel of its selection and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it in good faith and in accordance with the advice or opinion of such counsel (absent gross negligence or willful misconduct as determined in a non-appealable judgment by a court of competent jurisdiction). The grant of permissive rights or powers to the Collateral Agent shall not be construed to impose duties to act.

(m) [Reserved].

(n) The Collateral Agent does not assume any responsibility for any failure or delay in performance or any breach by the Company or any other grantor under this Indenture and the Security Documents. The Collateral Agent shall not be responsible to the Holders or any other Person for any recitals, statements, information, representations or warranties contained in this Indenture, the Security Documents or in any certificate, report, statement, or other document referred to or provided for in, or received by the Collateral Agent under or in connection with, this Indenture or any Security Document; the execution, validity, genuineness, effectiveness or enforceability of any Security Documents of any other party thereto; the genuineness, enforceability, collectability, value, sufficiency, location or existence of any Collateral, or the validity, effectiveness, enforceability, sufficiency, extent, perfection or priority of any Lien therein; the validity, enforceability or collectability of any Notes Obligations; the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any obligor; or for any failure of any obligor to perform its Notes Obligations under this Indenture and the Security Documents. The Collateral Agent shall have no obligation to any Holder or any other Person to ascertain or inquire into the existence of any Default or Event of Default, the observance or performance by any obligor of any terms of this Indenture the Security Documents, or the satisfaction of any conditions precedent contained in this Indenture and any Security Documents. The Collateral Agent shall not be required to initiate or conduct any litigation or collection or other proceeding under this Indenture and the Security Documents unless expressly set forth hereunder or thereunder. The Collateral Agent shall have the right at any time to seek instructions from the Holders with respect to the administration of this Indenture and the Security Documents.

(o) The parties hereto and the Holders hereby agree and acknowledge that neither the Collateral Agent nor the Trustee shall assume, be responsible for or otherwise be obligated for any liabilities, claims, causes of action, suits, losses, allegations, requests, demands, penalties, fines, settlements, damages (including foreseeable and unforeseeable), judgments, expenses and costs (including but not limited to, any remediation, corrective action, response, removal or remedial action, or investigation, operations and maintenance or monitoring costs, for personal injury or property damages, real or personal) of any kind whatsoever, pursuant to any environmental law as a result of this Indenture, the Security Documents or any actions taken pursuant hereto or thereto. Further, the parties hereto and the Holders hereby agree and acknowledge that in the exercise of its rights under this Indenture and the Security Documents, the Collateral Agent may hold or obtain indicia of ownership primarily to protect the security interest of the Collateral Agent in the Collateral and that any such actions taken by the Collateral Agent shall not be construed as or otherwise constitute any participation in the management of such Collateral.

(p) Subject to Section 10.02, upon the receipt by the Collateral Agent of a written request of the Company signed by an Officer (a "***Security Document Order***"), the Collateral Agent is hereby authorized to execute and enter into, and shall execute and enter into, without the further consent of any Holder or the Trustee, any Security Document or amendment or supplement thereto to be executed after the date of this Indenture; provided, that the Collateral Agent shall not be required to execute or enter into any such Security Document which, in the Collateral Agent's reasonable opinion is reasonably likely to adversely affect the rights, duties, liabilities or immunities of the Collateral Agent or that the Collateral Agent determines is reasonably likely to involve the Collateral Agent in personal liability. Such Security Document Order shall (i) state that it is being delivered to the Collateral Agent pursuant to, and is a Security Document Order referred to in, this Section 13.07(p), and (ii) instruct the Collateral Agent to execute and enter into such Security Document. Other than as set forth in this Indenture, any such execution of a Security Document shall be at the direction and expense of the Company, upon delivery to the Collateral Agent of an Officer's Certificate and Opinion of Counsel stating that all conditions precedent to the execution and delivery of the Security Document have been satisfied. The Holders, by their acceptance of the Notes, hereby authorize and direct the Collateral Agent to execute such Security Documents (subject to the first sentence of this Section 13.07(p)).

(q) Subject to the provisions of the applicable Security Documents and the Intercreditor Agreement, each Holder, by acceptance of the Notes, agrees that the Collateral Agent shall execute and deliver the Security Documents and any Intercreditor Agreement to which it is a party and all agreements, documents and instruments incidental thereto, and act in accordance with the terms thereof. For the avoidance of doubt, the Collateral Agent shall have no discretion under this Indenture or the Security Documents and shall not be required to make or give any determination, consent, approval, request or direction without the written direction of the Required Holders, Lynrock or the Trustee, as applicable. Each Holder, by acceptance of the Notes, authorizes and directs the Trustee to execute and deliver the Intercreditor Agreement and all agreements, documents and instruments incidental thereto, and act in accordance with the terms thereof.

(r) [Reserved].

(s) The Collateral Agent is authorized to receive any funds for the benefit of itself, the Trustee and the Holders distributed under the Security Documents or the Intercreditor Agreement and to the extent not prohibited under any Intercreditor Agreement for turnover to the Trustee to make further distributions of such funds to itself, the Trustee and the Holders in accordance with the provisions of Section 6.05 and the other provisions of this Indenture.

(t) In each case that the Collateral Agent may or is required hereunder or under any Security Document or under any Intercreditor Agreement to take any Action, including without limitation to make any determination, to give consents, to exercise rights, powers or remedies, to release or sell Collateral or otherwise to act hereunder or under any Security Document, the Collateral Agent may seek direction from the Required Holders or Lynrock, as the case may be. The Collateral Agent shall not be liable with respect to any Action taken or omitted to be taken by it in accordance with the direction from the Required Holders or Lynrock, as the case may be. If the Collateral Agent shall request direction from the Required Holders or Lynrock, as applicable, with respect to any Action, the Collateral Agent shall be entitled to refrain from such Action unless and until the Collateral Agent shall have received direction from the Required Holders or Lynrock, as applicable, and the Collateral Agent shall not incur liability to any Person by reason of so refraining.

(u) Notwithstanding anything to the contrary in this Indenture or in any Security Document, in no event shall the Collateral Agent or the Trustee be responsible for, or have any duty or obligation with respect to, the recording, filing, registering, perfection, protection or maintenance of the security interests or Liens intended to be created by this Indenture or the Security Documents (including without limitation the filing or continuation of any UCC financing or continuation statements or similar documents or instruments), nor shall the Collateral Agent or the Trustee be responsible for, and neither the Collateral Agent nor the Trustee makes any representation regarding, the validity, effectiveness or priority of any of the Security Documents or the security interests or Liens intended to be created thereby.

(v) Before the Collateral Agent acts or refrains from acting in each case at the request or direction of the Company or the Subsidiary Guarantors, other than as set forth in this Indenture, it may require an Officer's Certificate and an Opinion of Counsel. The Collateral Agent shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate or opinion (absent gross negligence or willful misconduct as determined in a non-appealable judgment by a court of competent jurisdiction).

(w) Notwithstanding anything to the contrary contained herein, the Collateral Agent shall act pursuant to the instructions of the Holders and the Trustee with respect to the Security Documents and the Collateral, except as otherwise expressly set forth in the Intercreditor Agreement.

(x) Notwithstanding any other provision hereof, neither the Collateral Agent nor the Trustee shall have any duties or obligations hereunder or under the Intercreditor Agreement or any other Security Document except those expressly set forth herein or therein. Without limiting the generality of the foregoing, in the event that the Collateral Agent or the Trustee is required to acquire title to an asset for any reason, or take any managerial action of any kind in regard thereto, in order to carry out any fiduciary or trust obligation for the benefit of another, which in the Collateral Agent's or the Trustee's sole discretion may cause it to be considered an "owner or operator" under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act ("***CERCLA***"), 42 U.S.C. §9601, et seq., or otherwise cause it to incur liability under CERCLA or any other federal, state or local law, the Collateral Agent and the Trustee each reserves the right, instead of taking such action, to either resign as set forth herein or arrange for the transfer of the title or control of the asset to a court-appointed receiver. Neither the Collateral Agent nor the Trustee shall be liable to any person for any environmental claims or contribution actions under any federal, state or local law, rule or regulation by reason of the Collateral Agent's actions and conduct as authorized, empowered and directed hereunder or relating to the discharge, release or threatened release of hazardous materials into the environment. If at any time it is necessary or advisable for the Collateral to be possessed, owned, operated or managed by any person other than the Company or a Subsidiary Guarantor, the Required Holders or Lynrock, as the case may be,

shall direct the Collateral Agent or Trustee, as applicable, to appoint an appropriately qualified person who they shall designate to possess, own, operate or manage, as the case may be, the Collateral.

(y) The rights, privileges, benefits, immunities, indemnities and other protections given to the Trustee under this Indenture are extended to, and shall be enforceable by, the Collateral Agent as if the Collateral Agent were named as the Trustee herein and the Security Documents were named as this Indenture herein. The Collateral Agent shall be entitled to compensation, reimbursement and indemnity as set forth in Section 7.06, as if references therein to Trustee were references to Collateral Agent.

ARTICLE 14
CONVERSION OF NOTES

Section 14.01 Conversion Privilege.

(a) Subject to and upon compliance with the provisions of this Article 14, each Holder of a Note shall have the right, at such Holder's option, to convert all or any portion (if the portion to be converted is an Authorized Denomination) of such Note (i) subject to satisfaction of the conditions described in Section 14.01(b), at any time prior to the close of business on the Business Day immediately preceding February 15, 2029 under the circumstances and during the periods set forth in Section 14.01(b), and (ii) regardless of the conditions described in Section 14.01(b), on or after February 15, 2029 and prior to the close of business on the second Scheduled Trading Day immediately preceding the Stated Maturity, in each case, at an initial conversion rate of 13.2933 shares of Common Stock (subject to adjustment as provided in this Article 14, the "***Conversion Rate***") per $1,000 Conversion Amount of Notes, together with any applicable Make-Whole Payment in accordance with Section 14.03 (subject to, and in accordance with, the settlement provisions of Section 14.02, the ***"Conversion Obligation***").

(b)

(i) Prior to the close of business on the Business Day immediately preceding February 15, 2029, a Holder may surrender all or any portion of its Notes for conversion at any time during the five Business Day period immediately after any five consecutive Trading Day period (the "***Measurement Period***") in which the Trading Price per $1,000 principal amount of Notes, as determined following a request by a Holder of Notes in accordance with this Section 14.01(b)(i), for each Trading Day of the Measurement Period was less than 98% of the product of the Last Reported Sale Price of the Common Stock and the product of (x) the quotient of (i) the Conversion Amount in respect of $1,000 principal amount of Notes on such Trading Day divided by (ii) 1,000 times (y) the Conversion Rate on each such Trading Day. The Trading Prices shall be determined by the Bid Solicitation Agent pursuant to this Section 14.01(b)(i) and the definition of Trading Price set forth in this Indenture. The Bid Solicitation Agent (if other than the Company) shall have no obligation to determine the Trading Price per $1,000 principal amount of Notes unless the Company has requested such determination in writing and has provided the Bid Solicitation Agent with the names and contact information of the securities dealers the Company has selected for such purpose, and the Company shall have no obligation to make such request (or, if the Company is acting as Bid Solicitation Agent, the Company shall have no obligation to determine the Trading Price per $1,000 principal amount of Notes) unless a Holder of at least $1,000,000 aggregate principal amount of Notes provides the Company with reasonable evidence that the Trading Price per $1,000 principal amount of Notes on a specified Trading Day would be less than 98% of the product of the Last Reported Sale Price

of the Common Stock and the product of (x) the quotient of (i) the Conversion Amount in respect of $1,000 principal amount of Notes on such Trading Day divided by (ii) 1,000 times (y) the Conversion Rate, at which time the Company shall instruct the Bid Solicitation Agent in writing (if other than the Company) to determine, or if the Company is acting as Bid Solicitation Agent, the Company shall determine the Trading Price per $1,000 principal amount of Notes beginning on the next Trading Day and on each successive Trading Day until the Trading Price per $1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the Common Stock and the product of (x) the quotient of (i) the Conversion Amount in respect of $1,000 principal amount of Notes on such Trading Day divided by (ii) 1,000 times (y) the Conversion Rate. At such time as the Company directs the Bid Solicitation Agent in writing to solicit bid quotations, the Company shall provide the Bid Solicitation Agent with the names and contact details of the three independent nationally recognized securities dealers selected by the Company, and the Company shall direct those security dealers to provide bids to the Bid Solicitation Agent. Any such determination will be conclusive absent manifest error. If (x) the Company is not acting as Bid Solicitation Agent, and the Company does not, when the Company is required to, instruct the Bid Solicitation Agent to obtain bids, or if the Company so instructs the Bid Solicitation Agent to obtain bids and the Bid Solicitation Agent fails to make such determination, or (y) the Company is acting as Bid Solicitation Agent and the Company fails to make such determination, then, in either case, the Trading Price per $1,000 principal amount of Notes shall be deemed to be less than 98% of the product of the Last Reported Sale Price of the Common Stock and the product of (x) the quotient of (i) the Conversion Amount in respect of $1,000 principal amount of Notes on such Trading Day divided by (ii) 1,000 times (y) the Conversion Rate on each Trading Day of such failure. If the Trading Price condition set forth above has been met, the Company shall so notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing. If, at any time after the Trading Price condition set forth above has been met, the Bid Solicitation Agent, or if the Company is acting as Bid Solicitation Agent, the Company, determines that the Trading Price per $1,000 principal amount of Notes is greater than or equal to 98% of the product of the Last Reported Sale Price of the Common Stock the product of (x) the quotient of (i) the Conversion Amount in respect of $1,000 principal amount of Notes on such Trading Days divided by (ii) $1,000 times (y) and the Conversion Rate for such date, the Company shall so notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing and thereafter neither the Company nor the Bid Solicitation Agent (if other than the Company) shall be required to solicit bids again until a new holder request is made as provided above.

(ii) If, prior to the close of business on the Business Day immediately preceding February 15, 2029, the Company elects to:

(x) distribute to all or substantially all holders of the Common Stock any rights, options, or warrants (other than in connection with a stockholder rights plan prior to separation of the relevant rights from the Common Stock) entitling them, for a period of not more than 45 calendar days after the announcement date of such distribution, to subscribe for or purchase shares of the Common Stock at a price per share that is less than the average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such distribution; or

(y) distribute to all or substantially all holders of the Common Stock the Company’s assets, securities or rights to purchase securities of the Company (other than in

connection with a stockholder rights plan prior to separation of the relevant rights from the Common Stock as to which Section 14.11 will apply), which distribution has a per share value, as reasonably determined by the Company, exceeding 10% of the Last Reported Sale Price of the Common Stock on the Trading Day preceding the date of announcement for such distribution, then, in case of either clause (x) or clause (y), the Company shall notify the Holders of the Notes, the Trustee and the Conversion Agent (if other than the Trustee) in writing at least 55 scheduled Trading Days prior to the Ex-Dividend Date for such issuance or distribution (or, if later in the case of any such separation of rights issued pursuant to a stockholder rights plan, as soon as reasonably practicable after the Company becomes aware that such separation or triggering event has occurred or will occur). Once the Company has given such notice, a Holder may surrender all or any portion of its Notes for conversion at any time until the earlier of (1) the close of business on the Business Day immediately preceding the Ex-Dividend Date for such issuance or distribution and (2) the Company's announcement that such issuance or distribution will not take place, even if the Notes are not otherwise convertible at such time.

If shares of the Company's common stock are listed on The Tel Aviv Stock Exchange, and the Company elects to distribute bonus shares, offer by way of rights issue, distribute dividends, consolidate share capital, consolidate shares, reduce or split our share capital, or effectuate a forward or reverse stock split (any of the foregoing, a "***Stock Adjustment Event***"), then, in any of these cases, the Company must notify the holders of the notes (with a copy to the Trustee and the Conversion Agent (if other than the Trustee)) in writing at least 30 scheduled Trading Days prior to the ex-dividend date for such Stock Adjustment Event. None of the notes may be converted on the record date for such Stock Adjustment Event. In addition, if the ex-dividend date with respect to a Stock Adjustment Event occurs before the record date relating to such Stock Adjustment Event, then no conversion of the notes or a part thereof shall take place on such ex-dividend date. In the event a holder of the notes attempts to convert its notes on the record date for a Stock Adjustment Event, then the date for such conversion shall be postponed to the next Business Day. In the event the ex-dividend date occurs before the record date relating to such Stock Adjustment Event, then such ex-dividend date shall be postponed to the next Business Day.

(iii) If (i) a transaction or event that constitutes (x) a Fundamental Change or (y) a Make-Whole Fundamental Change occurs prior to the close of business on the Business Day immediately preceding February 15, 2029, or (ii) if the Company is a party to a Share Exchange Event that occurs prior to the close of business on the Business Day immediately preceding February 15, 2029 (other than a merger effected in accordance with Section 11.01 solely to change the Company's jurisdiction of incorporation that does not otherwise constitute a Fundamental Change or a Make-Whole Fundamental Change) (each such Fundamental Change, Make-Whole Fundamental Change or Share Exchange Event, a "***Corporate Event***"), then, in each case, all or any portion of a Holder's Notes may be surrendered for conversion at any time from or after the earlier of (i) the date the Company gives notice of such Corporate Event, and (ii) the effective date of such Corporate Event until the date 35 Trading Days after the effective date of such Corporate Event (or if the Company gives notice after the effective date of such Corporate Event, until the date 35 Trading Days after the date the Company gives notice) or, if such Corporate Event also constitutes a Fundamental Change, until the related Fundamental Change Repurchase Date. The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing as promptly as practicable following the date the Company publicly announces such Corporate Event, but in no event later than five (5) Business Days after the actual effective date of such Corporate Event.

(iv) Prior to the close of business on the Business Day immediately preceding February 15, 2029, a Holder may surrender all or any portion of its Notes for conversion at any time during any calendar quarter commencing after the calendar quarter ending on September 30, 2024 (and only during such calendar quarter), if the Last Reported Sale Price of the Common Stock for at least 20 Trading Days (whether or not consecutive) during the period of 30 consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding calendar quarter is greater than or equal to 130% of the Conversion Price on each applicable Trading Day as determined by the Company.

(v) If the Company calls any Notes for redemption pursuant to Article 16 prior to the close of business on the Business Day immediately preceding February 15, 2029, then Holders may surrender for conversion the Notes called for redemption at any time prior to the close of business on the Scheduled Trading Day prior to the Redemption Date, even if the Notes are not otherwise convertible at such time. After that time, the right to convert such Notes pursuant to this Section 14.01(b)(v) on account of the Company's delivery of the relevant Redemption Notice shall expire, unless the Company defaults in the payment of the Redemption Price, in which case Holders may convert the Notes called for redemption until the Redemption Price has been paid or duly provided for. Notwithstanding the foregoing, if the Company calls fewer than all of the outstanding Notes for redemption pursuant to Article 16 and a Holder (including, for this purpose, the owner of a beneficial interest in a Global Note) is not able to reasonably determine in good faith, prior to the close of business on the 53rd Scheduled Trading Day immediately preceding the relevant Redemption Date, whether the Notes owned by such Holder (or beneficially owned by such owner of a beneficial interest, as applicable) are subject to such partial redemption and, as a result thereof, convertible in accordance with the provisions of this Section 14.01(b)(v), then such Holder (or such owner of a beneficial interest, as applicable) shall be entitled to convert such Notes after the date of the Redemption Notice until the Scheduled Trading Day immediately preceding the Redemption Date, regardless of whether such Notes (or such beneficial interests, as applicable) are subject to such partial redemption, and any such conversion shall be deemed to be of a Note called for redemption (including, without limitation, for purposes of Section 14.03). The Trustee shall have no obligation to make any determination in connection with this Section 14.01(b)(v).

(vi) If the aggregate outstanding principal amount of Existing Notes exceeds $60,000,000 on the date 30 days before Existing Notes Test Date, (A) on such date the Company shall notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing thereof and (B) all or any portion of a Holder's Notes may be surrendered for conversion at any time during the period beginning on the next succeeding Trading Day and ending on the Scheduled Trading Day immediately preceding the Existing Notes Test Date.

(c) Neither the Trustee nor the Conversion Agent shall have any obligation to make any calculation or to determine whether the Notes may be surrendered for conversion or to notify the Company, the Depositary or any Holders if the Notes have become convertible.

Section 14.02 Conversion Procedure; Settlement Upon Conversion.

(a) Subject to this Section 14.02, Section 14.03(b) and Section 14.07(a), upon conversion of any Note, the Company shall satisfy its Conversion Obligation by (i) paying to the converting Holder, in respect of each $1,000 principal amount of Notes being converted, cash in an amount based upon the Conversion Amount with respect to the Notes being converted and the applicable

Conversion Rate, as set forth in this Section 14.02 and (ii) paying to the converting Holder, in respect of each $1,000 principal amount of Notes being converted, an amount in cash equal to any applicable Make-Whole Payment payable in accordance with Section 14.03.

(i) [Reserved].

(ii) [Reserved].

(iii) [Reserved].

(iv) The cash in respect of any conversion of Notes shall be computed as follows:

(A) [Reserved];

(B) the Company shall pay to the converting Holder cash in an amount equal to the product of (x) the quotient of (i) the aggregate Conversion Amount of the Notes being converted on the Conversion Date divided by (ii) $1,000 times (y) the sum of the Daily Conversion Values for each of the 50 consecutive Trading Days during the related Observation Period.

(v) The Daily Conversion Values shall be determined by the Company promptly following the last day of the Observation Period. Promptly after such determination of the Daily Conversion Values, the Company shall notify the Trustee and the Conversion Agent (if other than the Trustee) of the Daily Conversion Values. The Trustee and the Conversion Agent (if other than the Trustee) shall have no responsibility for any such determination.

(b) Subject to Section 14.02(e), before any Holder of a Note shall be entitled to convert a Note as set forth above, such Holder shall (i) in the case of a Global Note, comply with the Applicable Procedures in effect at that time for converting a beneficial interest in a Global Note and, if required, pay funds equal to the interest payable on the next Interest Payment Date which such Holder is required to remit as set forth in clause (ii) of the first sentence of Section 14.02(h) (and, if required, pay all transfer or similar taxes, if any, as set forth in Section 14.02(e)) and (ii) in the case of a Physical Note (1) complete, manually sign and deliver an irrevocable notice to the Conversion Agent as set forth in the Form of Notice of Conversion (or a facsimile, PDF or other electronic transmission thereof) (a "***Notice of Conversion***") at the office of the Conversion Agent and state in writing therein the principal amount of Notes to be converted, (2) surrender such Notes, duly endorsed to the Company or in blank (and accompanied by appropriate endorsement and transfer documents), at the office of the Conversion Agent, (3) if required, furnish appropriate endorsements and transfer documents and (4) if required, pay funds equal to the interest payable on the next Interest Payment Date which such Holder is required to remit as set forth in clause (ii) of the first sentence of Section 14.02(h) (and if required, pay all transfer or similar taxes, if any, as set forth in Section 14.02(e)). The Conversion Agent shall notify the Company of any conversion pursuant to this Article 14 on the Conversion Date for such conversion. No Notes may be surrendered for conversion by a Holder thereof if such Holder has also delivered an Asset Sale Offer Repurchase Notice or Fundamental Change Repurchase Notice to the Company in respect of such Notes and has not validly withdrawn such Asset Sale Offer Repurchase Notice in accordance with Section 4.13(b)(vii) or such Fundamental Change Repurchase Notice in accordance with Section 15.03, as applicable.

If more than one Note shall be surrendered for conversion at one time by the same Holder, the Conversion Obligation with respect to such Notes shall be computed on the basis of the aggregate Conversion Amount of the Notes (or specified portions thereof to the extent permitted thereby) so surrendered.

(c) A Note shall be deemed to have been converted immediately prior to the close of business on the date (the "***Conversion Date***") that the Holder has complied with the requirements set forth in subsection (b) above. Except as set forth in Section 14.03(b) and Section 14.07(a), the Company shall pay or deliver, as the case may be, the consideration due in respect of the Conversion Obligation on the second Business Day immediately following the last Trading Day of the relevant Observation Period.

(d) In case any Note shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver to or upon the written order of the Holder of the Note so surrendered a new Note or Notes in Authorized Denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Note, without payment of any service charge by the converting Holder but, if required by the Company or Trustee, with payment of a sum sufficient to cover any documentary, stamp or similar issue or transfer tax or similar governmental charge required by law or that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such conversion being different from the name of the Holder of the old Notes surrendered for such conversion.

(e) [Reserved].

(f) [Reserved].

(g) Upon the conversion of an interest in a Global Note, the Trustee, or the Custodian at the direction of the Trustee, shall make a notation on such Global Note as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversion of Notes effected through any Conversion Agent other than the Trustee.

(h) If Notes are converted after the close of business on an Interest Record Date and prior to the open of business on the corresponding Interest Payment Date, (i) Holders of such Notes as of the close of business on such Interest Record Date will receive the full amount of interest (including both the cash interest and PIK Interest portions thereof) payable on such Notes on the corresponding Interest Payment Date notwithstanding the conversion; (ii) Notes so surrendered for conversion during the period from the close of business on any Interest Record Date to the open of business on the immediately following Interest Payment Date must be accompanied by funds equal to the amount of any interest payable on the Notes so converted; and (iii) notwithstanding the payment of interest on such Notes on the corresponding Interest Payment Date pursuant to clause (i) above as a result of the payment requirements set forth in clause (ii) above, for purposes of clause (ii) of the definition of "Conversion Amount," with respect to such Notes, such interest (including both the cash interest and PIK Interest portions thereof) shall continue to be deemed unpaid; provided, that no such payment shall be required to the extent of any overdue interest or interest that has accrued on any overdue interest. Therefore, for the avoidance of doubt, (x) all Holders of record on the Interest Record Date immediately preceding the Maturity Date shall receive the full interest payment (including both the cash interest and PIK Interest portions thereof) due on the Maturity Date in cash regardless of whether their Notes have been converted following such Interest Record Date; and (y) if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the close of business on the Interest Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid

interest (including both the cash interest and PIK Interest portions thereof) that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this Section 14.02(h).

(i) At the close of business on the Conversion Date for a Note (or any portion thereof) to be converted, such Note (or such portion thereof) will (unless there occurs a Default in the delivery of the interest due or in the performance of the Conversion Obligation, pursuant to Section 14.02(a) or Section 14.02(h) upon such conversion) be deemed to cease to be outstanding (and, for the avoidance of doubt, no Person will be deemed to be a Holder of such Note (or such portion thereof) as of the close of business on such Conversion Date), except to the extent provided in Section 14.02(h).

Section 14.03 Make-Whole Payment Applicable to Certain Notes Surrendered in Connection with Make-Whole Fundamental Changes or Redemption Notice or Existing Notes Test Date Notice.

(a) If (x) the Effective Date of a Make-Whole Fundamental Change occurs prior to the Maturity Date; (y) the Company gives a Redemption Notice with respect to any or all of the Notes in accordance with Section 16.02; or (z) the Company gives an Existing Notes Test Date Notice pursuant to Section 15.01(c) and, in each case, a Holder elects to convert its Notes in connection with such Make-Whole Fundamental Change or Redemption Notice or Existing Notes Test Date Notice, as the case may be, the Company shall, under the circumstances described below and in accordance with Section 14.02(c), pay such Holder an amount in cash (the "***Make-Whole Payment***") equal to:

(i) if clause (x) applies, the Fundamental Change Repurchase Premium on the Notes being converted (computed as if such Notes had been repurchased pursuant to Section 15.02 (instead of being converted)) on the Conversion Date;

(ii) if clause (y) applies, the Redemption Premium on the Notes being converted (computed as if such Notes had been redeemed pursuant to Article 16 (instead of being converted)) on the Conversion Date; or

(iii) if clause (z) applies, the Existing Notes Test Maturity Premium on the Notes being converted (computed as if such Notes had matured pursuant to Section 15.01 (instead of being converted)) on the Conversion Date.

A conversion of Notes shall be deemed for these purposes to be "in connection with" such Make-Whole Fundamental Change if the relevant Notice of Conversion is received by the Conversion Agent from, and including, the Effective Date of the Make-Whole Fundamental Change up to, and including, the Business Day immediately prior to the related Fundamental Change Repurchase Date.

A conversion of Notes shall be deemed for these purposes to be "in connection with" a Redemption Notice if the relevant Notice of Conversion is received by the Conversion Agent from, and including, the date of the Redemption Notice until the close of business on the Scheduled Trading Day immediately preceding the Redemption Date; provided, that if the Company gives a Redemption Notice with respect to fewer than all of the Notes outstanding, then the Make-Whole Payment for Notes converted in connection with such Redemption Notice as described in this Section 14.03 shall apply with respect to only the Notes called for redemption that are converted in connection therewith, and not with respect to the Notes not called for redemption, and Holders of Notes not called for redemption will not be entitled to a Make-Whole Payment for such Notes as described in this Section 14.03 on account of the Redemption Notice; provided further that, notwithstanding the foregoing and for the avoidance of doubt, Notes (or beneficial interests in a Global Note, as applicable) that are deemed to be called for such partial

redemption in the circumstances described in Section 14.01(b)(v) and are converted in connection with the related Redemption Notice shall be entitled to a Make-Whole Payment pursuant to this Section 14.03 on account of such deemed redemption.

A conversion of Notes shall be deemed for these purposes to be "in connection with" an Existing Notes Test Date Notice if the relevant Notice of Conversion is received by the Conversion Agent from, and including, the date of the Existing Notes Test Date Notice until the close of business on the Scheduled Trading Day immediately preceding the Existing Notes Test Date.

(b) Upon surrender of Notes for conversion in connection with a Make-Whole Fundamental Change pursuant to Section 14.01(b)(iii) or a Redemption Notice pursuant to Section 16.02 or an Existing Notes Test Date Notice pursuant to Section 15.01(c), the Company shall satisfy the related Conversion Obligation by (i) paying an amount in cash in accordance with Section 14.02 based on the Conversion Rate and (ii) paying in cash any applicable Make-Whole Payment; provided, however, that if, the Reference Property in any Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change is composed entirely of cash, for any conversion of Notes following the Effective Date of such Make-Whole Fundamental Change, the Conversion Obligation (other than any applicable Make-Whole Payment) shall be calculated based solely on the Stock Price for the transaction and shall be deemed to be an amount of cash for all the converted Notes equal to the product of (x) the quotient of (i) the aggregate Conversion Amount of the Notes being converted on the Conversion Date divided by (ii) $1,000 times (y) the Conversion Rate, multiplied by such Stock Price. In such event, the Conversion Obligation shall thenceforth in all cases be determined and paid to Holders in cash on the second Business Day following the Conversion Date. The Company shall notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee) of the Effective Date of any Make-Whole Fundamental Change in writing no later than five Business Days after such Effective Date.

(c) "***Stock Price***" means the amount paid (or deemed to be paid) per share of Common Stock in a Make-Whole Fundamental Change described in clause (b) or (d)(ii) of the definition of Fundamental Change or, otherwise, determined pursuant to the following two sentences with respect to any other Make-Whole Fundamental Change or a Redemption Notice or an Existing Notes Test Date Notice, as the case may be. If the holders of the Common Stock receive in exchange for their Common Stock only cash in a Make-Whole Fundamental Change described in clause (b) or (d)(ii) of the definition of Fundamental Change, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Last Reported Sale Prices of the Common Stock over the five Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date of the Make-Whole Fundamental Change or the date of the Redemption Notice or the date of the Existing Notes Test Date Notice, as the case may be.

(d) Nothing in this Section 14.03 shall prevent an adjustment to the Conversion Rate that would otherwise be required pursuant to Section 14.04 in respect of a Make-Whole Fundamental Change.

Section 14.04 Adjustment of Conversion Rate. The Conversion Rate shall be adjusted from time to time by the Company if any of the following events occurs; provided, however, that the Company shall not make any adjustments to the Conversion Rate if Holders of the Notes participate (other than in the case of (x) a share split or share combination or (y) a tender or exchange offer), at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Notes, in any of the transactions described in this Section 14.04, without having to convert their Notes, as if they held a

number of shares of Common Stock equal to the Conversion Rate, multiplied by the Conversion Amount at such time (expressed in thousands) of Notes held by such Holder.

(a) If the Company exclusively issues shares of Common Stock as a dividend or distribution on shares of the Common Stock, or if the Company effects a share split or share combination (excluding an issuance of Reference Property pursuant to a Share Exchange Event as to which Section 14.07 will apply), the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS'}{OS_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date of such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split or share combination, as applicable;

CR' = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date of such dividend or distribution, or immediately after the open of business on the Effective Date of such share split or share combination, as applicable;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the open of business on such Ex-Dividend Date or Effective Date (before giving effect to any such dividend, distribution, share split or share combination); and

OS' = the number of shares of Common Stock outstanding immediately after, and solely as a result of, giving effect to such dividend, distribution, share split or share combination.

Any adjustment made under this Section 14.04(a) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution, or immediately after the open of business on the Effective Date for such share split or share combination, as applicable. If any dividend or distribution of the type described in this Section 14.04(a) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(b) If the Company distributes to all or substantially all holders of Common Stock any rights, options or warrants (other than rights issued or otherwise distributed pursuant to a stockholder rights plan prior to separation of the relevant rights as to which Section 14.11 will apply and excluding an issuance of Reference Property pursuant to a Share Exchange Event as to which Section 14.07 will apply) entitling them, for a period of not more than 45 calendar days after the announcement date of such distribution, to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices of Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such distribution, the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{OS_0 \times X}{OS_0 \times Y}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

CR' = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the open of business on such Ex-Dividend Date;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants, divided by the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of the distribution of such rights, options or warrants.

Any increase made under this Section 14.04(b) shall be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. To the extent that shares of the Common Stock are not delivered after the expiration of such rights, options or warrants, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect had the increase with respect to the distribution of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants are not so distributed, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if such Ex-Dividend Date for such distribution had not occurred.

For purposes of this Section 14.04(b) and Section 14.01(b)(ii)(x), in determining whether any rights, options or warrants entitle the holders of Common Stock to subscribe for or purchase shares of the Common Stock at less than such average of the Last Reported Sale Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such distribution, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Company in good faith and in a commercially reasonable manner.

(c) If the Company distributes shares of its Capital Stock, evidences of its indebtedness, other assets or property of the Company or rights, options or warrants to acquire its Capital Stock or other securities of the Company, to all or substantially all holders of the Common Stock, excluding (i) dividends, distributions or issuances as to which an adjustment was effected (or would be required without regard to the proviso in the first sentence of Section 14.04) pursuant to Section 14.04(a) or Section 14.04(b), (ii) rights issued under a stockholder rights plan prior to separation thereof from the

Common Stock, as to which Section 14.11 will apply, (iii) dividends or distributions paid exclusively in cash as to which an adjustment was effected (or would be required without regard to the proviso in the first sentence of Section 14.04) pursuant to Section 14.04(d), (iv) distributions of Reference Property in a Share Exchange Event as to which Section 14.07 will apply, (v) Spin-Offs as to which the provisions set forth below in this Section 14.04(c) shall apply (or would apply without regard to the proviso to the first sentence of Section 14.04) and (vi) distributions solely pursuant to a tender offer or exchange offer for shares of Common Stock as to which the provisions set forth in Section 14.04(e) shall apply (any of such shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants to acquire Capital Stock or other securities, the "***Distributed Property***"), then the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 \times FMV}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

CR' = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date;

SP_0 = the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined by the Company in good faith and in a commercially reasonable manner) of the Distributed Property with respect to each outstanding share of the Common Stock on the Ex-Dividend Date for such distribution.

Any increase made under the portion of this Section 14.04(c) above shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If such distribution is not paid or made, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if such distribution had not been declared. In the case of any distribution of rights, options, or warrants, to the extent any such rights, options, or warrants expire unexercised, the Conversion Rate shall be immediately readjusted to the Conversion Rate that would then be in effect had the increase made for the distribution of such rights, options, or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, options, or warrants. Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, in respect of each $1,000 Conversion Amount thereof, at the same time and upon the same terms as holders of the Common Stock receive the Distributed Property, the amount and kind of Distributed Property such Holder would have received if such Holder owned a number of shares of Common Stock equal to the Conversion Rate in effect on the Ex-Dividend Date for the distribution.

With respect to an adjustment pursuant to this Section 14.04(c) where there has been a payment of a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to any Subsidiary or other business unit of the Company, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange (excluding

an issuance of Reference Property pursuant to a Share Exchange Event as to which Section 14.07 will apply) (a "***Spin-Off***"), the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the end of the Valuation Period;

CR' = the Conversion Rate in effect immediately after the end of the Valuation Period;

FMV_0 = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock (determined by reference to the definition of Last Reported Sale Price as set forth in Section 1.01 as if references therein to Common Stock were to such Capital Stock or similar equity interest) over the first 10 consecutive Trading Day period after, and including, the Ex-Dividend Date of the Spin-Off (the "***Valuation Period***"); and

MP_0 = the average of the Last Reported Sale Prices of the Common Stock over the Valuation Period.

The increase to the Conversion Rate under the preceding paragraph shall occur at the close of business on the last Trading Day of the Valuation Period; provided, that for any Trading Day that falls within the relevant Observation Period for such conversion and within the Valuation Period, references to "10" in the portion of this Section 14.04(c) related to Spin-Offs shall be deemed replaced with such lesser number of Trading Days as have elapsed between the Ex-Dividend Date of such Spin-Off and such Trading Day in determining the Conversion Rate as of such Trading Day. If any dividend or distribution that constitutes a Spin-Off is declared but not paid or made, the Conversion Rate shall be immediately decreased, effective as of the date the Board of Directors determines not to pay or make such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared or announced.

For purposes of this Section 14.04(c) (and subject in all respects to Section 14.11), rights, options or warrants distributed by the Company to all holders of the Common Stock entitling them to subscribe for or purchase shares of the Company's Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events ("***Trigger Event***"): (i) are deemed to be transferred with such shares of the Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this Section 14.04(c) (and no adjustment to the Conversion Rate under this Section 14.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 14.04(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed

distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 14.04(c) was made, (1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights, options and warrants had not been issued.

For purposes of Section 14.04(a), Section 14.04(b) and this Section 14.04(c), if any dividend or distribution to which this Section 14.04(c) is applicable (other than a Spin-Off) also includes one or both of:

(i) a dividend or distribution of shares of Common Stock to which Section 14.04(a) is applicable (the "***Clause A Distribution***"); or

(ii) a dividend or distribution of rights, options or warrants to which Section 14.04(b) is applicable (the "***Clause B Distribution***"),

then, in either case, (1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 14.04(c) is applicable (the "***Clause C Distribution***") and any Conversion Rate adjustment required by this Section 14.04(c) with respect to such Clause C Distribution first then be made, and (2) the Ex-Dividend Date for the Clause B Distribution, if any, shall be deemed to immediately follow the Ex-Dividend Date for the Clause C Distribution and any Conversion Rate adjustment required by Section 14.06(b) with respect to the Clause B Distribution shall then be made immediately after the adjustment pursuant to clause (1), except that, if determined by the Company, any shares of Common Stock that become outstanding as a result of the Clause A Distribution or the Clause B Distribution shall not be deemed to be "outstanding immediately prior to the open of business on such Ex-Dividend Date" within the meaning of Section 14.06(b), and (3) the Ex-Dividend Date for the Clause A Distribution, if any, shall be deemed to immediately follow the Ex-Dividend Date for the Clause C Distribution or the Clause B Distribution, as the case may be, and any Conversion Rate adjustment required by Section 14.06(a) with respect to the Clause A Distribution shall then be made immediately after the adjustments pursuant to clauses (1) and (2), except that, if determined by the Company, any shares of Common Stock that become outstanding as a result of the Clause A Distribution shall not be deemed to be "outstanding immediately prior to the open of business on such Ex-Dividend Date" within the meaning of Section 14.06(a).

(d) If any cash dividend or distribution is made to all or substantially all holders of the Common Stock (excluding an issuance of Reference Property pursuant to a Share Exchange Event as to which Section 14.07 will apply), the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 \times C}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution;

CR' = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution;

SP_0 = the Last Reported Sale Price of the Common Stock on the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution; and

C = the amount in cash per share the Company distributes to all or substantially all holders of the Common Stock.

Any increase pursuant to this Section 14.04(d) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution. If such dividend or distribution is not so paid, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to make or pay such dividend or distribution, to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. Notwithstanding the foregoing, if "C" (as defined above) is equal to or greater than "SP0" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, for each $1,000 Conversion Amount of Notes it holds, at the same time and upon the same terms as holders of shares of the Common Stock, the amount of cash that such Holder would have received if such Holder owned a number of shares of Common Stock equal to the Conversion Rate in effect on the Ex-Dividend Date for such cash dividend or distribution.

(e) If the Company or any of its Subsidiaries make a payment in respect of a tender or exchange offer for the Common Stock that is subject to the then-applicable tender offer rules under the Exchange Act (other than solely pursuant to an odd-lot tender offer that satisfies the requirements of Rule 13e-4(h)(5) under the Exchange Act, or any successor to such rule), to the extent that the cash and value of any other consideration included in the payment per share of the Common Stock exceeds the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{AC + (SP' \times OS')}{OS_0 \times SP'}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

CR' = the Conversion Rate in effect immediately after the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires;

AC = the aggregate value of all cash and any other consideration (as determined by the Company in good faith and in a commercially reasonable manner) paid or payable for shares of Common Stock purchased in such tender or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the date such tender or exchange offer expires (prior to giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);

OS' = the number of shares of Common Stock outstanding immediately after the date such tender or exchange offer expires (after giving effect to the purchase of all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and

SP' = the average of the Last Reported Sale Prices of the Common Stock over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the date such tender or exchange offer expires.

The increase to the Conversion Rate under this Section 14.04(e) shall occur at the close of business on the 10th Trading Day immediately following, and including, the Trading Day next succeeding the date such tender or exchange offer expires; provided, that for any Trading Day that falls within the relevant Observation Period for such conversion and within the 10 Trading Days immediately following, and including, the Trading Day next succeeding the expiration date of any tender or exchange offer, references to "10" or "10th" in this Section 14.04(e) shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding such expiration date of such tender or exchange offer and such Trading Day in determining the Conversion Rate as of such Trading Day.

If the Company is obligated to purchase shares of Common Stock pursuant to any such tender or exchange offer described in this Section 14.04(e) but is permanently prevented by applicable law from effecting any such purchase or all such purchases are rescinded, the applicable Conversion Rate will be readjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made or had been made only in respect of the purchases that have been effected.

(f) [Reserved].

(g) [Reserved].

(h) Except as stated herein, the Company shall not adjust the Conversion Rate for the issuance of shares of the Common Stock or any securities convertible into or exchangeable for shares of the Common Stock or the right to purchase shares of the Common Stock or such convertible or exchangeable securities.

(i) In addition to those adjustments required by clauses (a), (b), (c), (d) and (e) of this Section 14.04, and subject to the applicable listing standards of The Nasdaq Global Select Market, the Company from time to time may increase the Conversion Rate by any amount for a period of at least 20 Business Days if the Company in good faith and in a commercially reasonable manner determines that such increase would be in the Company's best interest. In addition, subject to the applicable listing standards of The Nasdaq Global Select Market, the Company may (but is not required to) increase the applicable Conversion Rate to avoid or diminish income tax to holders of Common Stock or rights to purchase shares of Common Stock in connection with a dividend or distribution of shares of Common Stock (or rights to acquire shares of Common Stock) or similar events.

(j) Notwithstanding anything to the contrary in this Article 14, the Conversion Rate shall not be adjusted:

(i) upon the issuance of shares of Common Stock at a price below the Conversion Price or otherwise, other than any issuance described in this Section 14.04.

(ii) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any plan;

(iii) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of the Company's Subsidiaries;

(iv) upon the issuance of any shares of Common Stock pursuant to (x) any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (ii) of this subsection and outstanding as of the date the Notes were first issued (other than pursuant a stockholder rights plan as to which Section 14.11 will apply) or (y) the Warrants issued pursuant to the Exchange Agreement (the "***Warrants***");

(v) upon the repurchase of shares of Common Stock pursuant to an open-market share repurchase program or other buy-back transaction that is not a tender offer or exchange offer of the nature described in Section 14.04(e);

(vi) solely for a change in the par value of the Common Stock; or

(vii) for accrued and unpaid interest on the Notes.

(k) The Company shall not be required to make an adjustment pursuant to clauses (a), (b), (c), (d) or (e) of this Section 14.04 unless such adjustment would result in a change of at least 1% of the then effective Conversion Rate. However, the Company shall carry forward any adjustment that the Company would otherwise have to make and take that adjustment into account in any subsequent adjustment. Notwithstanding the foregoing, all such carried-forward adjustments shall be made with respect to the Notes (i) where the aggregate of all such carried-forward adjustments equals or exceeds 1% of the Conversion Rate and (ii) regardless of whether the aggregate adjustment is less than 1% of the Conversion Rate, (w) [reserved], (x) on each Trading Day of any Observation Period with respect to any Notes, (y) if a Fundamental Change and/or Make-Whole Fundamental Change occurs or an Existing Notes Test Date Notice or Redemption Notice is given, or (z) on and after February 15, 2029. All calculations and other determinations under this Article 14 shall be made by the Company and shall be made to the nearest one-ten thousandth ($1/10{,}000^{th}$) of a share.

(l) Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly file with the Trustee (and the Conversion Agent if not the Trustee) an Officer's Certificate setting forth (i) the adjusted Conversion Rate, (ii) the subsection of this Section 14.04 pursuant to which such adjustment has been made, showing in reasonable detail the facts upon which such adjustment is based and (iii) the date as of which such adjustment is effective (which certificates shall be conclusive evidence of the accuracy of such adjustment absent manifest error). Unless and until a Responsible Officer of the Trustee shall have received such Officer's Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume without inquiry that the last

Conversion Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall deliver such notice of such adjustment of the Conversion Rate to each Holder. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(m) For purposes of this Section 14.04, the number of shares of Common Stock at any time outstanding shall not include shares of Common Stock held in the treasury of the Company so long as the Company does not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company, but shall include shares of Common Stock issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

Section 14.05 Adjustments of Prices. Whenever any provision of this Indenture requires the Company to calculate the Last Reported Sale Prices, the Daily VWAPs or the Daily Conversion Values over a span of multiple days (including, without limitation, an Observation Period and the period, if any, for determining the Stock Price for purposes of a Make-Whole Fundamental Change or Optional Redemption), the Company shall make appropriate adjustments in good faith and in a commercially reasonable manner to each to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate (or changes to the market price per share of Common Stock resulting from any such event) where the Ex-Dividend Date, Effective Date or expiration date, as the case may be, of the event occurs, at any time during the period when the Last Reported Sale Prices, the Daily VWAPs or the Daily Conversion Values are to be calculated. The Company will likewise make appropriate adjustments where a Conversion Rate adjustment otherwise required to be made pursuant to the provisions of Section 14.04(a) through Section 14.04(e) is not made in accordance with the provisions of Section 14.04 that permit or require participation by Holders in a distribution in lieu of such Conversion Rate adjustment. Neither the Trustee nor the Conversion Agent shall have any responsibility for any of the foregoing calculations or determinations.

Section 14.06 [Reserved].

Section 14.07 Effect of Recapitalizations, Reclassifications and Changes of the Common Stock.

(a) In the case of:

(i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination),

(ii) any consolidation, merger or combination involving the Company,

(iii) any sale, lease or other transfer to a third party of the consolidated assets of the Company and the Company's Subsidiaries substantially as an entirety or

(iv) any statutory share exchange,

in each case, as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a "***Share Exchange Event***"), then, at and after the effective time of such Share Exchange Event, the right to convert each $1,000 Conversion Amount of Notes shall be changed into a right to convert such

Conversion Amount of Notes into an amount of cash based on the kind and amount of shares of stock, other securities or other property or assets (including cash or any combination thereof) that a holder of a number of shares of Common Stock equal to the Conversion Rate immediately prior to such Share Exchange Event would have owned or been entitled to receive (the "***Reference Property***", with each "***unit of Reference Property***" meaning the kind and amount of Reference Property that a holder of one share of Common Stock is entitled to receive) upon such Share Exchange Event and, prior to or at the effective time of such Share Exchange Event, the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture permitted under Section 10.01(g) providing for such change in the right to convert each $1,000 Conversion Amount of Notes; provided, however, that at and after the effective time of the Share Exchange Event (a) any amount payable in cash upon conversion of the Notes in accordance with Section 14.02 shall continue to be payable in cash and (b) the Daily VWAP shall be calculated based on the value of a unit of Reference Property.

If the Share Exchange Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then the Reference Property upon which shall be based the cash into which the Notes will be convertible shall be deemed to be the weighted average of the types and amounts of consideration actually received by the holders of Common Stock. If the holders of the Common Stock receive only cash in such Share Exchange Event, then for all conversions for which the relevant Conversion Date occurs after the effective date of such Share Exchange Event (A) the consideration due upon conversion of each of the Notes shall be solely cash in an amount equal to the product of (x) the quotient of (i) the aggregate Conversion Amount of the Notes being converted on such Conversion Date divided by (ii) $1,000 times (y) the Conversion Rate in effect on the Conversion Date, *multiplied by* the price paid per share of Common Stock in such Share Exchange Event and (B) the Company shall satisfy the Conversion Obligation by paying such cash amount to converting Holders on the second Business Day immediately following the relevant Conversion Date. The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing of such weighted average as soon as practicable after such determination is made.

If the Reference Property in respect of any such transaction described in the immediately preceding paragraph includes, in whole or in part, shares of Common Equity or American depositary receipts (or other interests) in respect thereof, such supplemental indenture shall provide for anti-dilution and other adjustments that are as nearly equivalent as possible to the adjustments provided for in this Article 14 with respect to the portion of the Reference Property consisting of such Common Equity or American depositary receipts (or other interests) in respect thereof. If, in the case of any Share Exchange Event, the Reference Property includes shares of stock, securities or other property or assets of a Person other than the Company or the successor or purchasing corporation, as the case may be, in such Share Exchange Event, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders as the Company in good faith reasonably considers necessary by reason of the foregoing.

(b) When the Company executes a supplemental indenture pursuant to subsection (a) of this Section 14.07, the Company shall promptly file with the Trustee an Officer's Certificate briefly stating the reasons therefor, the kind or amount of cash, securities or property or asset that will comprise a unit of Reference Property after any such Share Exchange Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with, and shall promptly deliver or cause to be delivered notice thereof to all Holders. The Company shall cause notice of the execution of such supplemental indenture to be delivered to each Holder within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

(c) The Company shall not become a party to any Share Exchange Event unless its terms are consistent with this Section 14.07. None of the foregoing provisions shall affect the right of a holder of Notes to convert its Notes into cash as set forth in Section 14.01 and Section 14.02 prior to the effective date of such Share Exchange Event.

(d) Upon the consummation of any Share Exchange Event, for purposes of the definitions of "Fundamental Change" and "Make-Whole Fundamental Change", references to "Common Stock" shall be deemed to refer to the Common Equity or American depository receipts, if any, forming part of the Reference Property that constitutes Capital Stock after giving effect to such Share Exchange Event.

(e) The above provisions of this Section 14.07 shall similarly apply to successive Share Exchange Events.

Section 14.08 [Reserved].

Section 14.09 Responsibility of Trustee. The Trustee and any other Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any cash that may at any time be issued or delivered upon the conversion of any Note; and the Trustee and any other Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to deliver any cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article 14. Without limiting the generality of the foregoing, neither the Trustee nor any Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 14.07 relating either to the kind or amount of shares of stock or securities or property (including cash) upon which shall be based the cash receivable by Holders upon the conversion of their Notes after any event referred to in such Section 14.07 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 7.01, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in conclusively relying upon, the Officer's Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for determining whether any event contemplated by Section 14.01(b)has occurred that makes the Notes eligible for conversion or no longer eligible therefor until the Company has delivered to the Trustee and the Conversion Agent the notices referred to in Section 14.01(b) with respect to the commencement or termination of such conversion rights, on which notices the Trustee and the Conversion Agent may conclusively rely, and the Company agrees to deliver such notices to the Trustee and the Conversion Agent immediately after the occurrence of any such event or at such other times as shall be provided for in Section 14.01(b). Except as otherwise expressly provided herein, neither the Trustee nor any other agent acting under this Indenture (other than the Company, if acting in such capacity) shall have any obligation to make any calculation or to determine whether the Notes may be surrendered for conversion pursuant to this Indenture, or to notify the Company or the Depositary or any of the Holders if the Notes have become convertible pursuant to the terms of this Indenture.

Section 14.10 Notice to Holders Prior to Certain Actions. In case of any:

(a) action by the Company or one of its Subsidiaries that would (or without regard to the proviso of the first sentence of Section 14.04 would) require an adjustment in the Conversion Rate pursuant to Section 14.04 or Section 14.11;

(b) Share Exchange Event; or

(c) voluntary or involuntary dissolution, liquidation or winding-up of the Company or any of its Subsidiaries;

then, in each case (unless notice of such event is otherwise required pursuant to another provision of this Indenture), the Company shall cause to be filed with the Trustee and the Conversion Agent (if other than the Trustee) and to be delivered to each Holder, as promptly as possible but in any event at least 20 days prior to the applicable date hereinafter specified, a notice stating (i) the date on which a record is to be taken for the purpose of such action by the Company or one of its Subsidiaries or, if a record is not to be taken, the date as of which the holders of Common Stock of record are to be determined for the purposes of such action by the Company or one of its Subsidiaries, or (ii) the date on which such Share Exchange Event, dissolution, liquidation or winding-up is expected to become effective or occur, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such Share Exchange Event, dissolution, liquidation or winding-up. Failure to give such notice, or any defect therein, shall not affect the legality or validity of such action by the Company or one of its Subsidiaries, Share Exchange Event, dissolution, liquidation or winding-up.

Section 14.11 Stockholder Rights Plans. If the Company has a stockholder rights plan in effect upon conversion of the Notes and, prior to any conversion of Notes, the rights have separated from the shares of Common Stock in accordance with the provisions of the applicable stockholder rights plan, the Conversion Rate shall be adjusted at the time of separation as if the Company distributed to all or substantially all holders of the Common Stock Distributed Property consisting of such rights as provided in Section 14.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights.

Section 14.12 [Reserved].

ARTICLE 15
EARLY MATURITY OF NOTES AND REPURCHASE OF NOTES UPON A FUNDAMENTAL CHANGE

Section 15.01 Maturity of Notes Upon an Existing Notes Test Maturity Date.

(a) If an Existing Notes Test Maturity Date occurs at any time prior to the Stated Maturity, the aggregate principal amount of all Notes together with all accrued and unpaid interest at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) to, but excluding, the Existing Notes Test Maturity Date and the applicable Existing Notes Test Maturity Premium thereon shall become due and payable on the Existing Notes Test Maturity Date; provided, however, that if the Existing Notes Test Maturity Date falls after an Interest Record Date but on or prior to the Interest Payment Date to which such Interest Record Date relates, then (i) the Holder of any Note at the close of business on such Interest Record Date will be entitled, notwithstanding such Existing Notes Test Maturity Date, to receive, on such Interest Payment Date, the unpaid interest at the full amount of

Stated Interest (including both the cash interest and PIK Interest portions thereof) that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Existing Notes Test Maturity Date is before such Interest Payment Date); and (ii) the Holder of such Note on the Existing Notes Test Maturity Date will be entitled to receive on such Existing Notes Test Maturity Date an amount in cash equal to the aggregate principal amount of such Note plus the Existing Notes Test Maturity Premium. Any Notes amount so becoming due and payable by the Company shall be paid only in cash.

(b) "***Existing Notes Test Maturity Date***" means the Existing Notes Test Date if (but only if) the aggregate outstanding principal amount of Existing Notes exceeds $60,000,000 on the Existing Notes Test Date. The Company shall immediately notify the Trustee and the Holders in writing of the occurrence of the Existing Notes Test Maturity Date.

Notwithstanding anything herein to the contrary, any Holder shall have the right to convert, in whole or in part, at any time after the Company provides an Existing Notes Test Date Notice until the close of business on the Business Day immediately preceding the Existing Notes Test Date by satisfaction of the conditions for conversion specified in accordance with Article 14.

(c) If the aggregate outstanding principal amount of Existing Notes exceeds $60,000,000 on the 30th calendar day prior to an Existing Notes Test Date, then, on such date the Company shall provide to all Holders and the Trustee, the Conversion Agent (if other than the Trustee) and the Paying Agent (in the case of a Paying Agent other than the Trustee) a written notice (the "***Existing Notes Test Date Notice***"). In the case of Physical Notes, such notice shall be by first class mail or, in the case of Global Notes, such notice shall be delivered in accordance with the Applicable Procedures. Each Existing Notes Test Date Notice shall specify:

(i) the events causing the delivery of such Existing Notes Test Date Notice;

(ii) that if more than $60,000,000 aggregate principal amount of Existing Notes remain outstanding on the Existing Notes Test Date,

(A) the aggregate principal amount of all Notes together with all accrued and unpaid interest thereon (including both the cash interest and PIK Interest portions thereof) shall become due and payable on such Existing Notes Test Date;

(B) the Notes may be converted only if the Holder validly delivers a Notice of Conversion in accordance with the terms of this Indenture prior to the Scheduled Trading Day immediately preceding the Existing Notes Test Date;

(C) except in the circumstances specified in the proviso to Section 15.01(a), interest on the Notes shall cease to accrue on and after the Existing Notes Test Date; and

(D) Holders may surrender their Notes for conversion at any time prior to the close of business on the Scheduled Trading Day immediately preceding the Existing Notes Test Maturity Date;

(iii) the Existing Notes Test Date;

(iv) the amount of principal and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Existing Notes Test Maturity Premium payable on each $1,000 principal amount of Notes on the Existing Notes Test Maturity Date;

(v) the name and address of the Paying Agent and Conversion Agent, if applicable;

(vi) the Conversion Rate;

(vii) the place or places where such Notes are to be surrendered for payment of the principal and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and Existing Notes Test Maturity Premium on the Notes;

(viii) the "Conversion Amount" on the Scheduled Trading Day prior to the Existing Notes Test Date applicable to each $1,000 principal amount of a Note; and the procedures a converting Holder must follow to convert its Notes; and

(ix) the CUSIP, ISIN or other similar numbers, if any, assigned to the Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit or affect the maturity of the Notes pursuant to this Section 15.01.

At the Company's request, given at least five days prior to the date the Existing Notes Test Date Notice is to be sent to the Holders (or such shorter period as agreed by the Trustee), the Trustee shall give such notice in the Company's name and at the Company's expense; provided, however, that, in all cases, the text of such Existing Notes Test Date Notice shall be prepared by the Company.

Section 15.02 Repurchase of Notes Upon a Fundamental Change.

(a) If a Fundamental Change occurs at any time prior to the Stated Maturity, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes, or any portion of the principal amount thereof properly surrendered and not validly withdrawn pursuant to Section 15.03 in an Authorized Denomination, on the date (the "***Fundamental Change Repurchase Date***") specified by the Company that is not less than 15 nor more than 19 Business Days following the date of the Fundamental Change Company Notice at a repurchase price equal to 100% of the aggregate principal amount thereof, plus the Fundamental Change Repurchase Premium, plus any accrued and unpaid interest thereon at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) to, but excluding, the Fundamental Change Repurchase Date (the "***Fundamental Change Repurchase Price***"); provided, however, that if the Fundamental Change Repurchase Date falls after an Interest Record Date but on or prior to the Interest Payment Date to which such Interest Record Date relates, then (i) the Company shall instead pay, on such Interest Payment Date, to the Holder of record as of the close of business on such Interest Record Date the full amount of accrued and unpaid interest at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would have accrued on such Notes to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Notes remained outstanding through such Interest Payment Date), and (ii) the Holder of such Notes to be repurchased on the Fundamental Change Repurchase Date will be entitled to receive the Fundamental Change Repurchase Price in cash in an amount equal to 100% of the aggregate principal amount of Notes to be repurchased pursuant to this Section 15.02, plus the

Fundamental Change Repurchase Premium on such Notes. Any Notes so repurchased by the Company shall be paid for in cash.

(b) Repurchases of Notes under this Section 15.02 shall be made, at the option of the Holder thereof, upon:

(i) delivery to the Paying Agent by a Holder of a duly completed written notice (the "***Fundamental Change Repurchase Notice***") in the form of the Form of Fundamental Change Repurchase Notice, if the Notes are Physical Notes, or in compliance with the Applicable Procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case on or before the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date; and

(ii) delivery of the Notes, if the Notes are Physical Notes, to the Paying Agent on or before the first Business Day preceding the Fundamental Change Repurchase Date (together with all necessary endorsements for transfer) at the Corporate Trust Office of the Paying Agent, or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the Applicable Procedures, in each case such delivery being a condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor.

The Fundamental Change Repurchase Notice in respect of any Notes to be repurchased shall state:

(i) in the case of Physical Notes, the certificate numbers of the Notes to be delivered for repurchase;

(ii) the portion of the principal amount of Notes to be repurchased, which must be in an Authorized Denomination; and

(iii) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture;

provided, however, that if the Notes are Global Notes, the Fundamental Change Repurchase Notice must comply with the Applicable Procedures.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 15.02 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 15.03.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Repurchase Notice or written notice of withdrawal thereof.

Notwithstanding anything herein to the contrary, any Holder shall have the right to convert, in whole or in part, at any time after the Company provides a Fundamental Change Company Notice until the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by satisfaction of the conditions for conversion specified in accordance with Article 14.

(c) On or before the 10th Business Day after the occurrence of the effective date of a Fundamental Change, the Company shall provide to all Holders and the Trustee, the Conversion Agent (if other than the Trustee) and the Paying Agent (in the case of a Paying Agent other than the Trustee) a written notice (the "***Fundamental Change Company Notice***") of the occurrence of the effective date of the Fundamental Change and of the resulting repurchase right at the option of the Holders arising as a result thereof. In the case of Physical Notes, such notice shall be by first class mail or, in the case of Global Notes, such notice shall be delivered in accordance with the Applicable Procedures. Each Fundamental Change Company Notice shall specify:

(i) the events causing the Fundamental Change;

(ii) the effective date of the Fundamental Change;

(iii) the last date on which a Holder may exercise the right to convert Notes pursuant to Article 14;

(iv) the amount of principal and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Fundamental Change Repurchase Premium payable on each $1,000 principal amount of Notes on the Fundamental Change Repurchase Date;

(v) the Fundamental Change Repurchase Date;

(vi) the name and address of the Paying Agent and the Conversion Agent, if applicable;

(vii) the Conversion Rate;

(viii) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder validly withdraws the Fundamental Change Repurchase Notice and validly delivers a Notice of Conversion, each in accordance with the terms of this Indenture;

(ix) that on the Fundamental Change Repurchase Date, the principal and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) on the Notes will become due and payable upon each Note to be repurchased, and that, except in the circumstances specified in the proviso to Section 15.02(a), interest thereon shall cease to accrue on and after the Fundamental Change Repurchase Date;

(x) the procedures that Holders must follow to require the Company to repurchase their Notes;

(xi) the place or places where such Notes are to be surrendered for payment of the principal and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and Fundamental Change Repurchase Premium on the Notes;

(xii) that Holders may surrender their Notes for conversion at any time prior to the close of business on the Scheduled Trading Day immediately preceding the Fundamental Change Repurchase Date;

(xiii) the "Conversion Amount" on the Scheduled Trading Day prior to the Fundamental Change Repurchase Date applicable to each $1,000 principal amount of a Note; and the procedures a converting Holder must follow to convert its Notes; and

(xiv) the CUSIP, ISIN or other similar numbers, if any, assigned to the Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit or affect the maturity of the Notes pursuant to this Section 15.02.

At the Company's request, given at least five days prior to the date the Fundamental Change Company Notice is to be sent to the Holders (or such shorter period as agreed by the Trustee), the Trustee shall give such notice in the Company's name and at the Company's expense; provided, however, that, in all cases, the text of such Fundamental Change Company Notice shall be prepared by the Company.

Simultaneously with providing such notice, the Company shall publish a press release containing this information or publish the information on the Company's website or through such other public medium as the Company may use at that time.

(d) Notwithstanding the foregoing, no Notes may be repurchased by the Company on any date at the option of the Holders upon a Fundamental Change if the aggregate principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes). The Paying Agent will promptly return to the respective Holders thereof any Physical Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes), or any instructions for book-entry transfer of the Notes in compliance with the Applicable Procedures shall be deemed to have been cancelled, and, upon such return or cancellation, as the case may be, the Fundamental Change Repurchase Notice with respect thereto shall be deemed to have been withdrawn.

(e) Notwithstanding anything to the contrary in this Indenture, the Company shall not be required to repurchase, or to make an offer to repurchase, the Notes upon a Fundamental Change if a third party makes such an offer in the same manner, at the same time and otherwise in compliance with the requirements for an offer made by the Company as set forth in this Article 15, and such third party purchases all Notes properly surrendered and not validly withdrawn under its offer in the same manner, at the same time and otherwise in compliance with the requirements for an offer made by the Company as set forth in this Article 15.

Section 15.03 Withdrawal of Fundamental Change Repurchase Notice. A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Paying Agent in accordance with this Section 15.03 at any time prior to the close of business on the Business Day immediately preceding the relevant Fundamental Change Repurchase Date, specifying:

(a) the aggregate principal amount of the Notes with respect to which such notice of withdrawal is being submitted, which must be in an Authorized Denomination;

(b) if Physical Notes have been issued, the certificate numbers of the Notes in respect of which such notice of withdrawal is being submitted, and

(c) the aggregate principal amount, if any, of such Notes that remains subject to the original Fundamental Change Repurchase Notice, which must be in an Authorized Denomination;

provided, however, that if the Notes are Global Notes, the notice must comply with the Applicable Procedures.

Section 15.04 Deposit of Fundamental Change Repurchase Price.

(a) The Company will deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04) on or prior to 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Fundamental Change Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not withdrawn prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date) will be made on the later of (i) the Fundamental Change Repurchase Date (provided the Holder has satisfied the conditions in Section 15.02(b)) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 15.02(b) by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Note Register; provided, however, that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Repurchase Price.

(b) If by 11:00 a.m. New York City time, on the Fundamental Change Repurchase Date, the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to pay the Fundamental Change Repurchase Price of the Notes to be repurchased on the Fundamental Change Repurchase Date, then, with respect to the Notes that have been properly surrendered for repurchase and have not been validly withdrawn in accordance with the provisions of this Indenture, (i) such Notes will cease to be outstanding, (ii) interest will cease to accrue on such Notes (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or Paying Agent) and (iii) all other rights of the Holders of such Notes will terminate (other than the right to receive (x) the Fundamental Change Repurchase Price and (y) to the extent not included in the Fundamental Change Repurchase Price as specified in the proviso to Section 15.02(a), accrued and unpaid interest, if applicable).

(c) Upon surrender of a Note that is to be repurchased in part pursuant to Section 15.02, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Note in an Authorized Denomination equal in principal amount to the unrepurchased portion of the Note surrendered.

Section 15.05 Covenant to Comply with Applicable Laws Upon Repurchase of Notes. In connection with any repurchase offer pursuant to this Article 15, the Company will, if required:

(a) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable;

(b) file a Schedule TO or any other required schedule under the Exchange Act; and

(c) otherwise comply with all federal and state securities laws in connection with any offer by the Company to repurchase the Notes;

in each case, so as to permit the rights and obligations under this Article 15 to be exercised in the time and in the manner specified in this Article 15.

ARTICLE 16
OPTIONAL REDEMPTION

Section 16.01 Optional Redemption. No sinking fund is provided for the Notes. The Company may (subject to Section 16.04) redeem at any time or from time to time (an "***Optional Redemption***") for cash all or any portion of the Notes, selected in accordance with Section 16.02, on a pro rata basis, at the Redemption Price. For the avoidance of doubt, any redemption of the Notes in connection with a transaction that results in a Fundamental Change will be deemed to require payment of the Fundamental Change Repurchase Price under Section 15.02 and not a voluntary prepayment under this Article 16.

Section 16.02 Notice of Optional Redemption; Selection of Notes. In case the Company exercises its Optional Redemption right to redeem all or, as the case may be, any part of the Notes pursuant to Section 16.01 it shall fix a date for redemption (each, a "***Redemption Date***") and it or, at its written request received by the Trustee and the Conversion Agent (if other than the Trustee) not less than 5 Scheduled Trading Days prior to date such notice is to be sent (or such shorter period as shall be acceptable to the Trustee), the Trustee, in the name of and at the expense of the Company, shall deliver or cause to be delivered a notice of such Optional Redemption (a "***Redemption Notice***") not less than 45 nor more than 60 Scheduled Trading Days prior to the Redemption Date to each Holder of Notes so to be redeemed as a whole or in part; provided, however, that, if the Company shall give such Redemption Notice to the Holders of the Notes, it shall also deliver a copy to the Trustee. The Redemption Date must be a Business Day.

(a) The Redemption Notice, if delivered in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such notice. In any case, failure to give such Redemption Notice by mail or any defect in the Redemption Notice to the Holder of any Note designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Note.

(b) Each Redemption Notice shall specify:

(i) the Redemption Date;

(ii) the Redemption Price;

(iii) that on the Redemption Date, the Redemption Price will become due and payable upon each Note to be redeemed, and that, except in the circumstances specified in the third sentence of Section 16.03(a), interest thereon, if any, shall cease to accrue on and after the Redemption Date;

(iv) the place or places where such Notes are to be surrendered for payment of the Redemption Price;

(v) that Holders may surrender their Notes for conversion at any time prior to the close of business on the Scheduled Trading Day immediately preceding the Redemption Date;

(vi) the "Conversion Amount" on the Scheduled Trading Day prior to the Redemption Date applicable to each $1,000 principal amount of a Note; and the procedures a converting Holder must follow to convert its Notes;

(vii) the Conversion Rate;

(viii) the CUSIP, ISIN or other similar numbers, if any, assigned to such Notes; and

(ix) in case any Note is to be redeemed in part only, the portion of the principal amount thereof to be redeemed and on and after the Redemption Date, upon surrender of such Note, a new Note in principal amount equal to the unredeemed portion thereof shall be issued.

A Redemption Notice shall be irrevocable.

(c) If fewer than all of the outstanding Notes are to be redeemed, the Trustee shall select the Notes or portions thereof of a Global Note or the Notes in certificated form to be redeemed in Authorized Denominations by lot, on a *pro rata* basis or by another method the Trustee considers to be fair and appropriate or, in the case of Global Notes, in accordance with the applicable procedures of the Depositary. If any Note selected for partial redemption is submitted for conversion in part after such selection, the portion of the Note submitted for conversion shall be deemed (so far as may be possible) to be the portion selected for redemption.

Section 16.03 Payment of Notes Called for Redemption.

(a) If any Redemption Notice has been given in respect of the Notes in accordance with Section 16.02, the Notes shall become due and payable on the Redemption Date at the place or places stated in the Redemption Notice and at the applicable Redemption Price. On presentation and surrender of the Notes at the place or places stated in the Redemption Notice, the Notes shall be paid and redeemed by the Company at the applicable Redemption Price. If any Redemption Date is after an Interest Record Date and on or before the next Interest Payment Date, then (i) the Holder of such Note at the close of business on such Interest Record Date will be entitled, notwithstanding such Optional Redemption, to receive, on such Interest Payment Date the unpaid interest at the full amount of Stated Interest (including both the cash interest and PIK Interest portions thereof) that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date, if such Redemption Date is before such Interest Payment Date); and (ii) the Holder of such Note on the Redemption Date will be entitled to receive the Redemption Price on the Redemption Date.

(b) On or prior to 11:00 a.m., New York City time, on the Redemption Date, the Company shall deposit with the Paying Agent or, if the Company or a Subsidiary of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided in Section 7.05 an amount of cash (in immediately available funds if deposited on the Redemption Date), sufficient to pay the Redemption Price of all of the Notes to be redeemed on such Redemption Date. Subject to receipt of funds by the Paying Agent, payment for the Notes to be redeemed shall be made on the Redemption Date

for such Notes. The Paying Agent shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Redemption Price.

Section 16.04 Restrictions on Redemption. The Company may not redeem any Notes on any date (i) if the aggregate principal amount of the Notes has been accelerated in accordance with the terms of this Indenture, and such acceleration has not been rescinded, on or prior to the Redemption Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Redemption Price with respect to such Notes) or (ii) at any time during the period from and after the Company first announces or otherwise becomes aware of, or engages in any negotiation in respect of, any proposed Fundamental Change to and including the Business Day after the related Fundamental Change Repurchase Date.

ARTICLE 17
MISCELLANEOUS PROVISIONS

Section 17.01 Provisions Binding on Successors. All the covenants, stipulations, promises and agreements of the Company contained in this Indenture shall bind its successors and assigns whether so expressed or not. All agreements of the Trustee and the Collateral Agent in this Indenture will bind its successors. All agreements of each Subsidiary Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 18.06.

Section 17.02 Official Acts by Successor Corporation. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or Officer of the Company shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation or other entity that shall at the time be the lawful sole successor of the Company.

Section 17.03 Addresses for Notices, Etc. Any notice or demand that by any provision of this Indenture is required or permitted to be given or served by the Trustee, the Collateral Agent or by the Holders on the Company shall be deemed to have been sufficiently given or made, for all purposes if given or served (1) electronically in PDF format and (2) by overnight courier or by being deposited postage prepaid by registered or certified mail in a post office letter box addressed (until another address is delivered by the Company to the Trustee and the Collateral Agent) to LivePerson, Inc., 530 7th Ave, Floor M1, New York, NY 10018; Attention: Corporate Secretary; Email: legal@liveperson.com, upon actual receipt by the Company electronically in PDF format. Any notice, direction, request or demand hereunder to or upon the Trustee or the Collateral Agent shall be deemed to have been sufficiently given or made, for all purposes, if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed to the Corporate Trust Office or sent electronically in PDF format, whether sent by mail or electronically, upon actual receipt by the Trustee or the Collateral Agent, as applicable.

The Trustee and the Collateral Agent, by notice to the Company, may designate additional or different addresses for subsequent notices or communications.

Any notice or communication delivered or to be delivered to a Holder of Physical Notes shall be mailed to it by first class mail, postage prepaid, at its address as it appears on the Note Register and shall be sufficiently given to it if so mailed within the time prescribed. Any notice or communication delivered or to be delivered to a Holder of Global Notes shall be delivered in accordance with the Applicable Procedures and shall be sufficiently given to it if so delivered within the time prescribed.

Failure to mail or deliver a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed or delivered, as the case may be, in the manner provided above, it is duly given, whether or not the addressee receives it.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice to Holders by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

Section 17.04 Governing Law; Jurisdiction. THIS INDENTURE AND EACH NOTE AND EACH OTHER INDENTURE DOCUMENT (EXCEPT AS EXPRESSLY SET FORTH THEREIN), AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE AND EACH NOTE AND EACH OTHER INDENTURE DOCUMENT (EXCEPT AS EXPRESSLY SET FORTH THEREIN), SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

The Company irrevocably consents and agrees, for the benefit of the Holders from time to time of the Notes, the Trustee and the Collateral Agent, that any legal action, suit or proceeding against it with respect to obligations, liabilities or any other matter arising out of or in connection with this Indenture, the Notes or any other Indenture Document may be brought in the courts of the State of New York or the courts of the United States of America located in the Borough of Manhattan, New York City, New York and, until amounts due and to become due in respect of the Notes have been paid, hereby irrevocably consents and submits to the non-exclusive jurisdiction of each such court *in personam*, generally and unconditionally with respect to any action, suit or proceeding for itself in respect of its properties, assets and revenues.

The Company irrevocably and unconditionally waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings arising out of or in connection with this Indenture or any other Indenture Document brought in the courts of the State of New York or the courts of the United States of America located in the Borough of Manhattan, New York City, New York and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Section 17.05 Evidence of Compliance with Conditions Precedent; Certificates and Opinions of Counsel to Trustee and Collateral Agent. Upon any application or demand by the Company to the Trustee or Collateral Agent to take any action under any of the provisions of this Indenture or any other Indenture Document, the Company shall furnish to the Trustee and the Collateral Agent, if applicable, an Officer's Certificate and, if requested by the Trustee or the Collateral Agent, as applicable, an Opinion of Counsel stating that all conditions precedent (including any covenants, compliance with which constitutes a condition precedent) to such action in this Indenture or any other Indenture Document have been complied with; provided, that no Opinion of Counsel shall be required to be delivered in connection with the removal of the restricted CUSIP of the Restricted Securities to an unrestricted CUSIP pursuant to the Applicable Procedures upon the Notes becoming freely tradable by non-Affiliates of the Company under Rule 144, unless a new Note is to be issued and authenticated (in which case the Opinion of Counsel required by Section 2.04 shall be delivered); provided further that no Opinion of Counsel shall be required to be delivered in connection with a request by the Company that the Trustee deliver a notice to Holders under the Indenture where the Trustee receives an Officer's Certificate with respect to such notice. With respect to matters of fact, an Opinion of Counsel may rely on an Officer's Certificate or certificates of public officials.

Each Officer's Certificate and Opinion of Counsel provided for, by or on behalf of the Company in this Indenture and delivered to the Trustee or Collateral Agent, as applicable, with respect to conditions precedent under this Indenture (other than the Officer's Certificates provided for in Section 4.08) shall include (a) a statement that the person signing such certificate is familiar with the requested action and this Indenture; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statement contained in such certificate is based; (c) a statement that, in the judgment of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed judgment as to whether or not such conditions have been complied with; and (d) a statement that all conditions precedent thereto have been complied with.

Notwithstanding anything to the contrary in this Section 17.05, if any provision in this Indenture specifically provides that the Trustee or the Collateral Agent, as applicable, shall or may receive an Opinion of Counsel in connection with any action to be taken by the Trustee, Collateral Agent or the Company hereunder, the Trustee or the Collateral Agent, as applicable, shall be entitled to such Opinion of Counsel.

Section 17.06 Legal Holidays. In any case where any payment is due on any date, including, without limitation, any Interest Payment Date, any Redemption Date, any Asset Sale Offer Repurchase Date, Fundamental Change Repurchase Date or the Maturity Date, and such date is not a Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the next succeeding Business Day with the same force and effect as if taken on such date, and no interest shall accrue in respect of the delay.

Section 17.07 Benefits of Indenture. Nothing in this Indenture or in the Notes or any other Indenture Document, expressed or implied, shall give to any Person, other than the Holders, the parties hereto, any Paying Agent, any Conversion Agent, any Bid Solicitation Agent, any Custodian, any authenticating agent, any Note Registrar and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Indenture or any other Indenture Document.

Section 17.08 Table of Contents, Headings, Etc. The table of contents and the titles and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

Section 17.09 Authenticating Agent. The Trustee may appoint an authenticating agent that shall be authorized to act on its behalf and subject to its direction in the authentication and delivery of Notes in connection with the original issuance thereof and transfers and exchanges of Notes hereunder, including under Section 2.04, Section 2.05, Section 2.06, Section 2.07, Section 4.13(b)(x), Section 14.02(d), Section 15.04(c) and Section 10.04 as fully to all intents and purposes as though the authenticating agent had been expressly authorized by this Indenture and those Sections to authenticate and deliver Notes. For all purposes of this Indenture, the authentication and delivery of Notes by the authenticating agent shall be deemed to be authentication and delivery of such Notes "by the Trustee" and a certificate of authentication executed on behalf of the Trustee by an authenticating agent shall be deemed to satisfy any requirement hereunder or in the Notes for the Trustee's certificate of authentication. Such authenticating agent shall at all times be a Person eligible to serve as trustee hereunder pursuant to Section 7.08.

Any corporation or other entity into which any authenticating agent may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, consolidation or conversion to which any authenticating agent shall be a party, or any corporation or other

entity succeeding to the corporate trust business of any authenticating agent, shall be the successor of the authenticating agent hereunder, if such successor corporation or other entity is otherwise eligible under this Section 17.09, without the execution or filing of any paper or any further act on the part of the parties hereto or the authenticating agent or such successor corporation or other entity.

Any authenticating agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any authenticating agent by giving written notice of termination to such authenticating agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any authenticating agent shall cease to be eligible under this Section 17.09, the Trustee may appoint a successor authenticating agent (which may be the Trustee), shall give written notice of such appointment to the Company and shall deliver notice of such appointment to all Holders.

The Company agrees to pay to the authenticating agent from time to time reasonable compensation for its services although the Company may terminate the authenticating agent, if it determines such agent's fees to be unreasonable.

The provisions of Section 7.02, Section 7.03, Section 7.04, Section 7.06, Section 8.03 and this Section 17.09 shall be applicable to any authenticating agent.

If an authenticating agent is appointed pursuant to this Section 17.09, the Notes may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

as Authenticating Agent, certifies that this is one of the Notes described in the within-named Indenture.

By:

Authorized Signatory

Section 17.10 Execution in Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile, PDF or other electronic transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, PDF or other electronic means shall be deemed to be their original signatures for all purposes. Unless otherwise provided herein, the words "execute," "execution," "signed" and "signature" and words of similar import used in or related to any document to be signed in connection with this Indenture or any of the transactions contemplated hereby (including amendments, waivers, consents and other modifications) shall be deemed to include electronic signatures and the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature in ink or the use of a paper-based recordkeeping system, as applicable, to the fullest extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act and any other similar state laws based on the Uniform Electronic Transactions Act; provided, that, notwithstanding anything herein to the contrary, neither the Trustee nor the Collateral Agent is under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Trustee and Collateral Agent, if applicable, pursuant to reasonable procedures approved by the Trustee and Collateral Agent, if applicable. The Company agrees to assume all risks arising out of the use

of using digital signatures and electronic methods to submit communications to the Trustee, including without limitation the risk of the Trustee and Collateral Agent, if applicable, acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 17.11 Severability. In the event any provision of this Indenture or in the Notes or any other Indenture Document shall be invalid, illegal or unenforceable, then (to the extent permitted by law) the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

Section 17.12 Waiver of Jury Trial. EACH OF THE COMPANY, THE TRUSTEE, EACH OF THE SUBSIDIARY GUARANTORS AND THE COLLATERAL AGENT HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR ANY OTHER INDENTURE DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 17.13 Force Majeure. In no event shall the Trustee or the Collateral Agent be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee and the Collateral Agent shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 17.14 Calculations. Except as otherwise provided herein, the Company shall be responsible for making all calculations called for under this Indenture and the Notes. These calculations include, but are not limited to, determinations of the Stock Price, the Last Reported Sale Prices of the Common Stock, the Redemption Price, the Daily VWAPs, the Daily Conversion Values, adjustments to the Conversion Rate and the Conversion Price, the Conversion Amount, any accrued interest payable on the Notes, PIK Interest, any applicable Notes Premium, the Conversion Rate and the Conversion Price of the Notes. The Company shall make all these calculations in good faith and, absent manifest error, the Company's calculations shall be final and binding on Holders, the Trustee and the Conversion Agent. The Company shall provide a schedule of its calculations to each of the Trustee, the Paying Agent and the Conversion Agent, and each of the Trustee, the Paying Agent, the Collateral Agent and the Conversion Agent is entitled to rely conclusively upon the accuracy of the Company's calculations without independent verification. The Company will forward the Company's calculations to any Holder upon the written request of that Holder.

Section 17.15 U.S.A. PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. PATRIOT Act, the Trustee and the Collateral Agent, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee or the Collateral Agent. The parties to this Indenture agree that they will provide the Trustee and the Collateral Agent with such information as it may request in order for the Trustee and the Collateral Agent to satisfy the requirements of the U.S.A. Patriot Act.

Section 17.16 Interpretation. Neither this Indenture nor the Notes nor any other Indenture Document may be used to interpret any other indenture, note, loan or debt agreement of the Company or

its Subsidiaries or of any other Person, and no such indenture, note, loan or debt agreement may be used to interpret this Indenture or the Notes or any other Indenture Document.

ARTICLE 18
GUARANTEES

Section 18.01 Note Guarantee.

(a) Subject to this Article 18, each of the Subsidiary Guarantors hereby, jointly and severally, irrevocably and unconditionally guarantees, on a senior basis, to each Holder, the Trustee and the Collateral Agent and each of their successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that: (i) the principal of and accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium on each of the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest (including both the cash interest and PIK Interest portions thereof) and any applicable Notes Premium on the Notes, if any, if lawful, and all other obligations of the Company to the Holders, the Trustee or the Collateral Agent hereunder or thereunder shall be promptly paid in full, all in accordance with the terms hereof and thereof; and (ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same shall be promptly paid in full when due in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Each Subsidiary Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) Each Subsidiary Guarantor hereby agrees that its obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver, amendment or consent by any Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor (other than payment in full of all of the obligations of the Company hereunder or under the Notes). Each Subsidiary Guarantor hereby waives, to the fullest extent permitted by law, diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that this Note Guarantee shall not be discharged except by complete performance of the obligations (other than contingent indemnity obligations under Section 7.06) contained in the Notes, the Security Documents and this Indenture, or by release in accordance with the provisions of this Indenture.

(c) If any Holder, the Trustee or the Collateral Agent is required by any court or otherwise to return to the Company, the Subsidiary Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to the Company or the Subsidiary Guarantors, any amount paid either to the Trustee, the Collateral Agent or such Holder, this Note Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(d) Each Subsidiary Guarantor agrees that it shall not be entitled to any right of subrogation in respect of any Notes Obligations guaranteed hereby until payment in full of all Notes Obligations (other than contingent indemnity obligations under Section 7.06) guaranteed hereby. Each Subsidiary Guarantor further agrees that, as between the Subsidiary Guarantors, on the one hand, and the Holders, the Trustee and the Collateral Agent, on the other hand, (i) the maturity of the Notes Obligations

guaranteed hereby may be accelerated as provided in Article 6 for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Notes Obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such Notes Obligations as provided in Article 6, such Notes Obligations (whether or not due and payable) shall forthwith become due and payable by the Subsidiary Guarantors for the purpose of this Note Guarantee. The Subsidiary Guarantors shall have the right to seek contribution from any non-paying Subsidiary Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantees.

(e) Unless terminated in accordance with Section 18.06, each Note Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation or reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or the Note Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(f) In case any provision of any Note Guarantee shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(g) Each payment to be made by a Subsidiary Guarantor in respect of its Note Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

(h) Neither the Company nor any Subsidiary Guarantor shall be required to make a notation on the Notes to reflect any such Note Guarantee or any such release, termination or discharge.

(i) Each Subsidiary Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Trustee, the Collateral Agent or any Holder in enforcing any rights under this Section 18.01.

Section 18.02 Limitation on Guarantor Liability. Each Subsidiary Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of such Subsidiary Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, the Uniform Voidable Transactions Act or any similar U.S. federal or state law to the extent applicable to any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Collateral Agent, the Holders and the Subsidiary Guarantors hereby irrevocably agree that the obligations of each Subsidiary Guarantor shall be limited to the maximum amount as will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Subsidiary Guarantor that are relevant under such laws and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under this Article 18, result in the obligations of such Subsidiary Guarantor under its Note Guarantee not constituting a fraudulent conveyance, fraudulent transfer or voidable transaction under applicable law.

Each Subsidiary Guarantor that makes a payment under its Note Guarantee shall, to the fullest extent permitted by applicable law, be entitled upon payment in full of all Note Guarantee obligations under this Indenture to a contribution from each other Subsidiary Guarantor in an amount equal to such other Subsidiary Guarantor's pro rata portion of such payment based on the respective net assets of all the Subsidiary Guarantors at the time of such payment determined in accordance with U.S. GAAP.

Section 18.03 Execution and Delivery.

(a) To evidence a Note Guarantee set forth in Section 18.01, each Subsidiary Guarantor shall execute this Indenture or, if after the date hereof, a supplemental indenture pursuant to which it will agree to be a Subsidiary Guarantor and become bound by the terms of this Indenture applicable to Subsidiary Guarantors, including without limitation, this Article 18.

(b) Each Subsidiary Guarantor hereby agrees that its Note Guarantee set forth in Section 18.01 shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Note Guarantee on the Notes.

(c) The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of any Note Guarantee set forth in this Indenture on behalf of the Subsidiary Guarantors.

(d) If required by Section 4.16, the Company shall cause any newly created or acquired Subsidiary that is not an Excluded Subsidiary, or any Subsidiary previously deemed to be an Excluded Subsidiary that ceases to be an Excluded Subsidiary, to comply with the provisions of Section 4.16 and this Article 18, to the extent applicable, within (i) thirty (30) calendar days in the case of a Domestic Subsidiary and (ii) seventy-five (75) calendar days in the case of a Foreign Subsidiary, in each such case, on such applicable calendar day on which such Subsidiary that is not an Excluded Subsidiary is created or acquired or ceases to be an Excluded Subsidiary (or such later date agreed to by the Required Holders in their sole discretion (including by email)).

Section 18.04 Subrogation. Each Subsidiary Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by any Subsidiary Guarantor pursuant to the provisions of Section 18.01; provided, that, if an Event of Default has occurred and is continuing, no Subsidiary Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture or the Notes shall have been paid in full (other than contingent indemnity obligations under Section 7.06).

Section 18.05 Benefits Acknowledged. Each Subsidiary Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the guarantee and waivers made by it pursuant to its Note Guarantee are knowingly made in contemplation of such benefits.

Section 18.06 Release of Note Guarantees.

(a) A Note Guarantee by a Subsidiary Guarantor shall be automatically and unconditionally released and discharged, and such Note Guarantee shall thereupon terminate and be discharged and of no further force and effect, and no further action by such Subsidiary Guarantor, the Company or the Trustee shall be required for the release of such Subsidiary Guarantor's Note Guarantee:

(i) concurrently with any permitted sale, exchange, disposition or transfer (by merger, consolidation or otherwise) of (x) any Capital Stock of such Subsidiary Guarantor following which such Subsidiary Guarantor is no longer a Subsidiary of the Company or (y) all or substantially all assets of such Subsidiary Guarantor to a Person other than the Company or one of its Subsidiaries;

(ii) subject to compliance with the provisions of Article 11, upon the merger or consolidation of such Subsidiary Guarantor with and into either the Company or any other Subsidiary Guarantor wherein the Company or such other Subsidiary Guarantor, as applicable, is the surviving Person in such merger or consolidation;

(iii) subject to compliance with the provisions of Article 11, upon the permitted dissolution or liquidation of such Subsidiary Guarantor following the transfer of all or substantially all of its assets to either the Company or another Subsidiary Guarantor;

(iv) with the consent of the Required Holders (or, in the case of a release of all or substantially all of the Note Guarantees, the consent of all Holders); or

(v) upon payment in full of the aggregate amount of all Notes Obligations then outstanding and all other Note Guarantee obligations then due and owing;

provided, that no such release shall occur if such Subsidiary Guarantor continues to be a guarantor or other obligor in respect of any Junior Indebtedness.

(b) Upon such Subsidiary Guarantor delivering to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in this Section 18.06 relating to such release have been complied with, at the written request, and sole cost and expense, of the Company, the Trustee (or the Collateral Agent, if applicable) shall execute and deliver any documents reasonably requested by the Company in order to evidence such release, discharge and termination in respect of the applicable Note Guarantee.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above.

LIVEPERSON, INC.

By: /s/ John Collins
Name: John Collins
Title: Chief Financial Officer and Chief Operating Officer

BELLA GROUP LLC
LIVEPERSON LLC
KATO ACQUISITION SUB, INC.
CLAIRE DEVELOPMENT, INC.
WILD HEALTH INC.
CALLINIZE, INC.
VOICEBASE, INC.

By: /s/ John Collins
Name: John Collins
Title: Treasurer

PROFICIENT SYSTEMS, INC.

By: /s/ John Collins
Name: John Collins
Title: Chief Executive Officer

LIVEPERSON AUTOMOTIVE, LLC
LIVEPERSON IP HOLDING LLC

By: LIVEPERSON, INC., its member

By: /s/ John Collins
Name: John Collins
Title: Chief Financial Officer and Chief Operating Officer

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Trustee and as Collateral Agent

By: /s/ Bradley E. Scarborough
Name: Bradley E. Scarborough
Title: Vice President

Schedule 4.11 – Permitted Liens

[Omitted Pursuant to Item 601(a)(5) of Regulation S-K]

Schedule 4.12 – Permitted Investments

[Omitted Pursuant to Item 601(a)(5) of Regulation S-K]

Schedule 4.15
Post-Closing Covenants

[Omitted Pursuant to Item 601(a)(5) of Regulation S-K]

[FORM OF FACE OF NOTE]

[INCLUDE FOLLOWING LEGEND IF A GLOBAL NOTE]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREUNDER IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]

[INCLUDE FOLLOWING LEGEND IF A RESTRICTED SECURITY]

[THIS SECURITY AND THE RELATED NOTE GUARANTEES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF LIVEPERSON, INC. (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR THE RELATED NOTE GUARANTEES OR ANY BENEFICIAL INTEREST HEREIN OR THEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE

DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS, OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.]

LivePerson, Inc.
First Lien Convertible Senior Note due 2029

No. [●] [Initially] $ [●][1]

CUSIP No. [ ][2]

LivePerson, Inc., a corporation duly organized and validly existing under the laws of the State of Delaware (the "***Company***," which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to [CEDE & CO.][3] [ ][4], or registered assigns, the principal sum [as set forth in the "Schedule of Exchanges of Notes" attached hereto][5] [of $[ ]][6], on June 15, 2029 or such earlier date as is the Maturity Date under the Indenture, together with any applicable Notes Premium, and interest thereon, payable in the form of cash interest and PIK Interest and as otherwise provided in the Indenture referred to below, until the principal and any applicable Notes Premium, together with all accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) are paid or duly provided for. The principal amount of this Note, taken together with the principal amounts of all other outstanding Notes, is limited to $150,000,000 in the aggregate at any time, subject to the issuance of (i) Additional Notes in an aggregate principal amount of up to $50,000,000; (ii) PIK Notes issuable from time to time on each Interest Payment Date in connection with the PIK Payment required to be made on such Interest Payment Date in accordance with Section 2.11 of the Indenture; and (iii) Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes to the extent expressly permitted under the Indenture. Additional Interest will be payable as set forth in Section 4.06(d) and Section 4.06(e) of the within-mentioned Indenture, and any reference to interest on, or in respect of, any Note therein shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to any of such Section 4.06(d) or Section 4.06(e), or to any such interest payable on any Defaulted Amounts as set forth in Section 2.03(e) in the within mentioned Indenture and any express mention of the payment of Additional Interest in any provision therein shall not be construed as excluding Additional Interest in those provisions thereof where such express mention is not made.

This Note will accrue interest at a rate and in the manner set forth in Section 2.03(c) of the Indenture. Any accrued interest on this Note shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month. Interest is payable semi-annually in arrears on each June 15 or December 15, commencing on December 15, 2024, to Holders of record at the close of business on the preceding June 1 and December 1 (whether or not such day is a Business Day), respectively. Amounts due and payable in cash on this Note will be paid in the manner set forth in Section 2.03(b) of the Indenture. Amounts due and payable in PIK Notes will be paid in the manner set forth in Section 2.11 of the Indenture.

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[1] Include if a Global Note.

[2] This Note will be deemed to be identified by CUSIP No. [ ] from and after such time when the Company delivers, pursuant to Section 2.05(c) of the within-mentioned Indenture, written notice to the Trustee of the occurrence of the Resale Restriction Termination Date and the removal of the restrictive legend affixed to this Note in accordance with the Applicable Procedures.

[3] Include if a Global Note.

[4] Include if a physical note.

[5] Include if a Global Note.

[6] Include if a physical note.

Any Defaulted Amounts shall accrue interest per annum at the rate per annum at which Stated Interest accrues (including both the cash interest and PIK Interest portions thereof) from, and including, the relevant payment date to, but excluding, the date on which such Defaulted Amounts shall have been paid by the Company, at its election, in accordance with Section 2.03(e) of the Indenture.

The Company shall pay, or cause the Paying Agent to pay, the principal of and interest on this Note, if and so long as such Note is a Global Note, in immediately available funds in lawful money of the United States of America at the time to the Depositary or its nominee, as the case may be, as the registered Holder of such Note. As provided in and subject to the provisions of the Indenture, the Company shall pay, or cause the Paying Agent to pay, the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated the Trustee as its Paying Agent and Note Registrar in respect of the Notes and its Corporate Trust Office in the continental United States of America, as a place where Notes may be presented for payment or for registration of transfer and exchange.

Reference is made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the Holder of this Note the right to convert this Note into cash on the terms and subject to the limitations set forth in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note, and any claim, controversy or dispute arising under or related to this Note, shall be governed by, and construed in accordance with, the laws of the State of New York.

In the case of any conflict between this Note and the Indenture, the provisions of the Indenture shall control and govern.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually by the Trustee or a duly authorized authenticating agent under the Indenture.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

LIVEPERSON, INC.

By: _____

Name: _____

Title: _____

Dated:

TRUSTEE'S CERTIFICATE OF
AUTHENTICATION

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Trustee, certifies that this is one of the
Notes described in the within-named
Indenture.

By: _____
Authorized Signatory

[FORM OF REVERSE OF NOTE]

LivePerson, Inc.
First Lien Convertible Senior Note due 2029

This Note is one of a duly authorized issue of Notes of the Company, designated as its First Lien Convertible Senior Notes due 2029 (the "***Notes***"), is limited to $150,000,000, subject to the issuance of (i) Additional Notes in an aggregate principal amount of up to $50,000,000; (ii) PIK Notes issuable from time to time on each Interest Payment Date in connection with the PIK Payment required to be made on such Interest Payment Date in accordance with Section 2.11 of the Indenture; and (iii) Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes to the extent expressly permitted under the Indenture, all issued or to be issued under and pursuant to an Indenture dated as of June 3, 2024 (the "***Indenture***"), among the Company, the Subsidiary Guarantors from time to time party thereto and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as trustee (the "***Trustee***") and as collateral agent (the "***Collateral Agent***"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Collateral Agent, the Company and the Holders of the Notes. Capitalized terms used in this Note and not defined in this Note shall have the respective meanings set forth in the Indenture.

In case certain Events of Default, as defined in the Indenture, shall have occurred and be continuing, the principal of, and any interest and any applicable Notes Premium on, all Notes may be declared, by either the Trustee or Holders of at least 25% in aggregate principal amount of Notes then outstanding, and upon said declaration shall become, or, in the case of certain bankruptcy Events of Default, shall automatically become, due and payable, in the manner, with the effect and subject to the conditions and certain exceptions set forth in the Indenture.

Subject to the terms and conditions of the Indenture and the Intercreditor Agreement, the Company will make all payments and deliveries in respect of the Fundamental Change Repurchase Price on the Fundamental Change Repurchase Date, the Redemption Price on any Redemption Date, the Asset Sale Offer Repurchase Price on the Asset Sale Offer Repurchase Date, any accrued and unpaid interest (including both the cash interest and PIK Interest portions thereof) on an Interest Payment Date and the principal amount and any accrued interest and Notes Premium on the Maturity Date, as the case may be, to the Holder who surrenders a Note to a Paying Agent to collect such payments in respect of the Note. The Company will pay cash amounts in money of the United States of America that at the time of payment is legal tender for payment of public and private debts.

The Indenture contains provisions permitting the Company, the Trustee and the Collateral Agent in certain circumstances, without the consent of the Holders of the Notes, and in certain other circumstances, with the consent of the Required Holders, evidenced as in the Indenture provided, to execute supplemental indentures modifying the terms of the Indenture and the Notes as described therein. The Indenture also provides that, subject to certain exceptions, the Required Holders may on behalf of the Holders of all of the Notes waive any past Default or Event of Default under the Indenture and its consequences.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay or deliver, as the case may be, (x) the principal (including the Redemption Price, the Fundamental Change Repurchase Price, the Asset Sale Offer Repurchase Price, if applicable) of, (y) accrued and unpaid interest (including both the cash

interest and PIK Interest portions thereof) and any applicable Notes Premium on, and (z) the consideration due upon conversion of, this Note at the place, at the respective times, at the rate and in the lawful money prescribed in this Note and the Indenture.

The Notes are issuable in registered form without coupons in Authorized Denominations. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations, without payment of any service charge but, if required by the Company or Trustee, with payment of a sum sufficient to cover any transfer or similar tax or other similar governmental charge that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange of Notes being different from the name of the Holder of the old Notes surrendered for such exchange or otherwise required by law.

The Notes shall be redeemable at the Company's option on a pro rata basis at any time and from time to time in accordance with the terms and subject to the conditions specified in the Indenture at the then applicable Redemption Price. No sinking fund is provided for the Notes.

Upon the occurrence of a Fundamental Change prior to the Maturity Date, the Holder has the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof (in Authorized Denominations) on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price.

In connection with an Asset Sale prior to the Maturity Date, the Holder has the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof (in Authorized Denominations) on the Asset Sale Offer Repurchase Date at a price equal to the Asset Sale Offer Repurchase Price.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the close of business on the second Scheduled Trading Day immediately preceding the Maturity Date, to convert any Notes in an Authorized Denomination into cash at the Conversion Rate per $1,000 Conversion Amount of Notes, together with, if applicable, the Make-Whole Payment specified in the Indenture, as adjusted from time to time as provided in the Indenture.

The Holder of this Note will be treated as the owner of this Note for all purposes.

The Notes are secured by a senior security interest in the Collateral pursuant to the Security Agreement and the Security Documents referred to in the Indenture. Upon the issuance of any Junior Indebtedness, such Indebtedness and the Notes will be subject to the terms of the Intercreditor Agreement.

The payment by the Company of the principal of, interest, and any applicable Notes Premium, on the Notes is fully and unconditionally guaranteed on a joint and several senior secured basis by each of the Subsidiary Guarantors to the extent set forth in the Indenture.

To request a copy of the Indenture, which the Company will provide to any Holder at no charge, please send a written request to the following address: LivePerson, 530 7th Ave, Floor M1, New York, NY 10018; Attention: Corporate Secretary; Email: legal@liveperson.com.

ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entireties

JT TEN = joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

SCHEDULE A[7]

SCHEDULE OF EXCHANGES OF NOTES

LivePerson, Inc.
First Lien Convertible Senior Notes due 2029

The initial principal amount of this Global Note is [ ] DOLLARS ($[ ]). The following increases or decreases in this Global Note have been made:

Date of exchange	Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Custodian

[7] Include if a Global Note.

[FORM OF NOTICE OF CONVERSION]

LivePerson, Inc.
First Lien Convertible Senior Notes due 2029

To: LivePerson, Inc.

To: U.S. Bank Trust Company, National Association, as Trustee

633 West Fifth Street, 24th Floor
Los Angeles, California 90071

Attention: B. Scarbrough (LivePerson, Inc.)

The undersigned registered owner of this Note hereby exercises the option to convert this Note, or the portion hereof (that is $1 principal amount or an integral multiple thereof) below designated into cash in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and any Notes representing any unconverted principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any portion of this Note not converted are to be issued in the name of a Person other than the undersigned, the undersigned will be required to pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 14.02(d) and Section 14.02(e) of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies this Note. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

Dated: _____

_____

_____

Signature(s)

Signature Guarantee
Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.
Fill in for registration of Notes if to be delivered other than to and in the name of the registered holder:

(Name)
(Street Address)
(City, State and Zip Code)
Please print name and address

Principal amount to be converted (if less than
all):
$

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in
every particular without alteration or enlargement or any change whatever.

Social Security or Other Taxpayer Identification Number

[FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE]

LivePerson, Inc.
First Lien Convertible Secured Notes due 2029

To:	LivePerson, Inc.
To:	U.S. Bank Trust Company, National Association, as Trustee

633 West Fifth Street, 24th Floor
Los Angeles, California 90071
Attention: B. Scarbrough (LivePerson, Inc.)

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from LivePerson, Inc. (the "***Company***") as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Repurchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Section 15.02 of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is $1 principal amount or an integral multiple thereof) below designated, (2) if such Fundamental Change Repurchase Date does not fall during the period after an Interest Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest thereon to, but excluding, such Fundamental Change Repurchase Date, and (3) any applicable Fundamental Change Repurchase Premium. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below:

Dated: _____

_____

_____
Signature(s)

Signature Guarantee
Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of Notes if to be delivered, other than to and in the name of the registered holder:
(Name)
(Street Address)
(City, State and Zip Code)
Please print name and address

Principal amount to be repurchased (if less than
all):
$

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in
every particular without alteration or enlargement or any change whatever.

Social Security or Other Taxpayer Identification Number

[FORM OF ASSET SALE OFFER REPURCHASE NOTICE]

LivePerson, Inc.
First Lien Convertible Senior Notes due 2029

To:	LivePerson, Inc.
To:	U.S. Bank Trust Company, National Association, as Trustee

633 West Fifth Street, 24th Floor
Los Angeles, California 90071
Attention: B. Scarbrough (LivePerson, Inc.)

Subject to the terms of the Indenture, by executing and delivering this Asset Sale Repurchase Notice, the undersigned Holder of the Note identified below hereby acknowledges receipt of a notice from LivePerson, Inc. (the "***Company***") as to the occurrence of an Asset Sale Trigger with respect to the Company and specifying the Asset Sale Offer Repurchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Section 4.13(b) of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is $1 principal amount or an integral multiple thereof) below designated, (2) if such Asset Sale Offer Repurchase Date does not fall during the period after an Interest Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest thereon to, but excluding, such Asset Sale Offer Repurchase Date, and (3) any applicable Asset Sale Offer Repurchase Premium. The undersigned acknowledges that this Note, duly endorsed for transfer, must be delivered to the Paying Agent before the Asset Sale Offer Repurchase Price will be paid. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below:

Dated: _____

_____

_____
Signature(s)

Signature Guarantee
Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.
Fill in for registration of Notes if to be delivered, other than to and in the name of the registered holder:

(Name)
(Street Address)
(City, State and Zip Code)
Please print name and address

Principal amount to be repurchased (if less than
all):
$

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in
every particular without alteration or enlargement or any change whatever.

Social Security or Other Taxpayer Identification Number

ATTACHMENT 4

[FORM OF ASSIGNMENT AND TRANSFER]

U.S. Bank Trust Company, National Association, as Trustee
633 West Fifth Street, 24th Floor
Los Angeles, California 90071
Attention: B. Scarbrough (LivePerson, Inc.)

For value received hereby sell(s), assign(s) and transfer(s) unto (Please insert social security or Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints attorney to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

☐	To LivePerson, Inc. or a subsidiary thereof; or
☐	Pursuant to a registration statement that has become or been declared effective under the Securities Act of 1933, as amended; or
☐	Pursuant to and in compliance with Rule 144A under the Securities Act of 1933, as amended; or
☐	Pursuant to and in compliance with Rule 144 under the Securities Act of 1933, as amended, or any other available exemption from the registration requirements of the Securities Act of 1933, as amended.

Dated: _____

_____

_____
Signature(s)

Signature Guarantee
Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of Notes if to be delivered other than to and in the name of the registered holder:
(Name)
(Street Address)
(City, State and Zip Code)
Please print name and address

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in
every particular without alteration or enlargement or any change whatever.

_____

Social Security or Other Taxpayer Identification Number

NOTICE: The signature on the assignment must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

EXHIBIT B

[FORM OF INTERCREDITOR]

[FORM OF]

INTERCREDITOR AGREEMENT

among

LIVEPERSON, INC.,
as the Company,

the other Grantors party hereto,

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Senior Representative for the Senior Secured Parties,

[_____],
as the Initial Junior Priority Representative,

and

each additional Representative from time to time party hereto

dated as of [_____], 20[__]

INTERCREDITOR AGREEMENT, dated as of [_____], 20[__] (as the same may be amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time pursuant to the terms hereof, this "Agreement"), among LIVEPERSON, INC., a Delaware corporation (the "Company"), the other Grantors (as defined below) party hereto, U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as collateral agent for the Senior Secured Parties (in such capacity together with its successors in such capacity, the "Senior Representative"), [_____], as [_____] for the Initial Junior Priority Debt Parties (in such capacity and together with its successors in such capacity, the "Initial Junior Priority Representative"), and each additional Junior Priority Representative that from time to time becomes a party hereto pursuant to Section 8.09.

In consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Senior Representative (for itself and on behalf of the Senior Secured Parties), the Initial Junior Priority Representative (for itself and on behalf of the Initial Junior Priority Debt Parties), the Grantors, and each additional Junior Priority Representative (for itself and on behalf of the Additional Junior Priority Debt Parties under the applicable Additional Junior Priority Debt Facility) agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Certain Defined Terms. Capitalized terms used but not otherwise defined herein have the meanings set forth in the Senior Indenture as in effect on the date hereof or, if defined in the New York UCC, the meanings specified therein. As used in this Agreement, the following terms have the meanings specified below:

"Additional Junior Priority Debt" means any other Indebtedness of the Company or guaranteed by the Guarantors (and not guaranteed by any Subsidiary that is not a Guarantor), which Indebtedness and guarantees are secured by the Junior Priority Collateral on a junior priority basis to the Senior Obligations (and which is not secured by Liens on any assets of the Company or any other Grantor other than the Junior Priority Collateral or which are not included in the Senior Collateral); provided, however, that (i) such Indebtedness is permitted to be incurred, secured and guaranteed on such basis by the then extant Senior Debt Documents and Junior Priority Debt Documents and (ii) the Representative for the holders of such Indebtedness shall have become party to this Agreement pursuant to, and by satisfying the conditions set forth in, Section 8.09 hereof. Additional Junior Priority Debt shall include any Registered Equivalent Notes and Guarantees thereof by the Guarantors issued in exchange therefor.

"Additional Junior Priority Debt Documents" means, with respect to any series, issue or class of Additional Junior Priority Debt, the promissory notes, indentures, credit agreements, note purchase agreements, the Junior Priority Collateral Documents or other operative agreements evidencing or governing such Indebtedness.

"Additional Junior Priority Debt Facility" means each indenture, credit agreement, note purchase agreement or other governing agreement with respect to any Additional Junior Priority Debt.

"Additional Junior Priority Debt Obligations" means, respect to any other series, issue or class of Additional Junior Priority Debt, (a) all principal of, and interest (including, without limitation, any interest, fees or expenses and other amounts (if any) which accrue after the commencement of any Insolvency or Liquidation Proceeding, whether or not allowed or allowable as a claim in any such proceeding) payable with respect to, such Additional Junior Priority Debt and (b) all other amounts

payable to the related Additional Junior Priority Debt Parties under the related Additional Junior Priority Debt Documents.

"Additional Junior Priority Debt Parties" means, with respect to any series, issue or class of Additional Junior Priority Debt, the holders of such Indebtedness, the Representative with respect thereto, any trustee or agent therefor under any related Additional Junior Priority Debt Documents and the beneficiaries of each indemnification obligation undertaken by the Company or any other Grantor under any related Additional Junior Priority Debt Documents

"Agreement" has the meaning assigned to such term in the introductory paragraph of this Agreement.

"Bankruptcy Code" means Title 11 of the United States Code, as amended.

"Bankruptcy Law" means the Bankruptcy Code and any similar federal, state, provincial or foreign law for the relief of debtors.

"Collateral" means the Senior Collateral and the Junior Priority Collateral.

"Collateral Documents" means the Senior Collateral Documents and the Junior Priority Collateral Documents.

"Company" has the meaning assigned to such term in the introductory paragraph of this Agreement.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Debt Facility" means the Senior Indenture and any Junior Priority Debt Facility.

"Designated Junior Priority Representative" means (i) the Initial Junior Priority Representative (or the "Collateral Agent" (or like term)) until such time as the Junior Priority Debt Facility under the Junior Priority Debt Documents ceases to be the only Junior Priority Debt Facility under this Agreement, (ii) the "Collateral Agent" (or like term) under any Junior Priority Debt Facility that Refinances in full the Indebtedness outstanding under the Junior Priority Credit Agreement, so long as such Junior Priority Debt Facility is the only Junior Priority Debt Facility under this Agreement, and (iii) thereafter, the Junior Priority Representative designated from time to time by the Junior Priority Majority Representatives, in a written notice to the Senior Representative and the Company hereunder, as the "Designated Junior Priority Representative" for purposes hereof. The Senior Representative may treat the Initial Junior Priority Representative as Designated Junior Priority Representative until such time as it receives a notice that the Initial Junior Priority Representative was replaced as Designated Junior Priority Representative.

"DIP Financing" has the meaning assigned to such term in Section 6.01.

"Discharge" means, with respect to any Debt Facility, the date on which the following shall have occurred (i) such Debt Facility and the Senior Obligations or Junior Priority Debt Obligations thereunder, as the case may be, have been paid in full in cash (except for contingent indemnities to the extent no claim therefor has been asserted) and are no longer secured by, and no longer required to be secured by such Shared Collateral pursuant to the terms of the documentation governing such Debt Facility, (ii) any

letters of credit issued under the relevant Debt Facility have terminated or been cash collateralized or backstopped or "grandfathered" under a future credit facility (in the amount and form required under the applicable Debt Facility) and (iii) all commitments to lend or otherwise extend credit under such Debt Facility and the relevant Senior Debt Documents or Junior Priority Debt Documents have terminated. The term "Discharged" shall have a corresponding meaning.

"Discharge of Senior Obligations" means the date on which the Discharge occurs in respect of the Senior Obligations.

"Grantors" means the Company and each Subsidiary of the Company or direct or indirect parent company of the Company which has granted a security interest pursuant to any Collateral Document to secure any Secured Obligations as a "Grantor" (or similar term) as defined in the Security Agreement.

"Guarantors" means the "Subsidiary Guarantors" as defined in the Senior Indenture.

"Initial Junior Priority Debt" means the Indebtedness of the Company and any other Grantor incurred pursuant to the Initial Junior Priority Debt Documents.

"Initial Junior Priority Debt Documents" means the Junior Priority [Credit Agreement][Indenture] and the other ["Credit Documents"][
"Note Documents"] as defined in the Junior Priority [Credit Agreement][Indenture].

"Initial Junior Priority Debt Obligations" means the ["Obligations"] as defined in the Junior Priority [Credit Agreement][Indenture] (or similar term in any Refinancing thereof).

"Initial Junior Priority Debt Parties" means the ["Secured Parties"] as defined in the Junior Priority [Credit Agreement][Indenture] (or similar term in any Refinancing thereof).

"Initial Junior Priority Representative" has the meaning assigned to such term in the introductory paragraph of this Agreement and shall include any successor [administrative agent][trustee] and collateral agent (or similar term in any Refinancing thereof).

"Insolvency or Liquidation Proceeding" means:

(1) any case or proceeding commenced by or against the Company or any other Grantor under any Bankruptcy Law, any other proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of the Company or any other Grantor, any receivership or assignment for the benefit of creditors relating to the Company or any other Grantor or any similar case or proceeding relative to the Company or any other Grantor or its creditors, as such, in each case whether or not voluntary;
(2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to the Company or any other Grantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or
(3) any other proceeding of any type or nature in which substantially all claims of creditors of the Company or any other Grantor are determined and any payment or distribution is or may be made on account of such claims.

"Intellectual Property" shall have the meaning provided in the Senior Indenture.

"Joinder Agreement" means a supplement to this Agreement substantially in the form of Annex II hereof required to be delivered by a Representative to the Senior Representative and the Designated

Junior Priority Representative, as applicable, pursuant to Section 8.09 hereof in order to include an additional Junior Priority Debt Facility hereunder and to become the Representative hereunder for Junior Priority Debt Parties under such Junior Priority Debt Facility.

"Junior Priority Class Debt" has the meaning assigned to such term in Section 8.09.

"Junior Priority Class Debt Parties" has the meaning assigned to such term in Section 8.09.

"Junior Priority Class Debt Representative" has the meaning assigned to such term in Section 8.09.

"Junior Priority Collateral" means any "Collateral" as defined in any Junior Priority Debt Document or any other assets of the Company or any other Grantor with respect to which a Lien is granted or purported to be granted pursuant to a Junior Priority Collateral Document as security for any Junior Priority Debt Obligation.

"Junior Priority Collateral Documents" means the [Security Documents] (or similar term in any Refinancing thereof) as defined in the Junior Priority [Credit Agreement][Indenture] and each of the other collateral agreements, security agreements and other instruments and documents executed and delivered by the Company or any other Grantor for purposes of providing collateral security for any Junior Priority Debt Obligation.

"Junior Priority [Credit Agreement][Indenture]" means that certain [insert description of financing agreement] (as the same may be amended, restated, amended and restated, extended, supplemented, waived or otherwise modified from time to time or refunded, Refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the original [administrative agent][trustee] and [lenders][holders] or other agents and [lenders][holders] or otherwise, and whether provided under the original Junior Priority [Credit Agreement][Indenture] or one or more other [credit agreements][indentures] or otherwise, including any agreement extending the maturity thereof or otherwise restructuring all or any portion of the Indebtedness thereunder or increasing the amount loaned or issued thereunder or altering the maturity thereof, in each case as and to the extent permitted by the Junior Priority [Credit Agreement][Indenture], unless such agreement, instrument or document expressly provides that it is not intended to be and is not a "Junior Priority [Credit Agreement][Indenture]" for purposes of this Agreement)).

"Junior Priority Debt" means (a) the Initial Junior Priority Debt and (b) any Additional Junior Priority Debt Documents.

"Junior Priority Debt Documents" means (a) the Initial Junior Priority Debt Documents and (b) any Additional Junior Priority Debt Facilities.

"Junior Priority Debt Facilities" means (a) the Initial Junior Priority Debt Obligations and (b) any Additional Junior Priority Debt Obligations.

"Junior Priority Debt Obligations" means, the (a) Initial Junior Priority Debt Obligations and (b) any Additional Junior Priority Debt Obligations.

"Junior Priority Debt Parties" means (a) the Initial Junior Priority Debt Parties and (b) any Additional Junior Priority Debt Parties.

"Junior Priority Lien" means the Liens on the Junior Priority Collateral in favor of Junior Priority Debt Parties under Junior Priority Collateral Documents.

"Junior Priority Majority Representatives" means Junior Priority Representatives representing at least a majority of the then aggregate amount of Junior Priority Debt Obligations.

"Junior Priority Representative" means (i) in the case of the Junior Priority Credit Agreement, the Initial Junior Priority Representative and (ii) in the case of any other Junior Priority Debt Facilities and the Junior Priority Debt Parties thereunder, the trustee, administrative agent, collateral agent, security agent or similar agent under such Junior Priority Debt Facility that is named as the representative in respect of such Junior Priority Debt Facility in the applicable Joinder Agreement.

"Lien" shall have the meaning provided in the Senior Indenture.

"New York UCC" means the Uniform Commercial Code as from time to time in effect in the State of New York.

"Non-Payment Default" shall have the meaning provided in Section 2.01(b).

"Payment Blockage Notice" shall have the meaning provided in Section 2.01(b).

"Permitted Subordinated Indebtedness Interest Payments" means all regularly scheduled cash payments of interest on the Junior Priority Debt Obligations by the Company pursuant to the terms of the Junior Priority Debt Documents as in effect on the date hereof or as modified in accordance with the terms of this Agreement.

"Permitted Subordinated Indebtedness Payments" means (i) Permitted Subordinated Indebtedness Principal Payments, (ii) Permitted Subordinated Indebtedness Interest Payments, (iii) reimbursement or payment of reasonable and documented costs, expenses (including legal fees) and indemnities, due and payable in accordance with the terms of the Junior Priority Debt Documents as in effect on the date hereof or as modified in accordance with the terms of this Agreement, (iv) accrual (and not payment in cash) of default interest in accordance with the terms of the Junior Priority Debt Documents as in effect on the date hereof or as modified in accordance with the terms of this Agreement, (v) any payment of paid-in-kind interest pursuant to the terms of the Junior Priority Debt Documents and the accrual or capitalization of interest, fees or other amounts, whether pursuant to the terms of the Junior Priority Debt Documents or in lieu of cash payments that otherwise were prohibited under the terms of this Agreement (for the avoidance of doubt, excluding any cash payment made in respect of any such accrued or capitalized interest or any other cash payment) and (vi) Reorganization Subordinated Securities.

"Permitted Subordinated Indebtedness Principal Payments" means (a) regularly scheduled cash payments of principal on the Junior Priority Debt Obligations by the Company and (b) the repayment of the entire amount of the Junior Priority Debt Obligations at the stated final maturity of the Junior Priority Debt Obligations, in the case of each of (a) and (b), pursuant to the terms of the Junior Priority Debt Documents as in effect on the date hereof or as modified in accordance with the terms of this Agreement.

"Person" shall have the meaning provided in the Senior Indenture.

"Pledged or Controlled Collateral" has the meaning assigned to such term in Section 5.05(a).

"Proceeds" means the proceeds of (a) any sale, lease, license, exchange, disposition, collection or other liquidation of Shared Collateral, (b) any payment or distribution made in respect of Shared Collateral (including any payment or distribution in an Insolvency or Liquidation Proceeding), (c) rights arising out of the loss, nonconformity or interference with the use of, defects or infringements of rights in, or damage to, the Shared Collateral, (d) rights arising out of the Shared Collateral, and (e) any amounts received by the Senior Representative or any Senior Secured Party from a Junior Priority Debt Party in respect of Shared Collateral pursuant to this Agreement.

"Recovery" has the meaning assigned to such term in Section 6.04.

"Refinance" means, in respect of any Indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay such Indebtedness, or to issue other Indebtedness or enter into alternative financing arrangements, in exchange or replacement for such Indebtedness (in whole or in part), including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including in each case, but not limited to, after the original instrument giving rise to such Indebtedness has been terminated and including, in each case, through any note purchase agreement, credit agreement, indenture or other agreement. "Refinanced" and "Refinancing" have correlative meanings.

"Registered Equivalent Notes" means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act of 1933, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

"Release" has the meaning assigned to such term in Section 5.01(a).

"Reorganization Senior Securities" means any notes or other debt or equity securities issued in an Insolvency or Liquidation Proceeding in respect of all or any portion of the Senior Obligations.

"Reorganization Subordinated Securities" means any notes or other debt or equity securities issued in an Insolvency or Liquidation Proceeding in respect of all or any portion of the Junior Priority Debt Obligations pursuant to a confirmed plan of reorganization and that are (a) subordinated in right of payment and in all other respects to all Senior Obligations and any Reorganization Senior Securities at least to the same extent that the Junior Priority Debt Obligations are subordinated to Senior Obligations pursuant to the terms of this Agreement, (b) do not have the benefit of any obligation of any Person (whether as issuer, guarantor or otherwise) unless all Senior Obligations and Reorganization Senior Securities have at least the same benefit of the obligation of such Person, and (c) do not have any terms, and are not subject to or entitled to the benefit of any agreement or instrument that has terms, that are more burdensome to the issuer or other obligor thereunder than the terms contained in the Senior Debt Documents or Reorganization Senior Securities.

"Replacement Senior Obligations" has the meaning assigned to such term in Section 8.08.

"Representatives" means the Senior Representative and the Junior Priority Representatives.

"SEC" means the United States Securities and Exchange Commission and any successor thereto.

"Secured Obligations" means the Senior Obligations and the Junior Priority Debt Obligations.

"Secured Parties" means the Senior Secured Parties and the Junior Priority Debt Parties.

"Security Agreement" means the "Security Agreement" as defined in the Senior Indenture (or any similar term in a Refinancing thereof).

"Senior Collateral" means any "Collateral" (or any equivalent term) as defined in any Senior Debt Document or any other assets of the Company or any other Grantor with respect to which a Lien is granted or purported to be granted pursuant to a Senior Collateral Document as security for any Senior Obligations.

"Senior Collateral Documents" means the Security Agreement and the other "Security Documents" as defined in the Senior Indenture (or any similar term in any Refinancing thereof) and any accessions, supplements or joinders thereto, and each of the collateral agreements, security agreements and other instruments and documents executed and delivered by the Company or any other Grantor for purposes of providing collateral security for any Senior Obligation.

"Senior Debt Documents" means the Senior Indenture and the other "Indenture Documents" as defined in the Senior Indenture (or similar term in any Refinancing thereof).

"Senior Indenture" means that certain Indenture, dated as of June 3, 2024 among the Company, U.S. Bank Trust Company, National Association, as the trustee and collateral agent, and the other parties party thereto (as the same may be amended, restated, amended and restated, extended, supplemented, waived or otherwise modified from time to time or refunded, Refinanced, restructured, replaced, renewed, repaid, increased or extended from time to time (whether in whole or in part, whether with the Senior Representative and Holders (as defined in the Senior Indenture or other agents and holders or otherwise, and whether provided under the original Senior Indenture or one or more other indentures, note purchase agreements, credit agreements or otherwise, including any agreement extending the maturity thereof or otherwise restructuring all or any portion of the Indebtedness thereunder or increasing the amount loaned or issued thereunder or altering the maturity thereof, in each case as and to the extent permitted by the Senior Indenture, unless such agreement, instrument or document expressly provides that it is not intended to be and is not a Senior Indenture for purposes of this Agreement)).

"Senior Lien" means the Liens on the Senior Collateral in favor of the Senior Secured Parties under the Senior Collateral Documents.

"Senior Obligations" means the "Notes Obligations" as defined in the Senior Indenture (or similar term in any Refinancing thereof), including, without limitation, any "Senior Obligations" set forth in Section 5.03(a).

"Senior Payment Default" means a default or event of default under any Senior Debt Document resulting from the failure of any Grantor to pay, on a timely basis, any principal or interest on any loan, any fees or any other amount due and payable under the Senior Debt Documents (including, for the avoidance of doubt, any default or event of default under Section 6.01(a) or (b) of the Senior Indenture).

"Senior Representative" has the meaning assigned to such term in the introductory paragraph of this Agreement; *provided*, *however*, that if the Senior Indenture is Refinanced, then all references herein to the Senior Representative shall refer to the administrative agent (or trustee) and collateral agent under the Senior Indenture so Refinanced.

"Senior Secured Parties" means the "Secured Parties" as defined in the Security Agreement (or similar term in any Refinancing thereof).

"Shared Collateral" means, at any time, Collateral in which the holders of Senior Obligations and the holders of Junior Priority Debt Obligations under at least one Junior Priority Debt Facility (or their Representatives) hold a security interest at such time (or, in the case of the Senior Indenture, are deemed pursuant to Article II to hold a security interest). If, at any time, any portion of the Senior Collateral under the Senior Indenture does not constitute Junior Priority Collateral under one or more Junior Priority Debt Facilities, then such portion of such Senior Collateral shall constitute Shared Collateral only with respect to the Junior Priority Debt Facilities for which it constitutes Junior Priority Collateral and shall not constitute Shared Collateral for any Junior Priority Debt Facility which does not have a security interest in such Collateral at such time.

"Subsidiary" shall have the meaning provided in the Senior Indenture.

"Uniform Commercial Code" or "UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that if a term is defined in Article 9 of the Uniform Commercial Code differently than in another Article thereof, the term shall have the meaning set forth in Article 9; provided, further, that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection, of a security interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "UCC" or "Uniform Commercial Code" shall mean the Uniform Commercial Code as in effect in such other jurisdiction from time to time for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or availability of such remedy, as the case may be.

SECTION 1.02. Interpretive Provision. The interpretive provisions contained in Section 1.02 of the Senior Indenture are incorporated herein, mutatis mutandis, as if a part hereof.

ARTICLE II

Priorities and Agreements with Respect to Shared Collateral

SECTION 2.01. Subordination.

(a) Notwithstanding the date, time, manner or order of filing or recordation of any document or instrument or grant, attachment or perfection of any Liens granted to any Junior Priority Representative or any Junior Priority Debt Parties on the Shared Collateral or of any Liens granted to the Senior Representative or any other Senior Secured Party on the Shared Collateral (or any actual or alleged defect in any of the foregoing) and notwithstanding any provision of the UCC, any applicable law, any Junior Priority Debt Document or any Senior Debt Document or any other circumstance whatsoever, each Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby agrees that (a) any Lien on the Shared Collateral securing or purporting to secure any Senior Obligations now or hereafter held by or on behalf of the Senior Representative or any other Senior Secured Party or other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall have priority over and be senior in all respects and prior to any Lien on the Shared Collateral securing or purporting to secure any Junior Priority Debt Obligations and (b) any Lien on the Shared Collateral securing or purporting to secure any Junior Priority Debt Obligations now or hereafter held by or on behalf of any Junior Priority Representative, any Junior Priority Debt Parties or any Junior Priority Representative or other agent or trustee therefor, regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to all Liens on the Shared Collateral securing or purporting to secure any Senior Obligations. All Liens on the Shared Collateral securing or purporting to

secure any Senior Obligations shall be and remain senior in all respects and prior to all Liens on the Shared Collateral securing or purporting to secure any Junior Priority Debt Obligations for all purposes, whether or not such Liens securing or purporting to secure any Senior Obligations are subordinated to any Lien securing any other obligation of the Company, any Grantor or any other Person or otherwise subordinated, voided, avoided, invalidated or lapsed.

(b) Notwithstanding any provision of the Junior Priority Debt Documents to the contrary and in addition to any other limitations set forth herein or therein, (i) except for Permitted Subordinated Indebtedness Payments to the extent and in the manner set forth herein, no Grantor may make, and no Junior Priority Debt Party may receive, any payment (whether made in cash, securities or other property or by set-off, recoupment, redemption, purchase or acquisition of indebtedness or any other similar rights) of principal, interest or any other amount with respect to the Junior Priority Debt Obligations, and no Junior Priority Debt Party shall exercise any right of set-off or recoupment with respect to any Junior Priority Debt Obligations, until the Discharge of Senior Obligations, and (ii) no Grantor may make, and no Junior Priority Debt Party may receive, any Permitted Subordinated Indebtedness Principal Payment or Permitted Subordinated Indebtedness Interest Payment if, at the time of such payment or immediately after giving effect thereto (a) a Senior Payment Default exists, (b) the maturity of the Senior Obligations has been accelerated due to the occurrence of an event of default in accordance with the terms of the Senior Debt Documents or (c) any other default (a "Non-Payment Default") occurs and is continuing under any Senior Debt Document that permits the Senior Secured Parties to accelerate the maturity of the Senior Obligations and the Company receives a notice of such default (a "Payment Blockage Notice") from the Senior Representative (at the direction of the Required Holders).

(c) The Grantors may resume making Permitted Subordinated Indebtedness Principal Payments and Permitted Subordinated Indebtedness Interest Payments (and may make any Permitted Subordinated Indebtedness Principal Payments or Permitted Subordinated Indebtedness Interest Payments missed due to the application of this Section 2.01) in respect of the Junior Priority Debt Obligations or any judgment with respect thereto: (i) in the case of a Senior Payment Default, upon the earlier to occur of (x) a cure or waiver (as evidenced by a written waiver or acknowledgement of cure, as applicable, from the Senior Representative (at the direction of the Required Holders) to the Company) of all Senior Payment Defaults in accordance with the terms of the Senior Debt Documents or (y) the occurrence of the Discharge of Senior Obligations; or (ii) in the case of a Non-Payment Default, upon the earliest to occur of (x) the cure or waiver (as evidenced by a written waiver or acknowledgement of cure, as applicable, from the Senior Representative to the Company) thereof in accordance with the terms of the Senior Debt Documents, (y) the date the Company receives a notice from the Senior Representative (at the direction of the Required Holders) rescinding the Payment Blockage Notice or (z) the occurrence of the Discharge of Senior Obligations.

SECTION 2.02. Nature of Senior Lender Claims. Each Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, acknowledges that (a) [reserved], (b) the terms of the Senior Debt Documents and the Senior Obligations may be amended, restated, amended and restated, supplemented or otherwise modified, and the Senior Obligations, or a portion thereof, may be Refinanced from time to time and (c) the aggregate amount of the Senior Obligations may be increased, in each case, without notice to or consent by any Junior Priority Representatives or any Junior Priority Debt Parties and without affecting the provisions hereof. The Lien priorities provided for in Section 2.01 shall not be altered or otherwise affected by any amendment, restatement, amendment and restatement, supplement or other modification, or any Refinancing, of either the Senior Obligations or the Junior Priority Debt Obligations, or any portion

thereof. As between the Company and the other Grantors and the Junior Priority Debt Parties, the foregoing provisions will not limit or otherwise affect the obligations of the Company and the Grantors contained in any Junior Priority Debt Document with respect to the incurrence of additional Senior Obligations.

SECTION 2.03. Prohibition on Contesting Liens. Each of the Junior Priority Representatives, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, extent, perfection, priority or enforceability of any Lien securing, or the allowability or value of any claims asserted with respect to, any Senior Obligations held (or purported to be held) by or on behalf of the Senior Representative or any of the other Senior Secured Parties or other agent or trustee therefor in any Senior Collateral, and the Senior Representative, for itself and on behalf of each Senior Secured Party, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the validity, extent, perfection, priority or enforceability of any Lien securing, or the allowability or value of any claims asserted with respect to, any Junior Priority Debt Obligations held (or purported to be held) by or on behalf of any of any Junior Priority Representative or any of the Junior Priority Debt Parties in the Junior Priority Collateral. Notwithstanding the foregoing, no provision in this Agreement shall be construed to prevent or impair the rights of the Senior Representative to enforce this Agreement (including the priority of the Liens securing the Senior Obligations as provided in Section 2.01) or any of the Senior Debt Documents.

SECTION 2.04. No New Liens. (a) Subject to the terms hereof, the parties hereto agree that, so long as the Discharge of Senior Obligations has not occurred, (i) none of the Grantors shall grant or permit any additional Liens on any asset or property of any Grantor to secure any Junior Priority Debt Obligation unless it has granted, or concurrently therewith grants, a Lien on such asset or property of such Grantor to secure the Senior Obligations; and (ii) if any Junior Priority Representative or any Junior Priority Debt Party shall hold any Lien on any assets or property of any Grantor securing any Junior Priority Debt Obligations that are not also subject to the first-priority Liens securing all Senior Obligations under the Senior Collateral Documents, such Junior Priority Representative or Junior Priority Debt Party (x) shall notify in writing the Senior Representative promptly upon becoming aware thereof and promptly grant a similar Lien on such assets or property to the Senior Representative as security for the Senior Obligations, shall assign such Lien to the Senior Representative as security for all Senior Obligations for the benefit of the Senior Secured Parties (but may retain a junior lien on such assets or property subject to the terms hereof) and (y) until such assignment or such grant of a similar Lien to the Senior Representative, shall be deemed to also hold and have held such Lien for the benefit of the Senior Representative and the other Senior Secured Parties as security for the Senior Obligations, subject to the Lien priorities set forth in this Agreement. To the extent that the provisions of the immediately preceding sentence are not complied with for any reason, without limiting any other right or remedy available to the Senior Representative or any other Senior Secured Party, each Junior Priority Representative agrees, for itself and on behalf of the other Junior Priority Debt Parties, that any amounts received by or distributed to any Junior Priority Debt Party pursuant to or as a result of any Lien granted in contravention of this Section 2.04 shall be subject to Section 4.01 and Section 4.02.

(b) The existence of a maximum claim with respect to any real property subject to a mortgage, which applies to all Secured Obligations, shall not be deemed to be a difference in Collateral among any series, issue or class of Senior Obligations or Junior Priority Debt Obligations.

SECTION 2.05. Perfection of Liens. Except for the limited agreements of the Senior Representative pursuant to Section 5.05 hereof, none of the Senior Representative or the Senior Secured Parties shall be responsible for perfecting and maintaining the perfection of Liens with respect to the Shared Collateral for the benefit of the Junior Priority Representatives or the Junior Priority Debt Parties. The provisions of this Agreement are intended solely to govern the respective Lien priorities as between the Senior Secured Parties and the Junior Priority Debt Parties and shall not impose on the Senior Representative, the Senior Secured Parties, the Junior Priority Representatives, the Junior Priority Debt Parties or any agent or trustee therefor any obligations in respect of the disposition of Proceeds of any Shared Collateral which would conflict with prior perfected claims therein in favor of any other Person or any order or decree of any court or governmental authority or any applicable law.

ARTICLE III

Enforcement

SECTION 3.01. Exercise of Remedies.

(a) So long as the Discharge of Senior Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, (i) neither any Junior Priority Representative nor any Junior Priority Debt Party will (w) file or commence any Insolvency or Liquidation Proceeding against the Company or any other Grantor, (x) exercise or seek to exercise any rights or remedies (including setoff or recoupment) with respect to any Shared Collateral in respect of any Junior Priority Debt Obligations, or otherwise commence, or join with any Person (other than the Senior Secured Parties and the Senior Representative upon the request of the Senior Representative) in commencing, any action or proceeding with respect to such rights or remedies (including any enforcement, collection, execution, levy or foreclosure action or proceeding, with respect to any Lien held by it on the Shared Collateral under any of the Junior Priority Debt Documents or otherwise in respect of the Junior Priority Debt Obligations), (y) contest, protest or object to any foreclosure proceeding or action brought with respect to the Shared Collateral or any other Senior Collateral by the Senior Representative or any Senior Secured Party in respect of the Senior Obligations, the exercise of any right by the Senior Representative or any Senior Secured Party (or any agent or sub-agent on their behalf) in respect of the Senior Obligations under any lockbox agreement, control agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which the Senior Representative or any Senior Secured Party either is a party or may have rights as a third party beneficiary, or any other exercise by any such party of any rights and remedies relating to the Shared Collateral under the Senior Debt Documents or otherwise in respect of the Senior Collateral or the Senior Obligations, or (z) object to the forbearance by the Senior Secured Parties from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to the Shared Collateral in respect of Senior Obligations and (ii) except as otherwise provided herein, the Senior Representative and the Senior Secured Parties shall have the exclusive right to enforce rights, exercise remedies (including setoff or recoupment and the right to credit bid their debt) and make determinations regarding the release, disposition or restrictions with respect to the Shared Collateral, and to determine and direct the time, method and place for exercising any such rights, enforcing any such remedies or conducting any proceeding with respect to any such exercise or enforcement with respect to the Shared Collateral, without any consultation with or the consent of any Junior Priority Representative or any Junior Priority Debt Party; provided, however, that (A) in any Insolvency or Liquidation Proceeding commenced by or against the Company or any other Grantor, any Junior Priority Representative may file a claim, proof of claim or statement of interest with respect to the Junior Priority Debt Obligations under its Junior Priority Debt Facility, and (B) any Junior Priority Representative may take any action (not

adverse to the prior Liens on the Shared Collateral securing the Senior Obligations or the rights of the Senior Representative or the Senior Secured Parties to exercise remedies in respect thereof) in order to create, prove, perfect, preserve or protect (but not enforce) its rights in, and perfection and priority of its Lien on, the Shared Collateral (in each case of clauses (A) and (B) above, solely to the extent such action is not in violation of, or otherwise inconsistent with, any other provision of this Agreement or contrary to the Lien priorities set forth in this Agreement). In exercising rights and remedies with respect to the Senior Collateral, the Senior Representative and the Senior Secured Parties may enforce the provisions of the Senior Debt Documents and exercise remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent appointed by them to sell or otherwise dispose of Shared Collateral upon foreclosure, to incur expenses in connection with such sale or disposition and to exercise all the rights and remedies of a secured lender under the Uniform Commercial Code of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(b) So long as the Discharge of Senior Obligations has not occurred, each Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that it will not take or receive any Shared Collateral or any Proceeds of Shared Collateral in connection with the exercise of any right or remedy (including setoff or recoupment) with respect to any Shared Collateral in respect of Junior Priority Debt Obligations. Without limiting the generality of the foregoing, unless and until the Discharge of Senior Obligations has occurred, except as expressly provided in the proviso in clause (ii) of Section 3.01(a), the sole right of the Junior Priority Representatives and the Junior Priority Debt Parties with respect to the Shared Collateral is to hold a Lien on the Shared Collateral in respect of Junior Priority Debt Obligations pursuant to the Junior Priority Debt Documents for the period and to the extent granted therein and to receive a share of the Proceeds thereof, if any, after the Discharge of Senior Obligations has occurred.

(c) Subject to the proviso in clause (ii) of Section 3.01(a), (i) each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that neither such Junior Priority Representative nor any such Junior Priority Debt Party will take any action that would hinder, interfere with, or delay any exercise of remedies undertaken by the Senior Representative or any Senior Secured Party with respect to the Shared Collateral under the Senior Debt Documents, including any sale, lease, exchange, transfer or other disposition of the Shared Collateral, whether by foreclosure or otherwise, and (ii) each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby waives any and all rights it or any such Junior Priority Debt Party may have as a junior lien creditor or otherwise to object to the manner in which the Senior Representative or the Senior Secured Parties seek to enforce or collect the Senior Obligations or the Liens granted on any of the Senior Collateral, regardless of whether any action or failure to act by or on behalf of the Senior Representative or any other Senior Secured Party is adverse to the interests of the Junior Priority Debt Parties.

(d) Each Junior Priority Representative hereby acknowledges and agrees that no covenant, agreement or restriction contained in any Junior Priority Debt Document shall be deemed to restrict in any way the rights and remedies of the Senior Representative or the Senior Secured Parties with respect to the Senior Collateral as set forth in this Agreement and the Senior Debt Documents.

(e) Until the Discharge of Senior Obligations, the Senior Representative (or any Person authorized by it) shall have the exclusive right to exercise any right or remedy with respect to the Shared Collateral and shall have the exclusive right to determine and direct the time, method and place for exercising such right or remedy or conducting any proceeding with respect thereto. Following the

Discharge of Senior Obligations, the Designated Junior Priority Representative (or any Person authorized by it) who may be instructed by the Junior Priority Majority Representatives shall have the exclusive right to exercise any right or remedy with respect to the Collateral, and the Designated Junior Priority Representative (or any Person authorized by it) who may be instructed by the Junior Priority Majority Representatives shall have the exclusive right to direct the time, method and place of exercising or conducting any proceeding for the exercise of any right or remedy available to the Junior Priority Debt Parties with respect to the Collateral, or of exercising or directing the exercise of any trust or power conferred on the Junior Priority Representatives, or for the taking of any other action authorized by the Junior Priority Collateral Documents; provided, however, that nothing in this Section shall impair the right of any Junior Priority Representative or other agent or trustee acting on behalf of the Junior Priority Debt Parties to take such actions with respect to the Collateral after the Discharge of Senior Obligations as may be otherwise required or authorized pursuant to any intercreditor agreement governing the Junior Priority Debt Parties or the Junior Priority Debt Obligations.

SECTION 3.02. Cooperation. The Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party, agrees that unless and until the Discharge of Senior Obligations has occurred, it will not commence, or join with any other Person (other than the Senior Representative and Senior Secured Parties) in commencing, any enforcement, collection, execution, levy or foreclosure action or proceeding with respect to any Lien held by it in the Shared Collateral or any other collateral under any of the applicable Junior Priority Debt Documents or otherwise in respect of the applicable Junior Priority Debt Obligations relating to the Shared Collateral.

SECTION 3.03. Actions upon Breach. Should any Junior Priority Representative or any Junior Priority Debt Party, contrary to this Agreement, in any way take, attempt to take or threaten to take any action with respect to the Shared Collateral (including any attempt to realize upon or enforce any remedy with respect to this Agreement) or fail to take any action required by this Agreement, the Senior Representative or other Senior Secured Party (in its or their own name or in the name of the Company or any other Grantor) or the Company or any other Grantor may obtain relief against such Junior Priority Representative or such Junior Priority Debt Party by injunction, specific performance or other appropriate equitable relief. Each Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby (i) agrees that the Senior Secured Parties' damages from the actions of the Junior Priority Representatives or any Junior Priority Debt Party may at that time be difficult to ascertain and may be irreparable and waives any defense that the Senior Secured Parties cannot demonstrate damage or be made whole by the awarding of money, (ii) agrees that the Company's and the other Grantors' damages from the actions of the Junior Priority Representative or any other Junior Priority Debt Party may at that time be difficult to ascertain and may be irreparable and waives any defense that the Company or any other Grantor cannot demonstrate damage or be made whole by the awarding of damages and (iii) irrevocably waives any defense based on the adequacy of a remedy at law and any other defense that might be asserted to bar the remedy of specific performance in any action that may be brought by the Senior Representative or any other Senior Secured Party.

ARTICLE IV

Payments

SECTION 4.01. Application of Proceeds. After an Event of Default (as defined therein) under any Senior Debt Document has occurred and until such Event of Default is cured or waived, so long as the Discharge of Senior Obligations has not occurred, any Shared Collateral or Proceeds thereof received in connection with the sale or other disposition of, or collection on, such Shared

Collateral upon the exercise of remedies or (except as otherwise set forth in Article VI) in any Insolvency or Liquidation Proceeding shall be applied by the Senior Representative to the Senior Obligations in such order as specified in the relevant Senior Debt Documents until the Discharge of Senior Obligations has occurred. Upon the Discharge of Senior Obligations, each applicable Senior Representative shall deliver promptly to the Designated Junior Priority Representative any Shared Collateral or Proceeds thereof held by it in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct, to be applied by the Designated Junior Priority Representative to the Junior Priority Debt Obligations in such order as specified in the relevant Junior Priority Debt Documents.

SECTION 4.02. Payments Over. Unless and until the Discharge of Senior Obligations has occurred and regardless of whether an Insolvency or Liquidation Proceeding has been commenced, any Shared Collateral or Proceeds thereof or other distributions on account of the Junior Priority Debt or any payment or distribution of any kind or character, whether in cash, property or securities on account of the Junior Priority Debt (other than Permitted Subordinated Indebtedness Payments as permitted herein) received by any Junior Priority Representative or Junior Priority Debt Party in connection with the exercise of any right or remedy (including setoff or recoupment) relating to the Shared Collateral (except as otherwise set forth in Article VI) in any Insolvency or Liquidation Proceeding (including any distributions received by the Junior Priority Representative or any Junior Priority Debt Party) or otherwise in contravention of this Agreement (including Sections 2.01(b) and (c)) shall be segregated and held in trust for the benefit of and forthwith paid over to the Senior Representative for the benefit of the Senior Secured Parties in the same form as received, with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct. The Senior Representative is hereby authorized to make any such endorsements as agent for each of the Junior Priority Representatives or any such Junior Priority Debt Party. This authorization is coupled with an interest and is irrevocable.

ARTICLE V

Other Agreements

SECTION 5.01. Releases.

(a) Each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that (i) (x) if in connection with any sale, transfer or other disposition or release of any Shared Collateral by any Grantor (other than in connection with any enforcement or exercise of rights or remedies with respect to the Shared Collateral which shall be governed by clause (ii)) not prohibited under the terms of the Senior Debt Documents or consented to by the holders of Senior Obligations under the Senior Debt Documents (other than in connection with the Discharge of Senior Obligations) or (y) if the Senior Liens on any Shared Collateral have been or are being otherwise released by the Senior Representative, for itself and on behalf of the other Senior Secured Parties, in connection with a Subsidiary that is released from its guarantee under the Senior Debt Documents and the Junior Priority Debt Documents (in each case, pursuant to, and in accordance with, the Senior Debt Documents and the Junior Priority Debt Documents) or (ii) if in connection with the enforcement or exercise of any rights or remedies with respect to the Shared Collateral, including any sale, transfer or other disposition of Collateral, the Senior Representative, for itself and on behalf of the other Senior Secured Parties releases any of the Senior Liens on the Shared Collateral (a "Release"), then the Liens on such Shared Collateral securing any Junior Priority Debt Obligations shall (whether or not any Insolvency or Liquidation Proceeding is pending at such time) be automatically, unconditionally and simultaneously released without further action, and each Junior

Priority Representative shall, for itself and on behalf of the other applicable Junior Priority Class Debt Parties, promptly execute and deliver to the Senior Representative and the applicable Grantors such termination statements, releases and other documents as the Senior Representative or any applicable Grantor may reasonably request at such Grantor's sole cost and expense to effectively confirm such Release. Similarly, if the equity interests of any Person are foreclosed upon or otherwise disposed of or released pursuant to clause (i) or (ii) above and in connection therewith the Senior Representative releases the Senior Liens on the property or assets of such Person or releases such Person from its guarantee of Senior Obligations, then the Junior Priority Lien on such property or assets of such Person and such Person's guarantee of Junior Priority Debt Obligations shall be automatically released to the same extent. Nothing in this Section 5.01(a) will be deemed to affect any agreement of a Junior Priority Representative, for itself and on behalf of the Junior Priority Debt Parties under its Junior Priority Debt Facility, to release the Liens on the Junior Priority Collateral as set forth in the relevant Junior Priority Debt Documents.

(b) Each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby irrevocably constitutes and appoints the Senior Representative and any officer or agent of the Senior Representative, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Junior Priority Representative or such Junior Priority Debt Party or in the Senior Representative's own name, from time to time in the Senior Representative's discretion, for the purpose of carrying out the terms of Section 5.01(a), to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of Section 5.01(a), including any termination statements, endorsements or other instruments of transfer or release. The Senior Representative hereby agrees to take action reasonably requested by the Grantors, at the Grantors' sole cost and expense, to carry out the terms of this Section 5.01(b) or to accomplish the purposes of Section 5.01(a).

(c) Unless and until the Discharge of Senior Obligations has occurred, each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby consents to the application, whether prior to or after an Event of Default (as defined in any Senior Debt Document) of Proceeds of Shared Collateral to the repayment of Senior Obligations pursuant to the Senior Debt Documents, provided that nothing in this Section 5.01(c) shall be construed to prevent or impair the rights of the Junior Priority Representatives or the Junior Priority Debt Parties to receive Proceeds in connection with the Junior Priority Debt Obligations not otherwise in contravention of this Agreement.

(d) Notwithstanding anything to the contrary in any Junior Priority Collateral Document, in the event the terms of a Senior Collateral Document and a Junior Priority Collateral Document each require any Grantor to (i) make payment in respect of any item of Shared Collateral, (ii) deliver or afford control over any item of Shared Collateral to, or deposit any item of Shared Collateral with, (iii) register ownership of any item of Shared Collateral in the name of or make an assignment of ownership of any Shared Collateral or the rights thereunder to, (iv) cause any securities intermediary, commodity intermediary or other Person acting in a similar capacity to agree to comply, in respect of any item of Shared Collateral, with instructions or orders from, or to treat, in respect of any item of Shared Collateral, as the entitlement holder, (v) hold any item of Shared Collateral in trust for (to the extent such item of Shared Collateral cannot be held in trust for multiple parties under applicable law), (vi) obtain the agreement of a bailee or other third party to hold any item of Shared Collateral for the benefit of or subject to the control of or, in respect of any item of Shared Collateral, to follow the instructions of or (vii) obtain the agreement of a landlord with respect to access to leased premises where any item of

Shared Collateral is located or waivers or subordination of rights with respect to any item of Shared Collateral in favor of, in any case, both the Senior Representative and any Junior Priority Representative or Junior Priority Debt Party, such Grantor may, until the applicable Discharge of Senior Obligations has occurred, comply with such requirement under the Junior Priority Collateral Document as it relates to such Shared Collateral by taking any of the actions set forth above only with respect to, or in favor of, the Senior Representative; provided, notwithstanding anything to the contrary, any action or compliance with respect to the foregoing by any Grantor shall not cause a default or event of default to exist under any Senior Debt Document or any Junior Priority Debt Document.

SECTION 5.02. Insurance and Condemnation Awards. Unless and until the Discharge of Senior Obligations has occurred, the Senior Representative and the Senior Secured Parties shall have the sole and exclusive right, subject to the rights of the Grantors under the Senior Debt Documents, (a) to name as additional insured and loss payee under any insurance policies maintained from time to time by any Grantor other persons in addition to the Junior Representatives, (b) to adjust settlement for any insurance policy covering the Shared Collateral in the event of any loss thereunder and (c) to approve any award granted in any condemnation or similar proceeding affecting the Shared Collateral, in each case in accordance with the Senior Debt Documents. Unless and until the Discharge of Senior Obligations has occurred, all Proceeds of any such policy and any such award, if in respect of the Shared Collateral, shall be paid (i) first, prior to the occurrence of the Discharge of Senior Obligations, to the Senior Representative for the benefit of Senior Secured Parties pursuant to the terms of the Senior Debt Documents, (ii) second, after the occurrence of the Discharge of Senior Obligations, to the Designated Junior Priority Representative for the benefit of the Junior Priority Debt Parties pursuant to the terms of the applicable Junior Priority Debt Documents, and (iii) third, if no Junior Priority Debt Obligations are outstanding, to the owner of the subject property, such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. If any Junior Priority Representative or any Junior Priority Debt Party shall, at any time, receive any Proceeds of any such insurance policy or any such award in contravention of this Agreement, it shall pay such Proceeds over to the Senior Representative in accordance with the terms of Section 4.02.

SECTION 5.03. Amendments to Debt Documents.

(a) The Senior Debt Documents may be amended, restated, amended and restated, extended, supplemented or otherwise modified in accordance with their terms, and the Senior Obligations may be Refinanced or replaced, in whole or in part, in each case, without the consent of any Junior Priority Representative or any Junior Priority Debt Party, all without affecting the Lien priorities provided for herein or the other provisions hereof; provided, however, that, without the consent of the Designated Junior Priority Representatives, no such amendment, restatement, supplement, modification or Refinancing (or successive amendments, restatements, supplements, modifications or Refinancings) shall contravene any provision of this Agreement.

(b) Without the prior written consent of the Senior Representative, no Junior Priority Debt Document may be amended, restated, amended and restated, extended, supplemented or otherwise modified, or entered into, and no Indebtedness under the Junior Priority Debt Documents may be Refinanced, to the extent such amendment, restatement, supplement or modification or Refinancing, or the terms of such new Junior Priority Debt Document, would (i) adversely affect the lien priority rights of the Senior Secured Parties or the rights of the Senior Secured Parties to receive payments owing pursuant to the Senior Debt Documents, (ii) except as otherwise provided for in this Agreement, add any Liens securing the Collateral granted under the Junior Priority Collateral Documents, (iii) confer any additional rights on the Junior Priority Representative or any other Junior Priority Debt Party in a manner adverse to

the Senior Secured Parties, or (iv) contravene the provisions of this Agreement. Each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that each Junior Priority Collateral Document under its Junior Priority Debt Facility shall include the following language (or language to similar effect reasonably approved by the Senior Representative):

"Notwithstanding anything herein to the contrary, (i) the liens and security interests granted to the Junior Priority Representative pursuant to this Agreement are expressly subject and subordinate to the liens and security interests granted in favor of the Senior Secured Parties (as defined in the Intercreditor Agreement referred to below), including liens and security interests granted to U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as collateral agent, pursuant to or in connection with the Indenture dated as of June 3, 2024 (as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time), among LIVEPERSON, INC., a Delaware corporation, its subsidiaries party thereto as guarantors and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as collateral agent, and (ii) the exercise of any right or remedy by the Junior Priority Representative hereunder is subject to the limitations and provisions of the Intercreditor Agreement dated as of [_____], 20[_] (as amended, restated, extended, amended and restated, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"), among LIVEPERSON, INC., a Delaware corporation, and its respective subsidiaries and affiliated entities party thereto, U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as the Senior Representative, and [_____], as the Initial Junior Priority Representative. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this Agreement, the terms of the Intercreditor Agreement shall govern."

(c) In the event that the Senior Representative and/or the Senior Secured Parties enter into any amendment, waiver or consent in respect of any of the Senior Collateral Documents for the purpose of adding to or deleting from, or waiving or consenting to any departures from any provisions of, any Senior Collateral Document or changing in any manner the rights of the Senior Representative, the Senior Secured Parties, the Company or any other Grantor thereunder (including the release of any Liens in Senior Collateral and/or the release of any Grantor of its guaranty of the Senior Obligations) in a manner that is applicable to the Senior Indenture, then such amendment, waiver or consent shall apply automatically to any comparable provision of each comparable Junior Priority Collateral Document without the consent of any Junior Priority Representative or any Junior Priority Debt Party and without any action by any Junior Priority Representative, the Company or any other Grantor; provided, however, that no such amendment, waiver or consent shall (A) remove assets subject to the Junior Priority Liens or release any such Liens, except to the extent that such release is permitted or required by Section 5.01(a) and provided that there is a substantially concurrent release of the corresponding Senior Liens or (B) impose duties that are adverse on any Junior Priority Representative without its prior written consent.

(d) The Company agrees to deliver to each of the Senior Representative and the Designated Junior Priority Representative copies of (i) any material amendments, supplements or other modifications to the material Senior Debt Documents or the material Junior Priority Debt Documents and (ii) any new material Senior Debt Documents or material Junior Priority Debt Documents, in each case, within thirty (30) days after the effectiveness thereof.

SECTION 5.04. No Rights as Unsecured Creditors. Notwithstanding anything to the contrary in this Agreement, the Junior Priority Representatives and the Junior Priority Debt Parties hereby irrevocably waive any rights or remedies that the Junior Priority Debt Parties have as unsecured creditors against the Company and any other Grantor. Nothing in this Agreement shall impair or otherwise

adversely affect any rights or remedies the Senior Representative or the Senior Secured Parties may have with respect to the Senior Collateral.

SECTION 5.05. Gratuitous Bailee for Perfection.

(a) The Senior Representative acknowledges and agrees that if it shall at any time hold a Lien securing any Senior Obligations on any Shared Collateral that can be perfected by the possession, control, or notation, of such Shared Collateral or of any account in which such Shared Collateral is held, and if such Shared Collateral or any such account is in fact in the possession or under the control of, or notation, in the name of, the Senior Representative, or of agents or bailees of such Person (such Shared Collateral being referred to herein as the "Pledged or Controlled Collateral"), or if it shall at any time obtain any landlord waiver or bailee's letter or any similar agreement or arrangement granting it rights or access to Shared Collateral, the applicable Senior Representative shall also hold such Pledged or Controlled Collateral, or take such actions with respect to such landlord waiver, bailee's letter or similar agreement or arrangement, as sub-agent or gratuitous bailee (such bailment being intended, among other things, to satisfy the requirements of Section 8-301(a)(2) and 9-313(c) of the Uniform Commercial Code, to the extent applicable) for the relevant Junior Priority Representatives, in each case solely for the purpose of perfecting the Liens granted under the relevant Junior Priority Collateral Documents or granting rights in or access to any Shared Collateral subject to such landlord waiver or bailee's letter or any similar agreement or arrangement and subject to the terms and conditions of this Section 5.05.

(b) In the event that the Senior Representative (or its agents or bailees) has Lien filings against Intellectual Property that is part of the Shared Collateral that are necessary for the perfection of Liens in such Shared Collateral, the Senior Representative agrees to hold such Liens as sub-agent and gratuitous bailee (such bailment being intended, among other things, to satisfy the requirements of Section 8-301(a)(2) and 9-313(c) of the Uniform Commercial Code, to the extent applicable) for the relevant Junior Priority Representatives and any assignee thereof, solely for the purpose of perfecting the security interest granted in such Liens pursuant to the relevant Junior Priority Collateral Documents, subject to the terms and conditions of this Section 5.05.

(c) Except as otherwise specifically provided herein, until the Discharge of Senior Obligations has occurred, the Senior Representative and the Senior Secured Parties shall be entitled to deal with the Pledged or Controlled Collateral in accordance with the terms of the Senior Debt Documents as if the Liens under the Junior Priority Collateral Documents did not exist. The rights of the Junior Priority Representatives and the Junior Priority Debt Parties with respect to the Pledged or Controlled Collateral shall at all times be subject to the terms of this Agreement.

(d) The Senior Representative and the Senior Secured Parties shall have no obligation whatsoever to the Junior Priority Representatives or any Junior Priority Debt Party to assure that any of the Pledged or Controlled Collateral is genuine or owned by the Grantors or to protect or preserve rights or benefits of any Person or any rights pertaining to the Shared Collateral, except as expressly set forth in this Section 5.05. The duties or responsibilities of the Senior Representative under this Section 5.05 shall be limited solely to holding, controlling, or being notated on, the Shared Collateral and the related Liens referred to in paragraphs (a) and (b) of this Section 5.05 as sub-agent and gratuitous bailee (such bailment being intended, among other things, to satisfy the requirements of Section 8-301(a)(2) and 9-313(c) of the Uniform Commercial Code, to the extent applicable) for the relevant Junior Priority Representative for purposes of perfecting the Lien held by such Junior Priority Representative.

(e) The Senior Representative shall not have by reason of the Junior Priority Collateral Documents or this Agreement, or any other document, a fiduciary relationship in respect of any Junior Priority Representative or any Junior Priority Debt Party, and each, Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby waives and releases the Senior Representative from all claims and liabilities arising pursuant to the Senior Representative's roles under this Section 5.05 as sub-agent and gratuitous bailee with respect to the Shared Collateral.

(f) Upon the Discharge of Senior Obligations, each applicable Senior Representative shall, at the Grantors' sole cost and expense, (i) (A) deliver to the Designated Junior Priority Representative, to the extent that it is legally permitted to do so, all Shared Collateral, including all Proceeds thereof, held or controlled by the Senior Representative or any of its agents or bailees, including the transfer of possession and control, as applicable, of the Pledged or Controlled Collateral, together with any necessary endorsements and notices to depositary banks, securities intermediaries and commodities intermediaries, and assign its rights under any landlord waiver or bailee's letter or any similar agreement or arrangement granting it rights or access to Shared Collateral or in connection with notations on certificates of title, or (B) direct and deliver such Shared Collateral as a court of competent jurisdiction may otherwise direct, (ii) notify any applicable insurance carrier that it is no longer entitled to be a loss payee or additional insured under the insurance policies of any Grantor issued by such insurance carrier, and (iii) notify any governmental authority involved in any condemnation or similar proceeding involving any Grantor that the Designated Junior Priority Representative is entitled to approve any awards granted in such proceeding. The Company and the other Grantors shall take such further action as is required to effectuate the transfer contemplated hereby and shall indemnify the Senior Representative for loss or damage suffered by the Senior Representative as a result of such transfer, except for loss or damage suffered by any such Person as a result of its own (or its related parties') gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. The Senior Representative has no obligations to follow instructions from any Junior Priority Representative or any other Junior Priority Debt Party in contravention of this Agreement. The Senior Representative shall not have any liability to any Junior Priority Debt Party.

(g) None of the Senior Representative nor any of the other Senior Secured Parties shall be required to marshal any present or future collateral security for any obligations of the Company or any Subsidiary to the Senior Representative or any Senior Secured Party under the Senior Debt Documents or any assurance of payment in respect thereof or to any Junior Priority Debt Party, or to resort to such collateral security or other assurances of payment in any particular order, and all of their rights in respect of such collateral security or any assurance of payment in respect thereof shall be cumulative and in addition to all other rights, however existing or arising.

SECTION 5.06. When Discharge of Senior Obligations Deemed To Not Have Occurred. If, at any time substantially concurrently with or after the Discharge of Senior Obligations has occurred, the Company or any Subsidiary consummates any Refinancing or incurs any Senior Obligations (other than in respect of the payment of indemnities surviving the Discharge of Senior Obligations), then such Discharge of Senior Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement (other than with respect to any actions taken prior to the date of such designation, consummation or incurrence as a result of the occurrence of such first Discharge of Senior Obligations) and the applicable agreement governing such Senior Obligations shall automatically be treated as a Senior Debt Document for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Shared Collateral set forth herein and the agent, representative or trustee for the holders of such Senior Obligations shall be the Senior Representative for all purposes of this Agreement. Upon

receipt of notice of such incurrence (including the identity of the new Senior Representative), each Junior Priority Representative (including the Designated Junior Priority Representative) shall promptly (a) enter into such documents and agreements (at the expense of the Company), including amendments or supplements to this Agreement, as the Company or such new Senior Representative shall reasonably request in writing in order to provide the new Senior Representative the rights of a Senior Representative contemplated hereby, (b) deliver to the Senior Representative, to the extent that it is legally permitted to do so, all Shared Collateral, including all Proceeds thereof, held or controlled by such Junior Priority Representative or any of its agents or bailees, including the transfer of possession and control, as applicable, of the Pledged or Controlled Collateral, together with any necessary endorsements and notices to depositary banks, securities intermediaries and commodities intermediaries, and assign its rights under any landlord waiver or bailee's letter or any similar agreement or arrangement granting it rights in or access to Shared Collateral or in connection with notations on certificates of title, (c) upon the reasonable request of any applicable Grantor, notify any applicable insurance carrier that the new Senior Representative is entitled to be a loss payee or additional insured under the insurance policies of any Grantor issued by such insurance carrier and (d) notify any governmental authority involved in any condemnation or similar proceeding involving a Grantor that the new Senior Representative is entitled to approve any awards granted in such proceeding.

ARTICLE VI

Insolvency or Liquidation Proceedings.

SECTION 6.01. Financing Issues. Until the Discharge of Senior Obligations has occurred, if the Company or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and the Senior Representative or any Senior Secured Party shall desire to consent (or not object) to the sale, use or lease of cash or other collateral or to consent (or not object) to the Company's or any other Grantor's obtaining financing under Section 363 or Section 364 of the Bankruptcy Code or any similar provision of any other Bankruptcy Law ("DIP Financing"), then each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that it will raise no objection to, will not support any objection to, and will not otherwise contest such sale, use or lease of such cash or other collateral or such DIP Financing and, except to the extent permitted by the proviso in clause (ii) of Section 3.01(a) and Section 6.03, will not request adequate protection or any other relief in connection therewith and, to the extent the Liens securing any Senior Obligations are subordinated or *pari passu* with such DIP Financing, will subordinate (and will be deemed hereunder to have subordinated) its Liens in the Shared Collateral to (x) such DIP Financing (and all obligations relating thereto) on the same basis as the Liens securing the Junior Priority Debt Obligations are so subordinated to Liens securing Senior Obligations under this Agreement, (y) any adequate protection Liens granted to the Senior Secured Parties, and (z) to any "carve-out" for professional and United States Trustee fees agreed to by the Senior Representative. Each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, further agrees that, until the Discharge of Senior Obligations has occurred, it will raise no (a) objection to (and will not otherwise contest) any motion for relief from the automatic stay or from any injunction against foreclosure or enforcement in respect of Senior Obligations made by the Senior Representative or any other Senior Secured Party, (b) objection to (and will not otherwise contest) any lawful exercise by any Senior Secured Party of the right to credit bid Senior Obligations at any sale in foreclosure of Senior Collateral or under Section 363(k) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law, (c) objection to (and will not otherwise contest) any other request for judicial relief made in any court by any Senior Secured Party relating to the lawful enforcement of any Lien on Senior Collateral, or (d) objection to (and will not otherwise contest or oppose) any order relating

to a sale or other disposition of assets of any Grantor (including under Section 363 of the Bankruptcy Code or any similar provision of any other Bankruptcy Law) for which the Senior Representative has consented or not objected that provides, to the extent such sale or other disposition is to be free and clear of Liens, that the Liens securing the Senior Obligations and the Junior Priority Debt Obligations will attach to the Proceeds of the sale on the same basis of priority as the Liens on the Shared Collateral securing the Senior Obligations rank to the Liens on the Shared Collateral securing the Junior Priority Debt Obligations pursuant to this Agreement. Each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that notice received two (2) Business Days prior to the entry of an order approving such usage of cash or other collateral or approving such financing shall be adequate notice. In no event shall the Junior Priority Representative or any Junior Priority Debt Party (i) offer to provide, or propose, any DIP Financing to any Grantor or (ii) credit bid any Junior Priority Debt Obligations, in each case without the written consent of the Senior Representative unless the Senior Obligations would be indefeasibly paid in full in cash with the first proceeds of such DIP Financing or credit bid.

SECTION 6.02. Relief from the Automatic Stay. Until the Discharge of Senior Obligations has occurred, each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that none of them shall seek relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding or take any action in derogation thereof, or support or join, directly or indirectly, any party in doing or performing the same, in each case in respect of any Shared Collateral or any other collateral, without the prior written consent of the Senior Representative.

SECTION 6.03. Adequate Protection. Each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that none of them shall (A) object, contest or support any other Person objecting to or contesting and shall be deemed to have hereby irrevocably, absolutely, and unconditionally waived any right to contest (a) any request by the Senior Representative or any Senior Secured Parties for adequate protection, (b) any objection by the Senior Representative or any Senior Secured Parties to any motion, relief, action or proceeding based on the Senior Representative's or Senior Secured Party's claiming a lack of adequate protection, or (c) the allowance and/or payment of interest, fees, expenses or other amounts of the Senior Representative or any other Senior Secured Party under Section 506(b) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law, (B) assert or support any claim for costs or expenses of preserving or disposing of any Collateral under Section 506(c) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law or (C) request any form of adequate protection except as permitted by the following sentence or as agreed by the Senior Representative. Notwithstanding anything contained in this Section 6.03 or in Section 6.01, in any Insolvency or Liquidation Proceeding, no Junior Priority Representative or Junior Priority Debt Party shall be entitled (and the Junior Priority Representatives and Junior Priority Debt Parties shall be deemed to have irrevocably, absolutely, and unconditionally waived any right) to seek or otherwise be granted any type of adequate protection with respect to its interests in the Collateral; provided, however, that (i) if the Senior Secured Parties (or any subset thereof) are granted adequate protection in the form of a Lien on additional or replacement collateral and/or superpriority claims in connection with any DIP Financing or use of cash collateral under Section 363 or 364 of the Bankruptcy Code or any similar provision of any other Bankruptcy Law (other than in a role of DIP Financing provider), then each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, may seek or request adequate protection in the form of a Lien on such additional or replacement collateral and/or a superpriority claim (as applicable), which (A) Lien is subordinated to the Liens securing or providing adequate protection for, or claims with respect to, all Senior Obligations and such DIP Financing (and all

obligations relating thereto and any "carve-out") on the same basis as the other Liens securing the Junior Priority Debt Obligations are subordinated to the Liens securing Senior Obligations under this Agreement and/or (B) superpriority claim is subordinated to all superpriority claims of the Senior Secured Parties on the same basis as the other claims of the Junior Priority Debt Parties on the same basis that the other claims of the Junior Priority Debt Parties are subordinated to the claims of the Senior Secured Parties under this Agreement, and each Junior Priority Representative, on behalf of itself and the Junior Priority Debt Parties, shall have irrevocably agreed, pursuant to Section 1129(a)(9) of the Bankruptcy Code, in any stipulation and/or order granting such adequate protection, that such junior superpriority claims may be paid under any plan of reorganization in any combination of cash, debt, equity or other property having a value on the effective date of such plan equal to the allowed amount of such claims, (ii) in the event any Junior Priority Representatives, for themselves and on behalf of the Junior Priority Debt Parties under their Junior Priority Debt Facilities, seek or request adequate protection and such adequate protection is granted in the form of a Lien on additional or replacement collateral and/or a superpriority claim (in each instance, to the extent such grant is otherwise permissible under the terms and conditions of this Agreement), then such Junior Priority Representatives, for themselves and on behalf of each Junior Priority Debt Party under their Junior Priority Debt Facilities, agree that the Senior Representative shall also be granted a senior Lien on such additional or replacement collateral and/or a superpriority claim (as applicable) as security and adequate protection for the Senior Obligations and any such DIP Financing and that any Lien on such additional or replacement collateral and/or superpriority claim securing or providing adequate protection for the Junior Priority Debt Obligations shall be subordinated to the Liens on such collateral securing, and claims with respect to, the Senior Obligations and any such DIP Financing (and all obligations relating thereto and any "carve-out") and any other Liens and superpriority claims granted to the Senior Secured Parties as adequate protection on the same basis as the other Liens securing the Junior Priority Debt Obligations are so subordinated to such Liens securing Senior Obligations under this Agreement and (1) each such Junior Priority Representative, on behalf of itself and the Junior Priority Debt Parties, shall have irrevocably agreed pursuant to Section 1129(a)(9) of the Bankruptcy Code, in any stipulation and/or order granting such adequate protection, that such junior superpriority claims may be paid under any plan of reorganization in any combination of cash, debt, equity or other property having a value on the effective date of such plan equal to the allowed amount of such claims, and (2) to the extent the Senior Secured Parties are not granted such adequate protection in such form, any amounts recovered by or distributed to any Junior Priority Debt Party pursuant to or as a result of any Lien on such additional or replacement collateral so granted to the Junior Priority Debt Parties shall be subject to Section 4.02, and/or (iii) in the event any Junior Priority Representatives, for themselves and on behalf of the other Junior Priority Debt Parties under their Junior Priority Debt Facilities, are granted adequate protection (in each instance, to the extent such grant is otherwise permissible under the terms and conditions of this Agreement) in the form of a superpriority claim, then such Junior Priority Representatives, for themselves and on behalf of each other Junior Priority Debt Party under their respective Junior Priority Debt Facilities, agree that the Senior Representative shall also be granted adequate protection in the form of a superpriority claim, which superpriority claim shall be senior to the superpriority claim of the Junior Priority Debt Parties (and, to the extent the Senior Secured Parties are not granted such adequate protection in such form, any amounts recovered by or distributed to any Junior Priority Debt Party pursuant to or as a result of any such superpriority claim so granted to the Junior Priority Debt Parties shall be subject to Section 4.02). Each Junior Priority Representative, on behalf of itself and each applicable Junior Priority Debt Party, agrees that (a) any adequate protection provided to the Junior Priority Debt Parties may be paid under any plan of reorganization in any combination of cash, indebtedness, equity or other property and (b) the Junior Priority Debt Parties shall not seek adequate protection in the form of payments for current post-petition fees and expenses and/or any other cash payments.

SECTION 6.04. Preference Issues. If any Senior Secured Party is required in any Insolvency or Liquidation Proceeding or otherwise to disgorge, turn over or otherwise pay any amount to the estate of the Company or any other Grantor (or any trustee, receiver or similar Person therefor), because the payment of such amount was declared to be or avoided as fraudulent or preferential or otherwise under Chapter 5 of the Bankruptcy Code or similar provisions of any other Bankruptcy Law, in any respect or for any other reason, any amount (a "Recovery"), whether received as Proceeds of security, enforcement of any right of setoff or recoupment or otherwise, then the Senior Obligations shall be reinstated to the extent of such Recovery and deemed to be outstanding as if such payment had not occurred and the Senior Secured Parties shall be entitled to the benefits of this Agreement until a Discharge of Senior Obligations with respect to all such recovered amounts. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto. Each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby agrees that none of them shall be entitled to benefit from any avoidance action affecting or otherwise relating to any distribution or allocation made in accordance with this Agreement, whether by preference or otherwise, it being understood and agreed that the benefit of such avoidance action otherwise allocable to them shall instead be allocated and turned over for application in accordance with the priorities set forth in this Agreement.

SECTION 6.05. Separate Grants of Security and Separate Classifications. Each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, acknowledges and agrees that (a) the grants of Liens pursuant to the Senior Collateral Documents and the Junior Priority Collateral Documents constitute separate and distinct grants of Liens and (b) because of, among other things, their differing rights in the Shared Collateral, the Junior Priority Debt Obligations are fundamentally different from the Senior Obligations and must be separately classified in any plan of reorganization, plan of liquidation, agreement for composition, or other type of plan of arrangement or restructuring proposed, confirmed or adopted in an Insolvency or Liquidation Proceeding. To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that any claims of the Senior Secured Parties and the Junior Priority Debt Parties in respect of the Shared Collateral constitute a single class of claims (rather than separate classes of senior and junior secured claims), then each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby acknowledges and agrees that all distributions from the Shared Collateral shall be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Shared Collateral, with the effect being that, to the extent that the aggregate value of the Shared Collateral is sufficient (for this purpose ignoring all claims held by the Junior Priority Debt Parties), the Senior Secured Parties shall be entitled to receive, in addition to amounts distributed to them in respect of principal, pre-petition interest, fees, expenses and other claims, all amounts owing in respect of post-petition interest, fees and expenses (whether or not allowed or allowable in such Insolvency or Liquidation Proceeding) before any distribution from the Shared Collateral is made in respect of the Junior Priority Debt Obligations, with each Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby acknowledging and agreeing to turn over to the Senior Representative amounts otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence, even if such turnover has the effect of reducing the claim or recovery of the Junior Priority Debt Parties.

SECTION 6.06. No Waivers of Rights of Senior Secured Parties. Nothing contained herein shall, except as expressly provided herein, prohibit or in any way limit the Senior Representative or any other Senior Secured Party from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by any Junior Priority Debt Party, including the seeking by any Junior Priority Debt

Party of adequate protection or the asserting by any Junior Priority Debt Party of any of its rights and remedies under the Junior Priority Debt Documents or otherwise.

SECTION 6.07. Application. This Agreement, which the parties hereto expressly acknowledge is a "subordination agreement" under Section 510(a) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law, shall be effective before, during and after the commencement of any Insolvency or Liquidation Proceeding. The relative rights as to the Shared Collateral and Proceeds thereof shall continue after the commencement of any Insolvency or Liquidation Proceeding on the same basis as prior to the date of the petition therefor, subject to any court order approving the financing of, or use of cash collateral by, any Grantor. All references herein to any Grantor shall include such Grantor as a debtor-in-possession and any receiver or trustee for such Grantor.

SECTION 6.08. Other Matters. To the extent that any Junior Priority Representative or any Junior Priority Debt Party has or acquires rights under Section 363 or Section 364 of the Bankruptcy Code or any similar provision of any other Bankruptcy Law with respect to any of the Shared Collateral, such Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees not to assert any such rights without the prior written consent of the Senior Representative, provided that if requested by the Senior Representative, such Junior Priority Representative shall timely exercise such rights in the manner requested by the Senior Representative, including any rights to payments in respect of such rights.

SECTION 6.09. Limitations. Until the Discharge of Senior Obligations has occurred, each Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that it will not, and will not join with or support any third party in making, opposing, objecting or contesting, as the case may be, in any Insolvency or Liquidation Proceeding, (i) oppose, object to or contest the determination of the extent of the Liens held by any of the Senior Secured Parties or the value of any super priority claims under Section 506(a) of the Bankruptcy Code, (ii) oppose, object to or contest the payment to the Senior Secured Parties of interest, fees or expenses under Section 506(b) of the Bankruptcy Code or (iii) assert or enforce any claim under Section 506(c) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law senior to or on a parity with the Liens securing the Senior Obligations for costs or expenses of preserving or disposing of any Shared Collateral. Until the Discharge of Senior Obligations has occurred, to the extent any Junior Priority Debt Party receives any payments or consideration on account of or resulting from claims under 506(c) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law in violation of the immediately-preceding sentence, then such Junior Priority Debt Party will turn over to the Senior Representative such amounts, even if such turnover has the effect of reducing the claim or recovery of the Junior Priority Debt Parties.

SECTION 6.10. Reorganization Securities; Voting.

(a) If, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor or equity securities are distributed, pursuant to a plan of reorganization, plan of liquidation, agreement for composition, or other type of plan of arrangement or restructuring, on account of the Senior Obligations and/or the Junior Priority Debt Obligations (collectively, a "Plan Distribution"), any such Plan Distribution received by a Junior Priority Debt Party shall be turned over to the Senior Representative for application in accordance with Section 4.2.

(b) No Junior Priority Debt Party (whether in the capacity of a secured creditor or an unsecured creditor) shall propose, vote in favor of, or otherwise directly or indirectly support any plan of reorganization, plan of liquidation, agreement for composition, or other type of plan of arrangement or restructuring that is inconsistent with or in contravention of the terms of the priorities or other provisions of this Agreement. Without limiting the generality of the foregoing or of the other provisions of this Agreement, any vote to accept, and any other act to support the confirmation or approval of, any plan or reorganization or liquidation that is inconsistent with or in contravention of the terms of this Agreement, including in any Junior Priority Debt Party's capacity as an unsecured creditor, shall be inconsistent with and, accordingly, a violation of the terms of this Agreement and the Senior Representative shall be entitled (and is hereby authorized by the Junior Priority Representative, on behalf of each applicable Junior Priority Debt Party) to have any such vote to accept any such plan of reorganization or liquidation changed and any such support of any such plan of reorganization or liquidation withdrawn.

SECTION 6.11. Section 1111(b) of the Bankruptcy Code. The Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, shall not object to, oppose, support any objection to, or take any other action to impede, the right of any Senior Secured Party to make an election under Section 1111(b)(2) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law. The Junior Priority Representative, for itself and on behalf of each Junior Priority Debt Party under its Junior Priority Debt Facility, waives any claim it may hereafter have against any senior claimholder arising out of the election by any Senior Secured Party of the application of Section 1111(b)(2) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law.

SECTION 6.12. Post-Petition Interest. Neither the Junior Priority Representative nor any other Junior Priority Debt Party shall oppose or seek to challenge any claim by the Senior Representative or any other Senior Secured Party for allowance in any Insolvency or Liquidation Proceeding of Senior Obligations consisting of claims for post-petition interest, fees, or expenses under Section 506(b) of the Bankruptcy Code or any similar provision of any other Bankruptcy Law or otherwise. Regardless of whether any such claim for post-petition interest, fees or expenses is allowed or allowable, and without limiting the generality of the other provisions of this Agreement, this Agreement expressly is intended to include and does include the "rule of explicitness" in that this Agreement expressly entitles the Senior Secured Parties, and is intended to provide the Senior Secured Parties with the right, to receive payment of all post-petition interest, fees or expenses through distributions made pursuant to the provisions of this Agreement even though such interest, fees and expenses are not allowed or allowable against the bankruptcy estate of the Company or any other Grantor under Section 502(b)(2) or Section 506(b) of the Bankruptcy Code or under any other provision of the Bankruptcy Code or any other Bankruptcy Law.

SECTION 6.13. Deficiency Claim Turnover. Until the Discharge of Senior Obligations has occurred, if, in connection with an Insolvency or Liquidation Proceeding, any Junior Priority Debt Party receives a distribution (whether in cash or in-kind) solely on account of a deficiency claim out of property not constituting Collateral (such amount, the "Turnover Proceeds"), such Junior Priority Debt Party's interest in such Turnover Proceeds shall be subject and subordinate to the Senior Secured Parties, and the Junior Priority Debt Parties shall segregate and hold in trust such Turnover Proceeds for the benefit of Senior Secured Parties and shall forthwith pay over such Turnover Proceeds in the form received to the Senior Representative for application to the Senior Obligations.

SECTION 6.14. Asset Dispositions. Neither the Junior Priority Representative nor any other Junior Priority Debt Party shall, in an Insolvency Proceeding or otherwise, oppose any sale or

disposition of any Collateral that is supported by the Senior Representative or any Senior Secured Party, and the Junior Priority Representative and each other Junior Priority Debt Party will be deemed to have consented under Section 363 of the Bankruptcy Code (and otherwise) to any sale of any Collateral supported by the Senior Secured Parties and to have released their Liens on such assets to the extent such assets constitute Junior Priority Collateral; provided that the proceeds of such sale or disposition are applied in accordance with the terms of this Agreement. For the avoidance of doubt, no Junior Priority Debt Party shall raise any objection that an unsecured creditor could assert in its capacity as an unsecured creditor.

ARTICLE VII

Reliance; Etc.

SECTION 7.01. Reliance. The consent by the Senior Secured Parties to the execution and delivery of the Junior Priority Debt Documents to which the Senior Secured Parties have consented and all loans and other extensions of credit made or deemed made on and after the date hereof by the Senior Secured Parties to the Company or any Subsidiary shall be deemed to have been given and made in reliance upon this Agreement. Each Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, acknowledges that it and such Junior Priority Debt Parties have, independently and without reliance on the Senior Representative or other Senior Secured Party, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into the Junior Priority Debt Documents to which they are party or by which they are bound, this Agreement and the transactions contemplated hereby and thereby, and they will continue to make their own credit decisions in taking or not taking any action under the Junior Priority Debt Documents or this Agreement; provided that nothing in this Section 7.01 shall impose any obligation on any Representative to make any credit decisions beyond that which may be required by its applicable debt documents.

SECTION 7.02. No Warranties or Liability. Each Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, acknowledges and agrees that neither the Senior Representative nor any other Senior Secured Party has made any express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectability or enforceability of any of the Senior Debt Documents, the ownership of any Shared Collateral or the perfection or priority of any Liens thereon. The Senior Secured Parties will be entitled to manage and supervise their respective loans and extensions of credit under the Senior Debt Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate, and the Senior Secured Parties may manage their loans and extensions of credit without regard to any rights or interests that the Junior Priority Representatives and the Junior Priority Debt Parties have in the Shared Collateral or otherwise, except as otherwise provided in this Agreement. Neither the Senior Representative nor any other Senior Secured Party shall have any duty to any Junior Priority Representative or Junior Priority Debt Party to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an event of default or default under any agreement with the Company or any Subsidiary (including the Junior Priority Debt Documents), regardless of any knowledge thereof that they may have or be charged with. Except as expressly set forth in this Agreement, the Senior Representative, the Senior Secured Parties, the Junior Priority Representatives and the Junior Priority Debt Parties have not otherwise made to each other, nor do they hereby make to each other, any warranties, express or implied, nor do they assume any liability to each other with respect to (a) the enforceability, validity, value or collectability of any of the Senior Obligations, the Junior Priority Debt Obligations or any guarantee or security which may have been granted to any of them in connection

therewith, (b) any Grantor's title to or right to transfer any of the Shared Collateral or (c) any other matter except as expressly set forth in this Agreement.

SECTION 7.03. Obligations Unconditional. All rights, interests, agreements and obligations of the Senior Representative, the Senior Secured Parties, the Junior Priority Representatives and the Junior Priority Debt Parties hereunder shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any Senior Debt Document or any Junior Priority Debt Document;

(b) any change in the time, manner or place of payment of, or in any other terms of, all or any of the Senior Obligations or Junior Priority Debt Obligations, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of the Senior Indenture or any other Senior Debt Document or of the terms of any Junior Priority Debt Document;

(c) any exchange of any security interest in any Shared Collateral or any other collateral or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the Senior Obligations or Junior Priority Debt Obligations or any guarantee thereof;

(d) the commencement of any Insolvency or Liquidation Proceeding in respect of the Company or any other Grantor; or

(e) any other circumstances that otherwise might constitute a defense available to, or a discharge of, (i) the Company or any other Grantor in respect of the Senior Obligations (other than as set forth in Section 5.06 hereof or other payments or performance) or (ii) any Junior Priority Representative or Junior Priority Debt Party in respect of this Agreement.

ARTICLE VIII

Miscellaneous

SECTION 8.01. Conflicts. In the event of any conflict between the provisions of this Agreement and the provisions of any Senior Debt Document or any Junior Priority Debt Document, the provisions of this Agreement shall govern.

SECTION 8.02. Continuing Nature of this Agreement; Severability. Subject to Section 5.06 and Section 6.04, this Agreement shall continue to be effective until the Discharge of Senior Obligations shall have occurred. This is a continuing agreement of Lien and payment subordination, and the Senior Secured Parties may continue, at any time and without notice to the Junior Priority Representatives or any Junior Priority Debt Party, to extend credit and other financial accommodations and lend monies to or for the benefit of the Company or any Subsidiary constituting Senior Obligations in reliance hereon. The terms of this Agreement shall survive and continue in full force and effect in any Insolvency or Liquidation Proceeding. Any provision of this Agreement that is invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties shall endeavor in good-faith

negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

SECTION 8.03. Amendments; Waivers.

(a) No failure or delay on the part of any party hereto in exercising any right, remedy, privilege or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, remedy, privilege or power, or any abandonment or discontinuance of steps to enforce such a right, remedy, privilege or power, preclude any other or further exercise thereof or the exercise of any other right, remedy, privilege or power. The rights, powers, privileges and remedies of the parties hereto are cumulative and are not exclusive of any rights, powers, privileges or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by any party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on any party hereto in any case shall entitle such party to any other or further notice or demand in similar or other circumstances.

(b) This Agreement may only be amended or modified or any provision waived by an instrument in writing signed by each Representative (in each case, acting in accordance with the documents governing the applicable Debt Facility) and the Grantors. Any such amendment, supplement or waiver shall be in writing and shall be binding upon the Senior Secured Parties and the Junior Priority Debt Parties and their respective successors and assigns. Each waiver of the terms of this Agreement, if any, shall be a waiver only with respect to the specific instance involved and shall not impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time.

(c) Notwithstanding the foregoing, without the consent of any Secured Party, any Representative may become a party hereto by execution and delivery of a Joinder Agreement in accordance with Section 8.09 of this Agreement and upon such execution and delivery, such Representative and the Secured Parties and Junior Priority Debt Obligations of the Debt Facility for which such Representative is acting shall be subject to the terms hereof.

SECTION 8.04. Information Concerning Financial Condition of the Company and the Subsidiaries. The Senior Representative, the Senior Secured Parties, the Junior Priority Representatives and the Junior Priority Debt Parties shall each be responsible for keeping themselves informed of (a) the financial condition of the Company and its Subsidiaries and all endorsers or guarantors of the Senior Obligations or the Junior Priority Debt Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the Senior Obligations or the Junior Priority Debt Obligations. The Senior Representative, the Senior Secured Parties, the Junior Priority Representatives and the Junior Priority Debt Parties shall have no duty to advise any other party hereunder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event that the Senior Representative, any Senior Secured Party, any Junior Priority Representative or any Junior Priority Debt Party, in its sole discretion, undertakes at any time or from time to time to provide any such information to any other party, it shall be under no obligation to (i) make, and the Senior Representative, the Senior Secured Parties, the Junior Priority Representatives and the Junior Priority Debt Parties shall not make or be deemed to have made, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided, (ii) provide any additional information or to provide any such information on any subsequent occasion, (iii) undertake any investigation or (iv) disclose any information that, pursuant to accepted or reasonable commercial finance

practices, such party wishes to maintain confidential or is otherwise required to maintain confidential. Nothing in this Section 8.04 shall impose an obligation on the Senior Representative or the trustee under the Senior Indenture to keep itself informed as to the financial condition of the Company or its Subsidiaries or the risk of non-payment beyond that which may be required by the Senior Indenture.

SECTION 8.05. Subrogation. Each Junior Priority Representative, for and on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, hereby waives any rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of Senior Obligations has occurred.

SECTION 8.06. Application of Payments. Except as otherwise provided herein, all payments received by the Senior Secured Parties may be applied, reversed and reapplied, in whole or in part, to such part of the Senior Obligations as the Senior Secured Parties, in their sole discretion, deem appropriate, in accordance with the terms of the Senior Debt Documents. Each Junior Priority Representative, on behalf of itself and each Junior Priority Debt Party under its Junior Priority Debt Facility, assents to any such extension or postponement of the time of payment of the Senior Obligations or any part thereof and to any other indulgence with respect thereto, to any substitution, exchange or release of any security that may at any time secure any part of the Senior Obligations and to the addition or release of any other Person primarily or secondarily liable therefor.

SECTION 8.07. Additional Grantors. The Grantors agree that, if any Subsidiary shall become a Grantor after the date hereof, it will promptly cause such Subsidiary to become party hereto by executing and delivering an instrument substantially in the form of Annex I. Upon such execution and delivery, such Subsidiary will become a Grantor hereunder with the same force and effect as if originally named as a Grantor herein. The execution and delivery of such instrument shall not require the consent of any other party hereunder, and will be acknowledged by the Designated Junior Priority Representative and the Senior Representative. The rights and obligations of each Grantor hereunder shall remain in full force and effect notwithstanding the addition of any new Grantor as a party to this Agreement.

SECTION 8.08. Refinancings. The Senior Obligations and the Junior Priority Debt (other than the Initial Junior Priority Debt) may be refinanced or replaced, in whole or in part, in each case, without notice to, or the consent (except to the extent a consent is otherwise required to permit the refinancing or replacement under any Senior Debt Document or Junior Priority Debt Document) of the Senior Representative, any Junior Priority Representative or any other Secured Party, all without affecting the Lien priorities provided for herein or the other provisions hereof; provided that any such refinancing or replacement debt shall satisfy the requirements of Section 8.09. The Designated Junior Priority Representative hereby agrees that at the request of the Company, in connection with a refinancing or replacement of Senior Obligations in accordance with Section 5.06 ("Replacement Senior Obligations"), it will enter into a customary agreement with the agent for the Replacement Senior Obligations containing terms and conditions substantially similar to the terms and conditions of this Agreement or otherwise terms and conditions that are customary.

SECTION 8.09. Additional Junior Debt Facilities. To the extent, but only to the extent, permitted by the provisions of the then extant Senior Debt Documents and the Junior Priority Debt Documents, the Company may incur or issue and sell one or more series or classes of Junior Priority Debt. Any such additional class or series of Junior Priority Debt (the "Junior Priority Class Debt") may be secured by a Junior priority or third priority (or lower priority, and in each case of third priority or lower priority, subject to an intercreditor agreement required pursuant to Junior Priority Debt Documents), subordinated Lien on Shared Collateral, in each case under and pursuant to the relevant

Junior Priority Collateral Documents for such Junior Priority Class Debt, if and subject to the condition that the Representative of any such Junior Priority Class Debt (each, a "Junior Priority Class Debt Representative"), acting on behalf of the holders of such Junior Priority Class Debt (such Representative and holders in respect of any Junior Priority Class Debt being referred to as the "Junior Priority Class Debt Parties"), becomes a party to this Agreement by satisfying conditions (i) through (iii), as applicable of this Section 8.09. In order for a Junior Priority Class Debt Representative to become a party to this Agreement:

(i) such Junior Priority Class Debt Representative shall have executed and delivered a Joinder Agreement substantially in the form of Annex II hereto (with such changes as may be reasonably approved by the Senior Representative and such Junior Priority Class Debt Representative) pursuant to which it becomes a Representative hereunder, and the Class Debt in respect of which such Junior Priority Class Debt Representative is the Representative and the related Junior Priority Class Debt Parties become subject hereto and bound hereby;

(ii) the Company shall have delivered to the Senior Representative and Designated Junior Priority Representative an officer's certificate stating that the conditions set forth in this Section 8.09 are satisfied (or waived) with respect to such Junior Priority Class Debt and, if requested, true and complete copies of each of the material Junior Priority Debt Documents relating to such Junior Priority Class Debt, certified as being true and correct in all material respects by an Authorized Officer of the Company; and identifying the obligations to be designated as Additional Junior Priority Debt, as applicable, and certifying that such obligations are permitted to be incurred and secured on a junior basis under each of the Junior Priority Debt Documents; and

(iii) the Junior Priority Debt Documents relating to such Junior Priority Class Debt shall provide that each Junior Priority Class Debt Party with respect to such Junior Priority Class Debt will be subject to and bound by the provisions of this Agreement in its capacity as a holder of such Junior Priority Class Debt.

SECTION 8.10. Consent to Jurisdiction; Waivers. Each Representative, on behalf of itself and the Secured Parties of the Debt Facility for which it is acting, irrevocably and unconditionally:

(a) consents and agrees that any legal action, suit or proceeding against it with respect to obligations, liabilities or any other matter arising out of or in connection with this Agreement may be brought in the courts of the State of New York or the courts of the United States of America located in the Borough of Manhattan, New York City, New York and, until amounts due and to become due in respect of the Notes have been paid, hereby irrevocably consents and submits to the non-exclusive jurisdiction of each such court in personam, generally and unconditionally with respect to any action, suit or proceeding for itself in respect of its properties, assets and revenues; and

(b) waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions, suits or proceedings arising out of or in connection with this Agreement brought in the courts of the State of New York or the courts of the United States of America located in the Borough of Manhattan, New York City, New York and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

SECTION 8.11. Notices. All notices, requests, demands and other communications provided for or permitted hereunder shall be in writing and shall be sent:

(i) if to the Company or any other Grantor, to the Company, at its address at:

Address: LIVEPERSON, INC.
530 7th Avenue, Floor M1
New York, NY 10018
Attention: John Collins; Monica Greenberg
Email: JCollins@liveperson.com; MGreenberg@liveperson.com

with a copy, which shall not constitute notice, to:

Address: Fried, Frank, Harris, Shriver & Jacobson LLP
One New York Plaza
New York, NY 10004
Attention: Daniel Bursky; Mark Hayek
Email: Daniel.Bursky@friedfrank.com; Mark.Hayek@friedfrank.com

(ii) if to the Initial Junior Priority Representative to it at:

Address:
Attention:
Email:
Telephone No.:

with a copy, which shall not constitute notice, to:

Address:
Attention:
Email:
Facsimile No.:

(iii) if to the Senior Representative, to it at:

Address:	U.S. Bank Trust Company, National Association 633 West Fifth Street, 24th Floor Los Angeles, California 90071
Attention:	B. Scarbrough (LivePerson, Inc.)
Email:	bradley.scarbrough@usbank.com
Telephone No.:	213.615.6047

with a copy, which shall not constitute notice, to:

Address:	Shipman & Goodwin LLP One Constitution Plaza Hartford, CT 06103
Attention:	Nate Plotkin
Email:	nplotkin@goodwin.com

(iv) if to any other Representative, to it at the address specified by it in the Joinder Agreement delivered by it pursuant to Section 8.09.

Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and, may be personally served, faxed, electronically mailed or sent by courier service or U.S. mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a fax or electronic mail or upon receipt via U.S. mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth above or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties. As agreed to in writing among each Representative from time to time, notices and other communications may also be delivered by e-mail to the e-mail address of a representative of the applicable person provided from time to time by such person.

SECTION 8.12. Further Assurances. The Senior Representative, on behalf of itself and each Senior Secured Party under the Senior Indenture for which it is acting, each Junior Priority Representative, on behalf of itself, and each Junior Priority Debt Party under its Junior Priority Debt Facility, agrees that it will take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as the other parties hereto may reasonably request to effectuate the terms of, and the Lien priorities contemplated by, this Agreement.

SECTION 8.13. **GOVERNING LAW; WAIVER OF JURY TRIAL**.

(A) **THIS AGREEMENT, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

(B) **EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY**.

SECTION 8.14. Binding on Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Senior Representative, the Senior Secured Parties, the Junior

Priority Representatives, the Junior Priority Debt Parties, the Company, the other Grantors party hereto and their respective permitted successors and assigns.

SECTION 8.15. Section Headings. Section headings herein are for convenience of reference only and shall not affect the interpretation hereof.

SECTION 8.16. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to be an original and shall constitute one and the same instrument. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. The Company agrees to assume all risks arising out of the use of digital signatures and electronic methods to submit this Agreement or any document to be signed in connection with this Agreement to the Senior Representative, including without limitation the risk of the Senior Representative acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 8.17. Authorization. By its signature, each Person (other than an individual) executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement. The Senior Representative represents and warrants that this Agreement is binding upon the Senior Secured Parties under the Senior Debt Documents. The Junior Priority Representative represents and warrants that this Agreement is binding upon the Junior Priority Debt Parties under the Junior Priority Debt Documents.

SECTION 8.18. No Third Party Beneficiaries; Successors and Assigns. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and its respective successors and assigns and shall inure to the benefit of and bind each of the Senior Secured Parties and the Junior Priority Debt Parties. Nothing in this Agreement shall impair, as between the Company and the other Grantors and the Senior Representative and the Senior Secured Parties, and as between the Company and the other Grantors and the Junior Priority Representatives and the Junior Priority Debt Parties, the obligations of the Company and the other Grantors, which are absolute and unconditional, to pay principal, interest, fees and other amounts as provided in the Senior Debt Documents and the Junior Priority Debt Documents respectively.

SECTION 8.19. Effectiveness. This Agreement shall become effective when executed and delivered by all parties hereto.

SECTION 8.20. Senior Representative and Representative. It is understood and agreed that (a) the Senior Representative is entering into this Agreement in its capacity as collateral agent under the Senior Indenture and the provisions of Article 7 and Article 13 of the Senior Indenture applicable to the Collateral Agent (as defined therein) thereunder shall also apply to the Senior Representative hereunder and (b) [_____] is separately entering into this Agreement in its capacity as [administrative agent][trustee] and collateral agent under the Junior Priority Credit Agreement, and the provisions of Section [__] of such [credit agreement][trustee] applicable to the [Agents] [Trustee] (as defined therein) thereunder shall also apply to the Initial Junior Priority Representative hereunder.

SECTION 8.21. Relative Rights. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement is intended to or will (a) (except to the extent expressly contemplated herein) amend, waive or otherwise modify the provisions of the Senior Indenture, any other Senior Debt Document or any Junior Priority Debt Documents, or permit the Company or any other Grantor to take any action, or fail to take any action, to the extent such action or failure would otherwise constitute a breach of, or default under, the Senior Indenture or any other Senior Debt Document or any Junior Priority Debt Documents, (b) change the relative priorities of the Senior Obligations or the Liens granted under the Senior Collateral Documents on the Shared Collateral (or any other assets) as among the Senior Secured Parties, (c) otherwise change the relative rights of the Senior Secured Parties in respect of the Shared Collateral as among such Senior Secured Parties, or (d) obligate the Company or any other Grantor to take any action, or fail to take any action, that would otherwise constitute a breach of, or default under, the Senior Indenture or any other Senior Debt Document or any Junior Priority Debt Document.

SECTION 8.22. Survival of Agreement. All covenants, agreements, representations and warranties made by any party in this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Senior Representative

By: _____
Name:
Title:

[_____],
as Initial Junior Priority Representative

By: _____
Name:
Title:

LIVEPERSON, INC.

By: _____
Name:
Title:

[ ],
as a Guarantor

By: _____
Name:
Title:

ANNEX I

SUPPLEMENT NO. [__] (this "Supplement"), dated as of [__], to the INTERCREDITOR AGREEMENT, dated as of [_____], 20[__] (as the same may be amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"), among LIVEPERSON, INC., a Delaware corporation (the "Company"), certain subsidiaries and affiliates of the Company (each a "Grantor"), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Senior Representative, [_____], as Initial Junior Priority Representative, and the additional Representatives from time to time a party thereto.

A. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement. Section 1.02 contained in the Intercreditor Agreement is incorporated herein, mutatis mutandis, as if a part hereof.

B. The Grantors have entered into the Intercreditor Agreement. Pursuant to the Senior Indenture and certain Junior Priority Debt Documents, certain newly acquired or organized Subsidiaries of the Company are required to enter into the Intercreditor Agreement. Section 8.07 of the Intercreditor Agreement provides that such Subsidiaries may become party to the Intercreditor Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned Subsidiary (the "New Grantor") is executing this Supplement in accordance with the requirements of the Senior Indenture and the Junior Priority Debt Documents.

Accordingly, the New Grantor agrees as follows:

SECTION 1. In accordance with Section 8.07 of the Intercreditor Agreement, the New Grantor by its signature below becomes a Grantor under the Intercreditor Agreement with the same force and effect as if originally named therein as a Grantor, and the New Grantor hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Grantor thereunder. Each reference to a "Grantor" in the Intercreditor Agreement shall be deemed to include the New Grantor. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Grantor represents and warrants to the Senior Representative and the other Secured Parties on the date hereof that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law, (ii) the need for filings and registrations necessary to create or perfect the Liens on the Collateral granted by the Grantors in favor of the Secured Parties and (iii) with respect to enforceability against Foreign Subsidiaries or under foreign laws, and the effect of foreign laws, rules and regulations as they relate to Foreign Security Agreements.

SECTION 3. This Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective when the Senior Representative shall have received a counterpart of this Supplement that bears the signature of the New Grantor (and, for the avoidance of doubt, such effectiveness shall not be subject to, or conditioned on, the acknowledgement by the Senior Representative, the Designated Junior Priority Representative or any other person). Delivery of an executed signature page to this Supplement by facsimile transmission or other electronic method shall be as effective as delivery of a manually signed counterpart of this Supplement. The words "execution," "signed," "signature," and

words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. THIS SUPPLEMENT, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

SECTION 6. In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 8.11 of the Intercreditor Agreement. All communications and notices hereunder to the New Grantor shall be given to it in care of the Company as specified in the Intercreditor Agreement.

SECTION 8. The Company agrees to reimburse the Senior Representative for its reasonable and documented out-of-pocket expenses in connection with this Supplement, including the reasonable documented fees, other charges and disbursements of counsel for the Senior Representative to the extent reimbursable under the Senior Debt Documents.

[*Remainder of this page intentionally left blank – signature pages follow*]

IN WITNESS WHEREOF, the New Grantor, and the Senior Representative have duly executed this Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW SUBSIDIARY GRANTOR]

By: _____
Name:
Title:

Acknowledged by:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Senior Representative

By: _____
Name:
Title:

By: _____
Name:
Title:

[_],
as Designated Junior Priority Representative

By: _____
Name:
Title:

ANNEX II

[FORM OF] REPRESENTATIVE SUPPLEMENT NO. [__] (this "Representative Supplement"), dated as of [__], to the INTERCREDITOR AGREEMENT, dated as of [_____], 20[__] (as the same may be amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time, the "Intercreditor Agreement"), among LIVEPERSON, INC., a Delaware corporation (the "Company"), certain subsidiaries and affiliates of the Company (each a "Grantor"), U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Senior Representative, [_____], as Initial Junior Priority Representative, and the additional Representatives from time to time a party thereto.

A. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement. Section 1.02 contained in the Intercreditor Agreement is incorporated herein, mutatis mutandis, as if a part hereof.

B. As a condition to the ability of the Company to incur Junior Priority Debt Obligations after the effective date of the Intercreditor Agreement and to secure such Junior Priority Class Debt with the Junior Priority Lien and to have such Junior Priority Class Debt guaranteed by the Grantors on a subordinated lien basis, in each case under and pursuant to the Junior Priority Collateral Documents, the Junior Priority Class Debt Representative in respect of such Junior Priority Class Debt is required to become a Representative under, and such Junior Priority Class Debt and the Junior Priority Class Debt Parties in respect thereof are required to become subject to and bound by, the Intercreditor Agreement. Section 8.09 of the Intercreditor Agreement provides that such Junior Priority Class Debt Representative may become a Representative under, and such Junior Priority Class Debt and such Junior Priority Class Debt Parties may become subject to and bound by, the Intercreditor Agreement, pursuant to the execution and delivery by the Junior Priority Class Debt Representative of an instrument in the form of this Representative Supplement and the satisfaction of the other conditions set forth in Section 8.09 of the Intercreditor Agreement. The undersigned Junior Priority Class Debt Representative (the "New Representative") is executing this Supplement in accordance with the requirements of the Senior Debt Documents and the Junior Priority Debt Documents.

Accordingly, the New Representative agrees as follows:

SECTION 1. In accordance with Section 8.09 of the Intercreditor Agreement, the New Representative by its signature below becomes a Representative under, and the related Junior Priority Class Debt and Junior Priority Class Debt Parties become subject to and bound by, the Intercreditor Agreement with the same force and effect as if the New Representative had originally been named therein as a Representative, and the New Representative, on behalf of itself and such Junior Priority Class Debt Parties, hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Junior Priority Representative and to the Junior Priority Class Debt Parties that it represents as Junior Priority Debt Parties. Each reference to a "Representative" or "Junior Priority Representative" in the Intercreditor Agreement shall be deemed to include the New Representative. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Representative represents and warrants to the Senior Representative and the other Secured Parties that (i) it has full power and authority to enter into this Representative Supplement, in its capacity as [agent] [trustee under [describe new facility]], (ii) this Representative Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms of such Agreement and (iii) the Junior Priority Debt Documents relating to such Junior Priority Class Debt provide that, upon the New

Representative's entry into this Agreement, the Junior Priority Class Debt Parties in respect of such Junior Priority Class Debt will be subject to and bound by the provisions of the Intercreditor Agreement as Junior Priority Debt Parties.

SECTION 3. This Representative Supplement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Representative Supplement shall become effective when the Senior Representative shall have received a counterpart of this Representative Supplement that bears the signature of the New Representative (and, for the avoidance of doubt, such effectiveness shall not be subject to, or conditioned on, the acknowledgement by the Senior Representative or any other person). Delivery of an executed signature page to this Representative Supplement by facsimile transmission or other electronic method shall be effective as delivery of a manually signed counterpart of this Representative Supplement. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. THIS SUPPLEMENT, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

SECTION 6. In case any one or more of the provisions contained in this Representative Supplement should be held invalid, illegal or unenforceable in any respect, no party hereto shall be required to comply with such provision for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein and in the Intercreditor Agreement shall not in any way be affected or impaired.

SECTION 7. All communications and notices hereunder shall be in writing and given as provided in Section 8.11 of the Intercreditor Agreement. All communications and notices hereunder to the New Representative shall be given to it at the address set forth below its signature hereto.

SECTION 8. The Company agrees to reimburse the Senior Representative for its reasonable out-of-pocket expenses in connection with this Representative Supplement, including the reasonable fees, other charges and disbursements of counsel for the Senior Representative to the extent reimbursable under the Senior Debt Documents.

IN WITNESS WHEREOF, the New Representative has duly executed this Representative Supplement to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW REPRESENTATIVE],
as [_____] for the holders of [_____]

By: _____
Name:
Title:

Address for notices:

_____

_____

Attention of: _____

Telecopy: _____

`

Acknowledged by:

LIVEPERSON, INC.

By: _____
Name:
Title:

THE GRANTORS
LISTED ON SCHEDULE I HERETO

By: _____
Name:
Title:

[_____]

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED.

WARRANT TO PURCHASE COMMON STOCK

Company: LIVEPERSON, INC., a Delaware corporation
Number of Shares of Common Stock: 9,746,723
Warrant Price: $0.75 per Share
Warrant Certificate No.: 0001
Issue Date: June 3, 2024
Expiration Date: June 3, 2034

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, Lynrock Lake Master Fund LP, a Cayman Islands exempted limited partnership (together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, "**Holder**") is entitled to purchase up to the number of duly authorized, validly issued, fully paid and non-assessable shares (the "**Shares**") of the above-stated common stock (the "**Common Stock**") of the above-named company (the "**Company**") at the above-stated Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant. The term "**Warrant**" as used herein shall include this Warrant and any warrants delivered in substitution or exchange therefor as provided herein.

SECTION 1. EXERCISE

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company, in any of the manners permitted by Section 5.5, the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1, and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased (rounded up to the nearest whole penny). Notwithstanding any contrary provision herein, in no event shall Holder be required to surrender or deliver an ink-signed paper copy of this Warrant or the Notice of Exercise in connection with its exercise hereof or of any rights hereunder, nor shall Holder be required to surrender or deliver a paper or other physical copy of this Warrant or a paper or other physical copy of the Notice of Exercise in connection with any exercise hereof (in each case, delivery by electronic mail being sufficient).

1.2 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in accordance with the requirements of Section 1.1 (a "**Cashless Exercise**"), Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is

being exercised. Thereupon, the Company shall issue to the Holder such number of duly authorized, validly issued, fully paid, and non-assessable Shares as are computed using the following formula:

$$X = Y(A-B)/A$$

where:

X = the number of Shares to be issued to the Holder;

Y = the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Warrant Price);

A = the Fair Market Value of one Share; and

B = the Warrant Price.

1.3 Fair Market Value. "**Fair Market Value**" shall mean: (a) with respect to the Common Stock or any other security that is then listed on a national stock exchange, the closing price or last sale price of such security reported for the business day immediately prior to the applicable date of determination; (b) with respect to the Common Stock or any other security that is not listed on a national stock exchange but is then quoted on the National Association of Securities Dealers, Inc. OTC Bulletin Board or such similar exchange or association, the closing price or last sale price of a share or unit of such security thereon reported for the business day immediately prior to the applicable date of determination; or (c) if neither of the foregoing applies, as jointly determined by the board of directors of the Company and Holder; *provided*, that if the parties are unable to reach agreement within a reasonable period of time, then such fair market value determination shall be determined by a nationally recognized investment banking, accounting or valuation firm that is not affiliated with the Company or Holder, in which case, the determination of such firm shall be final and conclusive (and the fees and expenses of such valuation firm shall be borne by the Company).

1.4 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or

other disposition of all or substantially all of the assets (including intellectual property) of the Company; (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization or recapitalization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation, reorganization, or recapitalization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation, reorganization, or recapitalization; (iii) any, direct or indirect, purchase offer, tender offer or exchange offer is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding shares of Common Stock; or (iv) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another person or group of related persons (as defined in Rule 13d-5(b)(1) promulgated under the Exchange Act) whereby such other person or group acquires 50% or more of the Company's then-outstanding total voting power.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the Fair Market Value of one Share would be greater than the Warrant Price in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be deemed to be Cashless Exercised pursuant to Section 1.2 above as to all Shares effective immediately prior to and contingent upon the consummation of a Cash/Public Acquisition; *provided*, *however*, that to the extent such exercise would violate the limitations on exercise set forth in Section 1.7, the Company must arrange for any Excess Exercise Shares (as defined herein) to be redeemed for cash instead for an amount equal to (i) the Fair Market Value of one Share, *minus* (ii) the then effective Warrant Price. In connection with such Cashless Exercise, Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as of the date thereof and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon exercise and, to the extent applicable, the amount of cash to be paid in respect of redeemed Excess Exercise Shares. In the event of a Cash/Public Acquisition where the Fair Market Value of one Share would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then, contingent upon the consummation of such Cash/Public Acquisition, this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition. The Company shall not effect any Cash/Public Acquisition unless the material definitive agreement governing such transaction shall provide for the redemption of any Excess Exercise Shares as set forth in this Section 1.6(b).

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant, and, in such case, appropriate adjustment (in form and substance satisfactory to the Holder) shall be made with respect to the Holder's rights under this Warrant to ensure that the provisions of this

Warrant shall thereafter be applicable, as nearly as possible, to any securities and/or other property thereafter acquirable upon exercise of this Warrant. The provisions of this Section 1.6(c) shall similarly apply to successive Acquisitions. The Company shall not effect any such Acquisition unless, prior to the consummation thereof, the successor Person (if other than the Company) resulting from such Acquisition shall assume, by written instrument substantially similar in form and substance to this Warrant and satisfactory to the Holder, the obligation to deliver to the Holder such securities and/or other property that, in accordance with the foregoing provisions, Holder shall be entitled to receive upon exercise of this Warrant. Notwithstanding anything to the contrary contained herein, with respect to any corporate event or other transaction contemplated by the provisions of this Section 1.6(c), the Holder shall have the right to elect prior to the consummation of such event or transaction, to give effect to the exercise rights set forth in Section 1 (subject to the limitations set forth in Section 1.7) instead of giving effect to the provisions contained in this Section 1.6(c) with respect to this Warrant.

(d) Notwithstanding any other provision hereof, if an exercise of any portion of this Warrant is to be made in connection with a public offering or a sale of the Company, a Cash/Public Acquisition, or any other transaction, such exercise may at the election of the Holder be conditioned upon the consummation of such offering or transaction, as applicable, in which case such exercise shall not be deemed to be effective until immediately prior to the consummation of such transaction.

(e) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded on the Nasdaq Stock Market LLC or on another United States national or regional securities exchange, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise or convert this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the issuance of this Warrant, if exercised pursuant to Cashless Exercise (or six (6) months beyond the exercise of this Warrant, if exercised for cash).

1.7 Limitations on Exercise.

(a) Notwithstanding anything to the contrary, the Company shall not effect the exercise of any portion of this Warrant for Shares, Holder shall not have the right to exercise any portion of this Warrant for Shares, and any such exercise shall be null and void *ab initio* and treated as if never made, to the extent that after giving effect or immediately prior to such exercise of the Warrant for Shares, Holder (x) together with the other Attribution Parties (as defined below), collectively would beneficially own in excess of 4.99% of the number of shares of Common Stock issued and outstanding immediately after giving effect to such exercise of this Warrant for Shares or (y) would, for purposes of Section 871(h)(3)(C) of the Internal Revenue Code of 1986, as amended (the "**Code**"), be deemed to own, directly indirectly or by attribution

(in accordance with the attribution rules set forth in Sections 871(h)(3)(C) and 881(c) of the Code, beneficially or of record, in excess of 4.99% of the number of shares of Common Stock issued and outstanding immediately after giving effect to such exercise of this Warrant for Shares (the "**Maximum Percentage**"). For purposes of clause (x) of the definition of Maximum Percentage, the aggregate number of shares of Common Stock beneficially owned by Holder and the other Attribution Parties shall include the number of shares of Common Stock held by Holder and all other Attribution Parties plus the number of shares of Common Stock issuable upon conversion of this Warrant with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (A) conversion of the remaining, unexercised portion of this Warrant beneficially owned by such Holder or any of the other Attribution Parties and (B) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any convertible notes, convertible preferred stock or warrants) beneficially owned by such Holder or any of the Attribution Parties subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 1.7. For purposes of clause (x) above, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. For purposes of determining the number of outstanding shares of Common Stock Holder may acquire upon the exercise of this Warrant without exceeding the Maximum Percentage, Holder may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the Securities and Exchange Commission, as the case may be, (y) a more recent public announcement by the Company or (z) any other written notice by the Company, if any, setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives an Notice of Exercise from Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall notify Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Notice of Exercise would otherwise cause such Holder's beneficial or deemed ownership under clause (x) or clause (y) above, as determined pursuant to this Section 1.7, to exceed the Maximum Percentage, such Holder must notify the Company of a reduced number of shares of Common Stock to be delivered pursuant to such Notice of Exercise. Upon delivery of a written notice to the Company, Holder may from time to time increase (with such increase not effective until the sixty-first (61st) day after delivery of such notice) or decrease the Maximum Percentage of such Holder to any other percentage not in excess of 9.99% as specified in the notice; *provided* that (i) any increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to Holder and its Attribution Parties, and not to any other holder of a warrant. As used herein, "**Attribution Parties**" means, collectively, the following Persons and entities: (i) any investment vehicle, including any funds, feeder funds or managed accounts, currently, or from time to time after the date hereof, directly or indirectly managed or advised by Holder's investment manager or any of its affiliates or principals, (ii) any direct or indirect affiliates of Holder or any of the foregoing, (iii) any Person acting or who would be deemed to be acting as a Section 13(d) group together with Holder and any of the foregoing and (iv) any other Persons whose beneficial ownership of the Common Stock would be aggregated with Holder's and the other Attribution Parties for purposes of Section 13(d) of the Act.

(b) Any portion of an exercise that would result in the issuance of Shares in excess of the Maximum Percentage ("**Excess Exercise Shares**") shall be cancelled and treated as null and void *ab initio*.

(c) In any case in which the exercise of this Warrant for Shares would result in Holder, together with the other Attribution Parties, collectively beneficially owning shares of Common Stock in excess of the Maximum Percentage, the Company shall issue to Holder the number of shares of Common Stock that would result in Holder beneficially owning, together with the other Attribution Parties, as approximately equal to the Maximum Percentage as possible without the Company issuing any fractional shares of Common Stock.

(d) In furtherance of this Section 1.7, upon written request of Holder, the Company shall within one (1) business day confirm in writing the number of shares of Common Stock then issued and outstanding.

(e) The provisions of this Section 1.7 shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this section to the extent necessary or desirable to properly give effect to the Maximum Percentage.

(f) For purposes of clarity, the shares of Common Stock issuable to Holder pursuant to the terms of this Warrant in excess of the Maximum Percentage shall not be deemed to be beneficially owned by Holder for any purpose, including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the Exchange Act.

(g) The limitations contained in this paragraph may not be waived and shall apply to a successor holder of the Warrant.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Adjustments to Warrant Price. The Warrant Price shall be subject to adjustment (without duplication) upon the occurrence of any of the following events:

(a) The issuance of Common Stock as a dividend or distribution to all holders of Common Stock, or a subdivision, combination or reclassification of the outstanding shares of Common Stock into a greater or smaller number of shares, in which event the Warrant Price shall be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0}{N_1}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification; and

N_1 = the number of shares of Common Stock equal to (i) in the case of a dividend or distribution, the sum of the number of shares outstanding immediately prior to the Open of Business on the Ex-Date for such dividend or distribution plus the total number of shares issued pursuant to such dividend or distribution or (ii) in the case of a subdivision, combination or reclassification, the number of shares outstanding immediately after such subdivision, combination or reclassification.

Such adjustment shall become effective immediately after the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification. If any dividend or distribution or subdivision, combination or reclassification of the type described in this Section 2.1(a) is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to the Warrant Price that would then be in effect if such dividend or distribution or subdivision, combination or reclassification had not been declared or announced, as the case may be.

(b) The issuance to all holders of Common Stock of shares of Common Stock (or Derivative Securities) at an Effective Consideration per share that is below the Fair Market Value of a share of Common Stock on the Trading Day immediately preceding the date of the announcement of such issuance, in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 + C/M}{N_0 + N_A}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such issuance;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such issuance;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the Ex-Date for such issuance;

N_A = the number of shares of Common Stock issued and, if applicable, issuable upon exercise, conversion or exchange of any Derivative Securities assuming full physical settlement;

C = the total consideration receivable by the Company on issuance and, if applicable, the exercise, conversion or exchange of any Derivative Securities assuming full physical settlement; and

M = the Closing Sale Price of a share of Common Stock on the Trading Day immediately preceding the date of the announcement of such issuance.

Such adjustment shall become effective immediately after the Open of Business on the Ex-Date for such issuance. In the event that an issuance of such Common Stock or Derivative Securities is announced but such Common Stock or Derivative Securities are not so issued, the Warrant Price shall again be adjusted to be the Warrant Price that would then be in effect if the Ex-Date for such issuance had not occurred. If the application of this Section 2.1(b) to any issuance would result in an increase in the Warrant Price, no adjustment shall be made for such issuance under this Section 2.1(b).

(c) The issuance of shares of Common Stock (or Derivative Securities) at an Effective Consideration that is less than the Warrant Price in effect immediately prior to the Open of Business on the date of such issuance, in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 + C/W_0}{N_0 + N_A}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the date of such issuance;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the date of such issuance;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the date of such issuance;

N_A = the number of shares of Common Stock issued and, if applicable, issuable upon exercise, conversion or exchange of any Derivative Securities assuming full physical settlement; and

C = the total consideration receivable by the Company on issuance and, if applicable, the exercise, conversion or exchange of any Derivative Securities assuming full physical settlement.

Such adjustment shall become effective immediately after the Open of Business on the date of such issuance. In the event that an issuance of such Common Stock or Derivative Securities is announced but such Common Stock or Derivative Securities are not so issued, the Warrant Price shall again be adjusted to be the Warrant Price that would then be in effect if the issuance had not

occurred. If the application of this Section 2.1(c) to any issuance would result in an increase in the Warrant Price, no adjustment shall be made for such issuance under this Section 2.1(c).

(d) The issuance as a dividend or distribution to all holders of Common Stock of shares of capital stock, evidences of indebtedness, shares of capital stock (other than Common Stock) or other securities, cash or other property (excluding any dividend or distribution covered by Section 2.1(a) or Section 2.1(b)), in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{M - FMV}{M}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such dividend or distribution;

M = the Fair Market Value of a share of Common Stock on the Trading Day immediately preceding the Ex-Date for such dividend or distribution; and

FMV = the Fair Market Value of the portion of such dividend or distribution applicable to one share of Common Stock on the Trading Day immediately preceding the Ex-Date for such dividend or distribution.

Such decrease shall become effective immediately after the Open of Business on the Ex-Date for such dividend or distribution. In the event that such dividend or distribution is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such distribution had not been declared or announced.

However, if the transaction that gives rise to an adjustment pursuant to this Section 2.1(d) is one pursuant to which the payment of a dividend or other distribution on Common Stock consists of shares of capital stock of, or similar equity interests in, a subsidiary of the Company or other business unit of the Company (i.e., a spin-off) that are, or, when issued, will be, traded or quoted on The Nasdaq Stock Market LLC or any other national or regional securities exchange or market, then the Warrant Price will instead be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{M_0}{M_0 + FMV_0}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on

the Ex-Date for such dividend or distribution;

FMV_0 = the average of the Fair Market Values of the capital stock or similar equity interests distributed to holders of Common Stock applicable to one share of Common Stock over the 10 consecutive Trading Days commencing on, and including, the third Trading Day following the effective date of such spin-off (the "Valuation Period"); and

M_0 = the average of the Fair Market Values of the Common Stock over the Valuation Period for such dividend or distribution.

Such decrease shall be made immediately after the Close of Business on the last Trading Day of the Valuation Period for such dividend or distribution, but shall be given effect immediately after the Open of Business on the Ex-Date for such dividend or distribution; provided that in respect of any exercise during the Valuation Period, references to 10 consecutive Trading Days in the definition of Valuation Period shall be deemed replaced with such lesser number of Trading Days as have elapsed commencing on, and including, the third Trading Day following the effective date of such spin-off and the exercise date in determining the applicable Warrant Price. In the event that such dividend or distribution is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such distribution had not been declared or announced.

(e) The payment in respect of any tender offer or exchange offer by the Company for Common Stock, where the cash and fair value of any other consideration included in the payment per share of the Common Stock exceeds the Fair Market Value of a share of Common Stock on the Trading Day immediately following the expiration date of the tender or exchange offer (the "**Offer Expiration Date**"), in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 \times P}{A + (P \times N_1)}$$

where:

W_1 = the Warrant Price in effect immediately after the Close of Business on the Offer Expiration Date;

W_0 = the Warrant Price in effect immediately prior to the Close of Business on the Offer Expiration Date;

N_0 = the number of shares of Common Stock outstanding immediately prior to the expiration of the tender or exchange offer (prior to giving effect to the purchase or exchange of shares);

N_1 = the number of shares of Common Stock outstanding immediately after the expiration of the tender or exchange offer (after giving effect to the purchase or exchange of shares);

A = the aggregate cash and fair value of any other consideration payable for shares of Common Stock purchased in such tender offer or exchange offer; and

P = the Fair Market Value of a share of Common Stock on the Trading Day immediately following the Offer Expiration Date.

An adjustment, if any, to the Warrant Price pursuant to this clause (e) shall become effective immediately after the Close of Business on the Offer Expiration Date. In the event that the Company or a subsidiary of the Company is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Company or such subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such tender offer or exchange offer had not been made. If the application of this Section 2.1(e) to any tender offer or exchange offer would result in an increase in the Warrant Price, no adjustment shall be made for such tender offer or exchange offer under this Section 2.1(e).

(f) If any single action would require adjustment of the Warrant Price pursuant to more than one subsection of this Section 2.1, only one adjustment shall be made and such adjustment shall be the amount of adjustment that has the highest, relative to the rights and interests of the registered holders of the Warrants then outstanding, absolute value.

(g) The Company may from time to time, to the extent permitted by law and subject to applicable rules of the principal U.S. national securities exchange on which the Common Stock is then listed, decrease the Warrant Price and/or increase the number of Shares issuable upon the exercise of this Warrant by any amount for any period of at least 20 days. In that case, the Company shall give Holder at least 15 days' prior notice of such increase or decrease, and such notice shall state the decreased Warrant Price and/or increased number of shares for which the Warrant may be exercised and the period during which the decrease and/or increase will be in effect. The Company may make such decreases in the Warrant Price and/or increases in the number of Shares for which the Warrant may be exercised, in addition to those set forth in this Section 2.1, as the Company's Board of Directors deems advisable, including to avoid or diminish any income tax to holders of the Common Stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes. For the avoidance of doubt, any increase to the Shares issuable upon exercise of this Warrant or decrease to the Warrant Price made pursuant to this Section 2.1(g) shall not alter the application of the restrictions on exercise set forth in Section 1.7, which shall remain in full force and effect in accordance with their terms.

(h) Notwithstanding this Section 2.1 or any other provision of this Warrant, if a Warrant Price adjustment becomes effective on any Ex-Date, and Holder exercised its Warrants on or after such Ex-Date and on or prior to the related Record Date would be treated as the record holder of the Common Stock on or prior to the Record Date, then, notwithstanding the Warrant Price adjustment provisions in this Section 2.1, the Warrant Price adjustment relating to such Ex-Date will not be made. Instead, Holder will be treated as if such holder were the record owner of shares of Common Stock on an un-adjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

(i) Effect of Certain Events on Adjustment to the Warrant Price. For purposes of determining the adjusted Warrant Price under Section 2.1, the following shall be applicable:

(1) Issuance of Options. If the Company shall, at any time or from time to time after the Issue Date, in any manner, grant or sell (whether directly or by assumption in a merger or otherwise) any Derivative Securities, whether or not such Options or the right to convert or exchange any Convertible Securities issuable upon the exercise of such Options are immediately exercisable, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of Convertible Securities issuable upon the exercise of such Options shall be deemed to have been issued as of the date of granting or sale of such Options (and thereafter shall be deemed to be outstanding for purposes of adjusting the Warrant Price under Section 2.1), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 2.1) of (x) the total amount, if any, received or receivable by the Company as consideration for the granting or sale of all such Options, plus (y) the minimum aggregate amount of additional consideration payable to the Company upon the exercise of all such Options, plus (z) in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Company upon the issuance or sale of all such Convertible Securities and the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the exercise of all such Options or upon the conversion or exchange of all Convertible Securities issuable upon the exercise of all such Options. Except as otherwise provided in Section 2.1(i)(3), no further adjustment of the Warrant Price shall be made upon the actual issuance of Common Stock or of Convertible Securities upon exercise of such Options or upon the actual issuance of Common Stock upon conversion or exchange of Convertible Securities issuable upon exercise of such Options.

(2) Issuance of Convertible Securities. If the Company shall, at any time or from time to time after the Issue Date, in any manner, grant or sell (whether directly or by assumption in a merger or otherwise) any Convertible Securities, whether or not the right to convert or exchange any such Convertible Securities is immediately exercisable, then the total maximum number of shares of Common Stock issuable upon conversion or exchange of the total maximum amount of such Convertible Securities shall be deemed to have been issued as of the date of granting or sale of such Convertible Securities (and thereafter shall be deemed to be outstanding for purposes of adjusting the number of Shares pursuant to Section 2.1), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 2.1) of (x) the total amount, if any, received or receivable by the Company as consideration for the granting or sale of such Convertible Securities, plus (y) the minimum aggregate amount of additional consideration, if any, payable to the Company upon the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities. Except as otherwise provided in Section 2.1(i)(3), no further adjustment of the Warrant Price shall be made upon the actual issuance of Common Stock upon conversion or exchange of such Convertible Securities

or by reason of the issue or sale of Convertible Securities upon exercise of any Options to purchase any such Convertible Securities for which adjustments of the number of Shares have been made pursuant to the other provisions of this Section 2.1(i).

(3) Change in Terms of Derivative Securities. Upon any change in any of (A) the total amount received or receivable by the Company as consideration for the granting or sale of any Derivative Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof, (B) the minimum aggregate amount of additional consideration, if any, payable to the Company upon the exercise of any Options or upon the issuance, conversion or exchange of any Convertible Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof, (C) the rate at which Convertible Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof are convertible into or exchangeable for Common Stock, or (D) the maximum number of shares of Common Stock issuable in connection with any Options referred to in Section 2.1(i)(1) hereof or any Convertible Securities referred to in Section 2.1(i)(2) hereof (in each case, other than in connection with any issuance or sale of shares of Common Stock issued upon the exercise or conversion of this Warrant), then (whether or not the original issuance or sale of such Derivative Securities resulted in an adjustment to the Warrant Price pursuant to this Section 2.1) the Warrant Price at the time of such change shall be adjusted or readjusted, as applicable, to the Warrant Price which would have been in effect at such time pursuant to the provisions of this Section 2.1 had such Derivative Securities still outstanding provided for such changed consideration, conversion rate, or maximum number of shares, as the case may be, at the time initially granted, issued, or sold, but only if as a result of such adjustment or readjustment, the Warrant Price is decreased.

(4) Treatment of Expired or Terminated Derivative Securities. Upon the expiration or termination of any unexercised Option (or portion thereof) or any unconverted or unexchanged Convertible Security (or portion thereof) for which any adjustment (either upon its original issuance or upon a revision of its terms) was made pursuant to this Section 2.1 (including without limitation upon the redemption or purchase for consideration of all or any portion of such Option or Convertible Security by the Company), the Warrant Price shall forthwith be changed pursuant to the provisions of this Section 2.1 to the Warrant Price which would have been in effect at the time of such expiration or termination had such unexercised Option (or portion thereof) or unconverted or unexchanged Convertible Security (or portion thereof), to the extent outstanding immediately prior to such expiration or termination, never been issued.

(5) Calculation of Consideration Received. If the Company shall, at any time or from time to time after the Issue Date, issue or sell, or is deemed to have issued or sold in accordance with Section 2.1(i), any shares of Common Stock, Options, or Convertible Securities: (A) for cash, the consideration received therefor shall be deemed to be the net amount received by the Company therefor; (B) for consideration other than cash, the amount of the consideration other than cash received by the Company shall be the Fair Market Value of such consideration; (C) for no specifically allocated consideration in connection with an issuance or sale of other securities of the Company, together comprising one integrated transaction, the amount of the consideration therefor shall be deemed to have been issued without consideration; or (D) to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving

corporation, the amount of consideration therefor shall be deemed to be the Fair Market Value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options, or Convertible Securities, as the case may be, issued to such owners. The Board of Directors of the Company shall determine the net amount of any cash consideration in its reasonable good faith judgment and the Fair Market Value of any consideration other than cash shall be determined in accordance with the definition thereof.

(6) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company or any of its wholly-owned subsidiaries, and the disposition of any such shares (other than the cancellation or retirement thereof or the transfer of such shares among the Company and its wholly-owned subsidiaries) shall be considered an issue or sale of Common Stock for the purpose of this Section 2.1.

(7) Other Dividends and Distributions. Subject to the provisions of this Section 2.1(i), if the Company shall, at any time or from time to time after the Issue Date, make or declare, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or any other distribution payable in securities of the Company (other than a dividend or distribution of shares of Common Stock, Options, or Convertible Securities in respect of outstanding shares of Common Stock), cash, or other property, then, and in each such event, provision shall be made so that the Holder shall receive upon exercise or conversion of this Warrant, in addition to the number of Shares receivable thereupon, the kind and amount of securities of the Company, cash, or other property which the Holder would have been entitled to receive had the Warrant been exercised or converted in full into Shares on the date of such event and had the Holder thereafter, during the period from the date of such event to and including the exercise date, retained such securities, cash, or other property receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this Section 2.1 with respect to the rights of the Holder.

(8) Existing Derivative Securities. For the avoidance of doubt, any changes to the terms of any Derivative Securities outstanding on or prior to the date hereof shall also be subject to the foregoing clause (3) as if such prior-existing Derivative Securities were issued immediately after this Warrant (i.e., resulting in appropriate adjustments, as applicable, to the Warrant Price in accordance with this Section 2.1). Without limiting the foregoing, it is acknowledged and agreed that for purposes of calculating the initial number of Shares issuable upon exercise of this Warrant, the Company and Holder agreed to only take into account out-of-the-money stock options to purchase one million shares of Common Stock (the remaining, disregarded out-of-the-money stock options outstanding on the Issue Date, the "**Disregarded Options**"). For the avoidance of doubt, upon any amendments to the terms of the Disregarded Options that would result in either (x) the strike price thereof with respect to one share of Common Stock being less than the then current Fair Market Value of one share of Common Stock or (y) the strike price thereof with respect to one share of Common Stock being less than the Warrant Price, (I) the Warrant Price at the time of such change shall be adjusted to the Warrant Price which would have been in effect at such time pursuant to the provisions of this Section 2.1 as if such Disregarded Options had been issued at a zero strike immediately after this Warrant

(i.e., resulting in appropriate adjustments, as applicable, to the Warrant Price in accordance with this Section 2.1) and (II) the Warrant Price shall be further readjusted to give incremental effect to the changes called for by this Section 2.1 on account of the actual amendment itself (together with any other amendments to the terms of such options from and after the Issue Date) (i.e., at that time, Holder shall benefit from the incremental adjustments attributable to all of the amendments to the terms of all of the options outstanding on the Issue Date, including the Disregarded Options), and any amendments thereafter will continue to be subject to the terms of this Section 2.1, including clause (3) and this clause (8).

2.2 Adjustments to Number of Warrants. Concurrently with any adjustment to the Warrant Price under Section 2.1, the number of Shares will be adjusted to be equal to the number of Shares immediately prior to such adjustment, *multiplied by* a fraction, (i) the numerator of which is the Warrant Price in effect immediately prior to such adjustment and (ii) the denominator of which is the Warrant Price in effect immediately following such adjustment.

2.3 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Common Stock are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.3 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.4 Purchase Rights. In addition to any adjustments pursuant to Section 2.1 above, if at any time the Company grants, issues, or sells any shares of Common Stock, Options, Convertible Securities, or rights to purchase stock, warrants, securities, or other property, in each case, pro rata to the record holders of Common Stock (the "**Purchase Rights**"), then the Holder shall be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder would have acquired if the Holder had held the number of Shares acquirable upon complete exercise or conversion of this Warrant immediately before the date on which a record is taken for the grant, issuance, or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the grant, issue, or sale of such Purchase Rights; *provided*, *however*, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Maximum Percentage, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Maximum Percentage. Anything herein to the contrary notwithstanding, the Holder shall not be entitled to the Purchase Rights granted herein with respect to any issuance or sale of shares of Common Stock issued upon the exercise or conversion of this Warrant.

2.5 Successor upon Consolidation, Merger and Sale of Assets.

(a) The Company may not consolidate or merge with, or sell, lease, convey or otherwise transfer in one transaction or a series of related transactions all or substantially all of the consolidated assets of the Company and its subsidiaries to, any other Person (a "**Fundamental Change**") unless the Company is the surviving corporation or the Company requires, as a necessary condition to the consummation of such transaction, that:

(1) the successor to the Company assumes all of the Company's obligations under this Warrant; and

(2) the successor to the Company provides written notice of such assumption to Holder.

(b) In case of any such Fundamental Change, such successor entity shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Company.

2.6 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the Fair Market Value of a full Share, less (ii) the then-effective Warrant Price.

2.7 Notice/Certificate as to Adjustments. Upon the happening of any event requiring an adjustment of the Warrant Price, Common Stock and/or number of Shares issuable upon exercise of this Warrant, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, class and number of Shares in effect upon the date of such adjustment.

2.8 No Impairment. The Company shall not, directly or indirectly, by amendment of its Certificate of Incorporation or other governing or organizational documents, or through reorganization, consolidation, merger, dissolution, sale of assets, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the Holder of this Warrant against dilution or other impairment.

2.9 Notwithstanding any other provision hereof, the Warrant Price shall not be less than zero as a result of any adjustment hereunder, action, event or otherwise.

2.10 Certain Definitions. For purposes of this Section 2, the following terms shall have their respective meanings set forth below:

"**Close of Business**" means 5:00 p.m., New York City time.

"**Convertible Securities**" means any securities (directly or indirectly) convertible into or exchangeable or exercisable for shares of Common Stock (excluding Options).

"**Derivative Securities**" means any Options or Convertible Securities.

"**Effective Consideration**" means the amount paid or payable to acquire shares of Common Stock (or in the case of Convertible Securities, the amount paid or payable to acquire the Convertible Security, if any, plus the exercise price for the underlying Common Stock).

"**Ex-Date**" (i) when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Fair Market Value of such Common Stock was obtained without the right to receive such issuance or distribution, and (ii) when used with respect to any subdivision, split, combination or reclassification of shares of Common Stock, means the first date on which the Common Stock trades, regular way, on such exchange or in such market after the time at which such subdivision, split, combination or reclassification becomes effective.

"**Open of Business**" means 9:00 a.m., New York City time.

"**Options**" means any warrants or other rights or options to subscribe for or purchase Common Stock.

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Company's Board of Directors or by statute, contract or otherwise).

"**Trading Day**" is any day during which trading in securities generally occurs on The Nasdaq Stock Market LLC or, if the Common Stock is not listed on The Nasdaq Stock Market LLC, on the principal United States national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not listed on a United States national or regional securities exchange, on the principal other market (including any over-the-counter market or quotation system) on which the Common Stock is then traded or, if none of the foregoing apply, on any day that is not a Saturday, Sunday or other day that financial institutions are required to be closed in New York, New York.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The number of Shares first set forth above, together with the

corresponding notional number of Shares underlying that certain Warrant No. 0002, dated as of the date hereof, issued by the Company to Holder (the "**Cash Settlement Warrant**"), represents not less than 11% of the Company's Common Stock, on a fully diluted basis after giving effect to the issuance of the Warrant, together with any other derivative instruments or other rights to acquire Common Stock, assuming full physical settlement and without regards to any restrictions or limitations on exercise or conversion or as to whether such rights or derivatives are in the money (but including only 1,000,000 of the out-of-the-money employee stock options existing as of the execution of the Exchange and Purchase Agreement, excluding the shares issuable underlying the Existing Other Notes and the New Secured Notes and including, solely for these purposes, the Shares notionally associated with the Cash Settlement Warrant), on and as of the Issue Date. As used herein, "**Exchange and Purchase Agreement**" means that certain Exchange and Purchase Agreement, dated as of May 13, 2024, by and between the Company and Holder; "**Existing Notes**" means the 0% Convertible Senior Notes due 2026 issued pursuant to that certain Indenture, dated as of December 4, 2020, by and between the Company, as issuer thereunder, and U.S. Bank Trust Company, National Association (formerly U.S. Bank National Association), as trustee; "**Existing Other Notes**" means the Existing Notes not subject to the exchange contemplated by the Exchange and Purchase Agreement; and "**New Secured Notes**" means the First Lien Convertible Senior Notes due 2029 issued pursuant to that certain Indenture, dated June 3, 2024, by and between the Company, the subsidiary guarantors party thereto from time to time and U.S. Bank Trust Company, National Association, as Trustee and Collateral Agent.

(b) This Warrant is (and any warrant issued in substitution hereof will be), upon issuance, duly authorized, validly issued, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. All Shares which may be issued upon the exercise of this Warrant (and any warrant issued in substitution hereof) shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, issued without violation of any preemptive or similar rights of any person or entity, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of shares of Common Stock and other securities as will be sufficient to permit the exercise in full of this Warrant, and further covenants that it shall not cause or permit the stated par value of the Shares or other instruments or securities for which the Warrant is exercisable to exceed $0.001.

(c) The Company's capitalization table delivered to Holder as of the Issue Date is true and complete as of the Issue Date.

(d) The par value of one share of Common Stock as of the Issue Date is $0.001 per share.

3.2 Notice of Certain Events. In the event:

(a) that the Company shall take a record of the holders of its Common Stock (or other capital stock or securities or securities at the time issuable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution (whether in cash, property, stock, or other securities and whether or not a regular

cash dividend), to vote at a meeting (or by written consent), to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities or to receive any other security;

(b) of any capital reorganization of the Company, any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Common Stock, any consolidation or merger of the Company with or into another Person, or a sale of all or substantially all of the Company's assets to another Person or any anticipated change in the Company's listing status, whether voluntary or involuntary; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in (a) above, at least ten (10) business days' prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled thereto) or for determining rights to vote, if any; and

(2) in the case of the matters referred to in (b) or (c) above at least ten (10) business days' prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice).

The Company will also provide information reasonably requested by Holder from time to time, within a reasonable time following each such request, that is reasonably necessary to enable Holder to comply with Holder's accounting and reporting requirements.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the Shares to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the

offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 No Voting Rights. Holder, as a Holder of this Warrant, will not have any voting rights until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term and Automatic Cashless Exercise Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above and Section 5.1(b) below, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Eastern time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, immediately prior to the expiration of the Warrant, the Fair Market Value of one Share (or other security issuable upon the exercise hereof) is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised (or such lesser amount for which it may be exercised in accordance with limitations on exercise set forth in Section 1.7), and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 Legends. The Shares shall be imprinted with a legend in substantially the following form:

> THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED.

5.3 Compliance with Securities Laws on Transfer. This Warrant and the Shares issued or issuable upon exercise of this Warrant may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to any Affiliate of Holder; *provided*, that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Transfer Procedure. Subject to the provisions of Section 5.3 and upon providing the Company with written notice, Holder may transfer all or part of this Warrant or the Shares issued upon exercise of this Warrant (or the securities issued upon conversion of the Shares, if any) to any Affiliate or other transferee; *provided, however*, in connection with any such transfer, Holder will give the Company notice of the portion of the Warrant and/or Shares (and/or securities issued upon conversion of the Shares, if any) being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable) and the transferee shall agree to be bound by all of the terms and conditions of this Warrant as a precondition to any such transfer.

For purposes of this Warrant, "**Affiliate**" shall mean, with respect to any individual, trust, estate, corporation, partnership, limited liability company or any other incorporated or unincorporated entity ("**Person**"), any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person, or any general partner, managing member, officer, director, trustee, limited partner, member or stockholder of such first Person, or any venture capital fund or other investment fund now or hereafter existing that is controlled by one (1) or more general partners, managing members or investment adviser of, or shares the same management company or investment adviser with, such first Person. As used in this definition, "**control**" (including, with correlative meanings, "**controlled by**" and "**under common control with**") shall mean possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract, or otherwise).

5.5 Notices. All notices and other communications hereunder from the Company to

the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) business day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient (or in the case of electronic mail, in the absence of any "bounce-back," "delivery failed" or similar automated feedback indicating rejection of the electronic mail or failure of delivery), or (iv) on the first (1st) business day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5; *provided*, *however*, that all notices to Holder must also be delivered via electronic mail in order to be effective (and shall only be effective in the absence of any of any "bounce-back," "delivery failed" or similar automated feedback indicating rejection of the electronic mail or failure of delivery). All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

Lynrock Lake Master Fund LP
Attn: Cynthia Paul; Michael Manley; Operations
Email: cp@lynrocklake.com; mike@lynrocklake.com; and
ops@lynrocklake.com

With a copy (which shall not constitute notice) to:
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park, Floor 45
New York, New York 10036
Attention: Stephen Kuhn; Timothy Clark
Email: skhuhn@akingump.com; tclark@akingump.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

LivePerson, Inc.
530 7th Avenue, Floor M1
New York, New York 10018
Attention: John Collins; Monica Greenberg
Email: jcollins@liveperson.com; mgreenberg@liveperson.com

5.6 Registration Rights. Upon the written request of the beneficial owners of the holders of Warrants representing, on exercise, a majority of the Shares (including for these purpose, the holders of Shares issued upon the exercise of the Warrant) (the "**Majority Beneficial Owners**"), the Company shall, within thirty (30) days thereafter, enter into a registration rights agreement with the Majority Beneficial Owners, which shall contain customary terms and provide that:

(a) the Majority Beneficial Owners shall have customary demand, shelf and piggyback registration rights and obligations, including rights with respect to shelf registration on Form S-1 (or any similar or successor form) if the Company is not eligible to use Form S-3 (or any similar or successor form) at such time, with respect to the Shares issuable upon exercise of this Warrant; and

(b) such registration rights shall include customary indemnities and the right to receive customary cooperation from the Company and its directors and officers in connection with any dispositions (which may take the form of underwritten offerings, block trades, derivative transactions and other lawful means of disposition) pursuant to the applicable registration statement(s) (including entering into customary agreements with underwriters and other counterparties and providing such underwriters and other counterparties with customary indemnities, opinions, certificates and due diligence cooperation).

5.7 Successors. All the covenants and provisions hereof by or for the benefit of Holder shall bind and inure to the benefit of its successors and assigns hereunder.

5.8 Waiver. This Warrant and any term hereof may be amended, modified, changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such amendment, modification, change, waiver, discharge or termination is sought.

5.9 Attorney's Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.10 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.11 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles regarding conflicts of law.

5.12 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.13 Equitable Relief. Each of the Company and the Holder acknowledges that a breach or threatened breach by the Company of any of its obligations under this Warrant would give rise to irreparable harm to the Holder for which monetary damages would not be an adequate remedy and hereby agree that in the event of a breach or a threatened breach by the Company of any such obligations, the Holder shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Common Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

"COMPANY"

LIVEPERSON, INC.

By: /s/ John Collins
Name: John Collins
Title: Chief Financial Officer and Chief Operating Officer

"HOLDER"

LYNROCK LAKE MASTER FUND LP

By: Lynrock Lake Partners LLC, its general partner

By: /s/ Cynthia Paul
Name: Cynthia Paul
Title: Member

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right to purchase _____ shares of the Common Stock of **LIVEPERSON, INC.** (the "**Company**") in accordance with the attached Warrant To Purchase Common Stock, and tenders payment of the aggregate Warrant Price for such shares as follows:

[ ] check in the amount of $_____ payable to the order of the Company enclosed herewith

[ ] Wire transfer of immediately available funds to the Company's account

[ ] Cashless Exercise pursuant to Section 1.2 of the Warrant

[ ] Other [Describe] _____

2. Please issue a certificate or certificates representing the Shares in the name specified below:

_____
Holder's Name

_____

_____
(Address)

_____
(Federal Tax ID or Social Security No.)

3. Delivery Method:

[ ] Certified mail to the above address

[ ] Electronically (provide DWAC Instructions): _____

[ ] Other [Describe] _____

4. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant to Purchase Common Stock as of the date hereof.

[*Signature page follows*]

HOLDER

By:
Name:
Title:

Date:

THIS WARRANT HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED.

WARRANT

Company: LIVEPERSON, INC., a Delaware corporation
Notional Number of Shares of Common Stock: 2,344,775
Warrant Price: $0.75 per Share
Warrant Certificate No.: 0002
Issue Date: June 3, 2024
Expiration Date: June 3, 2034

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, Lynrock Lake Master Fund LP, a Cayman Islands exempted limited partnership (together with any successor or permitted assignee or transferee of this Warrant, "**Holder**") is entitled to receive, upon the whole or partial exercise hereof, a cash payment equal to the excess, if any, of the Fair Market Value (as hereinafter defined) of one share of common stock of the above named company (the "**Company**" and such common stock, the "**Common Stock**") over the above-stated Warrant Price in respect of each share to which this Warrant notionally applies (the "**Shares**"), all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant. The term "**Warrant**" as used herein shall include this Warrant and any warrants delivered in substitution or exchange therefor as provided herein.

SECTION 1. EXERCISE.

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company, in any of the manners permitted by Section 5.5, the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1, whereupon, on and subject to the terms and conditions set forth herein, Holder shall be entitled to receive in respect of each Share notionally subject to such exercise, the excess of the Fair Market Value of one Share, as of the exercise date, over the then current Warrant Price (the "**Cash Settlement Amount**"). Notwithstanding any contrary provision herein, in no event shall Holder be required to surrender or deliver an ink-signed paper copy of this Warrant or the Notice of Exercise in connection with its exercise hereof or of any rights hereunder, nor shall Holder be required to surrender or deliver a paper or other physical copy of this Warrant or a paper or other physical copy of the Notice of Exercise in connection with any exercise hereof (in each case, delivery by electronic mail being sufficient).

1.2 [intentionally omitted].

1.3 Fair Market Value. "**Fair Market Value**" shall mean: (a) with respect to the Common Stock or any other security that is then listed on a national stock exchange, the closing price or last sale price of such security reported for the Business Day immediately prior

to the applicable date of determination; (b) with respect to the Common Stock or any other security that is not listed on a national stock exchange but is then quoted on the National Association of Securities Dealers, Inc. OTC Bulletin Board or such similar exchange or association, the closing price or last sale price of a share or unit of such security thereon reported for the Business Day immediately prior to the applicable date of determination; or (c) if neither of the foregoing applies, as jointly determined by the board of directors of the Company and Holder; *provided*, that if the parties are unable to reach agreement within a reasonable period of time, then such fair market value determination shall be determined by a nationally recognized investment banking, accounting or valuation firm that is not affiliated with the Company or Holder, in which case, the determination of such firm shall be final and conclusive (and the fees and expenses of such valuation firm shall be borne by the Company).

1.4 Settlement; Delivery of New Warrant.

(a) Within three (3 Business Days after Holder exercises this Warrant in the manner set forth in Section 1.1 above, the Company shall pay the aggregate Cash Settlement Amount to, or at the direction of, Holder.

(b) Notwithstanding the foregoing, if payment of all or any portion of the Cash Settlement Amount in accordance with the foregoing clause (a) would result in the Company having less than $100.0 million in Available Cash (as hereinafter defined) immediately after making such payment, the Company shall have the right to defer the payment of the portion of the Cash Settlement Amount that would cause the Company to have less than $100.0 million in Available Cash. Any such deferred payments shall accrue interest continuously at an annualized rate equal to 6.0%, compounded monthly (such deferred payments and the unpaid interest accrued thereon, the "**Deferred Payment Obligations**"). The Company shall be obligated to make payments in respect of any outstanding Deferred Payment Obligations monthly to the extent that doing so would not result in the Company having less than $100.0 million in Available Cash after giving effect to such monthly payment. "**Available Cash**" as used herein shall mean the aggregate amount of unrestricted cash and Cash Equivalents (as defined in that certain Indenture, dated June 3, 2024, by and between the Company, the subsidiary guarantors party thereto from time to time and U.S. Bank Trust Company, National Association, as Trustee and Collateral Agent, governing those certain First Lien Convertible Senior Notes due 2029 (the "**Indenture**")) included on the consolidated balance sheet of the Company and its Subsidiaries (as defined in the Indenture) as of such time. For the avoidance of doubt, the Company's obligations to make payments pursuant to this Section 1.4(b) shall survive the expiration and termination of this Warrant until fully performed.

(c) If this Warrant has not been fully exercised and has not expired, the Company shall deliver to Holder a new warrant of like tenor representing the remaining Shares notionally underlying this Warrant.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets (including intellectual property) of the Company; (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization or recapitalization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation, reorganization, or recapitalization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation, reorganization, or recapitalization; (iii) any, direct or indirect, purchase offer, tender offer or exchange offer is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding shares of Common Stock; or (iv) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another person or group of related persons (as defined in Rule 13d-5(b)(1) promulgated under the Exchange Act) whereby such other person or group acquires 50% or more of the Company's then-outstanding total voting power.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the Fair Market Value of one Share would be greater than the Warrant Price in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be deemed to be exercised pursuant to Section 1.1 above as to all notional underlying Shares effective immediately prior to and contingent upon the consummation of a Cash/Public Acquisition. In connection with such automatic exercise, Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as of the date thereof and the Company shall promptly notify the Holder the Cash Settlement Amount to be paid in respect of such Shares. Regardless of whether the Fair Market Value of one Share exceeds the Warrant Price then in effect, immediately prior to and contingent upon the consummation of a Cash/Public Acquisition, the Company shall pay or cause to be paid to Holder all of the outstanding Deferred Payment Obligations. In the event of a Cash/Public Acquisition where the Fair Market Value of one Share would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then, contingent upon the consummation of such Cash/Public Acquisition, this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition. The Company shall not effect any Cash/Public Acquisition unless the material definitive agreement governing such transaction shall provide for payment of the Cash Settlement Amount for all of the Shares as set forth in this Section 1.6(b) and the payment of any and all outstanding Deferred Payment Obligations in full.

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and the Cash Settlement Amount for this Warrant shall thereafter be calculated based on the same

securities and/or other property as would have been paid for the Shares originally notionally underlying the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant, and, in such case, appropriate adjustment (in form and substance satisfactory to the Holder) shall be made with respect to the Holder's rights under this Warrant to ensure that the provisions of this Warrant shall thereafter be applicable, as nearly as possible, to any securities and/or other property thereafter notionally underlying this Warrant. The provisions of this Section 1.6(c) shall similarly apply to successive Acquisitions. The Company shall not effect any such Acquisition unless, prior to the consummation thereof, the successor Person (if other than the Company) resulting from such Acquisition shall assume, by written instrument substantially similar in form and substance to this Warrant and satisfactory to the Holder, the obligation to deliver to the Holder the Cash Settlement Amount that, in accordance with the foregoing provisions, Holder shall be entitled to receive upon exercise of this Warrant, and of any Deferred Payment Obligations. Notwithstanding anything to the contrary contained herein, with respect to any corporate event or other transaction contemplated by the provisions of this Section 1.6(c), the Holder shall have the right to elect prior to the consummation of such event or transaction, to give effect to the exercise rights set forth in Section 1 instead of giving effect to the provisions contained in this Section 1.6(c) with respect to this Warrant.

(d) Notwithstanding any other provision hereof, if an exercise of any portion of this Warrant is to be made in connection with a public offering or a sale of the Company, a Cash/Public Acquisition, or any other transaction, such exercise may at the election of the Holder be conditioned upon the consummation of such offering or transaction, as applicable, in which case such exercise shall not be deemed to be effective until immediately prior to the consummation of such transaction.

(e) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer to be received by holders of Common Stock in connection with the Acquisition is then traded on the Nasdaq Stock Market LLC or on another United States national or regional securities exchange, and (iii) following the closing of such Acquisition, former holders of Common Stock would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received thereby in such Acquisition, except to the extent that any such restriction arises solely under federal or state securities laws, rules or regulations.

1.7 [intentionally omitted].

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Adjustments to Warrant Price. The Warrant Price shall be subject to adjustment (without duplication) upon the occurrence of any of the following events:

(a) The issuance of Common Stock as a dividend or distribution to all holders of Common Stock, or a subdivision, combination or reclassification of the outstanding shares of Common Stock into a greater or smaller number of shares, in which event the Warrant Price shall be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0}{N_1}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification; and

N_1 = the number of shares of Common Stock equal to (i) in the case of a dividend or distribution, the sum of the number of shares outstanding immediately prior to the Open of Business on the Ex-Date for such dividend or distribution plus the total number of shares issued pursuant to such dividend or distribution or (ii) in the case of a subdivision, combination or reclassification, the number of shares outstanding immediately after such subdivision, combination or reclassification.

Such adjustment shall become effective immediately after the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification. If any dividend or distribution or subdivision, combination or reclassification of the type described in this Section 2.1(a) is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to the Warrant Price that would then be in effect if such dividend or distribution or subdivision, combination or reclassification had not been declared or announced, as the case may be.

(b) The issuance to all holders of Common Stock of shares of Common Stock (or Derivative Securities) at an Effective Consideration per share that is below the Fair Market Value of a share of Common Stock on the Trading Day immediately preceding the date of the announcement of such issuance, in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 + C/M}{N_0 + N_A}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such issuance;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such issuance;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the Ex-Date for such issuance;

N_A = the number of shares of Common Stock issued and, if applicable, issuable upon exercise, conversion or exchange of any Derivative Securities assuming full physical settlement;

C = the total consideration receivable by the Company on issuance and, if applicable, the exercise, conversion or exchange of any Derivative Securities assuming full physical settlement; and

M = the Closing Sale Price of a share of Common Stock on the Trading Day immediately preceding the date of the announcement of such issuance.

Such adjustment shall become effective immediately after the Open of Business on the Ex-Date for such issuance. In the event that an issuance of such Common Stock or Derivative Securities is announced but such Common Stock or Derivative Securities are not so issued, the Warrant Price shall again be adjusted to be the Warrant Price that would then be in effect if the Ex-Date for such issuance had not occurred. If the application of this Section 2.1(b) to any issuance would result in an increase in the Warrant Price, no adjustment shall be made for such issuance under this Section 2.1(b).

(c) The issuance of shares of Common Stock (or Derivative Securities) at an Effective Consideration that is less than the Warrant Price in effect immediately prior to the Open of Business on the date of such issuance, in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 + C/W_0}{N_0 + N_A}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the date of such issuance;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the date of such issuance;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the date of such issuance;

N_A = the number of shares of Common Stock issued and, if applicable, issuable upon exercise, conversion or exchange of any Derivative Securities assuming full physical settlement; and

C = the total consideration receivable by the Company on issuance and, if applicable, the exercise, conversion or exchange of any Derivative Securities assuming full physical settlement.

Such adjustment shall become effective immediately after the Open of Business on the date of such issuance. In the event that an issuance of such Common Stock or Derivative Securities is announced but such Common Stock or Derivative Securities are not so issued, the Warrant Price shall again be adjusted to be the Warrant Price that would then be in effect if the issuance had not occurred. If the application of this Section 2.1(c) to any issuance would result in an increase in the Warrant Price, no adjustment shall be made for such issuance under this Section 2.1(c).

(d) The issuance as a dividend or distribution to all holders of Common Stock of shares of capital stock, evidences of indebtedness, shares of capital stock (other than Common Stock) or other securities, cash or other property (excluding any dividend or distribution covered by Section 2.1(a) or Section 2.1(b)), in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{M - FMV}{M}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such dividend or distribution;

M = the Fair Market Value of a share of Common Stock on the Trading Day immediately preceding the Ex-Date for such dividend or distribution; and

FMV = the Fair Market Value of the portion of such dividend or distribution applicable to one share of Common Stock on the Trading Day immediately preceding the Ex-Date for such dividend or distribution.

Such decrease shall become effective immediately after the Open of Business on the Ex-

Date for such dividend or distribution. In the event that such dividend or distribution is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such distribution had not been declared or announced.

However, if the transaction that gives rise to an adjustment pursuant to this Section 2.1(d) is one pursuant to which the payment of a dividend or other distribution on Common Stock consists of shares of capital stock of, or similar equity interests in, a subsidiary of the Company or other business unit of the Company (i.e., a spin-off) that are, or, when issued, will be, traded or quoted on The Nasdaq Stock Market LLC or any other national or regional securities exchange or market, then the Warrant Price will instead be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{M_0}{M_0 + FMV_0}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such dividend or distribution;

FMV_0 = the average of the Fair Market Values of the capital stock or similar equity interests distributed to holders of Common Stock applicable to one share of Common Stock over the 10 consecutive Trading Days commencing on, and including, the third Trading Day following the effective date of such spin-off (the "**Valuation Period**"); and

M_0 = the average of the Fair Market Values of the Common Stock over the Valuation Period for such dividend or distribution.

Such decrease shall be made immediately after the Close of Business on the last Trading Day of the Valuation Period for such dividend or distribution, but shall be given effect immediately after the Open of Business on the Ex-Date for such dividend or distribution; *provided* that in respect of any exercise during the Valuation Period, references to 10 consecutive Trading Days in the definition of Valuation Period shall be deemed replaced with such lesser number of Trading Days as have elapsed commencing on, and including, the third Trading Day following the effective date of such spin-off and the exercise date in determining the applicable Warrant Price. In the event that such dividend or distribution is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such distribution had not been declared or announced.

(e) The payment in respect of any tender offer or exchange offer by the Company for Common Stock, where the cash and fair value of any other consideration included in the payment per share of the Common Stock exceeds the Fair Market Value of a share of Common Stock on the Trading Day immediately following the expiration date of the tender or exchange offer (the "**Offer Expiration Date**"), in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 \times P}{A + (P \times N_1)}$$

where:

W_1 = the Warrant Price in effect immediately after the Close of Business on the Offer Expiration Date;

W_0 = the Warrant Price in effect immediately prior to the Close of Business on the Offer Expiration Date;

N_0 = the number of shares of Common Stock outstanding immediately prior to the expiration of the tender or exchange offer (prior to giving effect to the purchase or exchange of shares);

N_1 = the number of shares of Common Stock outstanding immediately after the expiration of the tender or exchange offer (after giving effect to the purchase or exchange of shares);

A = the aggregate cash and fair value of any other consideration payable for shares of Common Stock purchased in such tender offer or exchange offer; and

P = the Fair Market Value of a share of Common Stock on the Trading Day immediately following the Offer Expiration Date.

An adjustment, if any, to the Warrant Price pursuant to this clause (e) shall become effective immediately after the Close of Business on the Offer Expiration Date. In the event that the Company or a subsidiary of the Company is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Company or such subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such tender offer or exchange offer had not been made. If the application of this Section 2.1(e) to any tender offer or exchange offer would result in an increase in the Warrant Price, no adjustment shall be made for such tender offer or exchange offer under this Section 2.1(e).

(f) If any single action would require adjustment of the Warrant Price pursuant to more than one subsection of this Section 2.1, only one adjustment shall be made and such adjustment shall be the amount of adjustment that has the highest, relative to the rights and interests of the registered holders of the Warrants then outstanding, absolute value.

(g) The Company may from time to time, to the extent permitted by law and subject to applicable rules of the principal U.S. national securities exchange on which the Common Stock is then listed, decrease the Warrant Price and/or increase the number of Shares notionally underlying this Warrant by any amount for any period of at least 20 days. In that case, the Company shall give Holder at least 15 days' prior notice of such increase or decrease, and such notice shall state the decreased Warrant Price and/or increased number of shares for which the Warrant may be exercised and the period during which the decrease and/or increase will be in effect. The Company may make such decreases in the Warrant Price and/or increases in the number of Shares for which the Warrant may be exercised, in addition to those set forth in this Section 2.1, as the Company's Board of Directors deems advisable, including to avoid or diminish any income tax to holders of the Common Stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes.

(h) [intentionally omitted].

(i) Effect of Certain Events on Adjustment to the Warrant Price. For purposes of determining the adjusted Warrant Price under Section 2.1, the following shall be applicable:

(1) Issuance of Options. If the Company shall, at any time or from time to time after the Issue Date, in any manner, grant or sell (whether directly or by assumption in a merger or otherwise) any Derivative Securities, whether or not such Options or the right to convert or exchange any Convertible Securities issuable upon the exercise of such Options are immediately exercisable, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of Convertible Securities issuable upon the exercise of such Options shall be deemed to have been issued as of the date of granting or sale of such Options (and thereafter shall be deemed to be outstanding for purposes of adjusting the Warrant Price under Section 2.1), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 2.1) of (x) the total amount, if any, received or receivable by the Company as consideration for the granting or sale of all such Options, plus (y) the minimum aggregate amount of additional consideration payable to the Company upon the exercise of all such Options, plus (z) in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Company upon the issuance or sale of all such Convertible Securities and the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the exercise of all such Options or upon the conversion or exchange of all Convertible Securities issuable upon the exercise of all such Options. Except as otherwise provided in Section 2.1(i)(3), no further adjustment of the Warrant Price shall be made upon

the actual issuance of Common Stock or of Convertible Securities upon exercise of such Options or upon the actual issuance of Common Stock upon conversion or exchange of Convertible Securities issuable upon exercise of such Options.

(2) Issuance of Convertible Securities. If the Company shall, at any time or from time to time after the Issue Date, in any manner, grant or sell (whether directly or by assumption in a merger or otherwise) any Convertible Securities, whether or not the right to convert or exchange any such Convertible Securities is immediately exercisable, then the total maximum number of shares of Common Stock issuable upon conversion or exchange of the total maximum amount of such Convertible Securities shall be deemed to have been issued as of the date of granting or sale of such Convertible Securities (and thereafter shall be deemed to be outstanding for purposes of adjusting the number of notional Shares pursuant to Section 2.1), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 2.1) of (x) the total amount, if any, received or receivable by the Company as consideration for the granting or sale of such Convertible Securities, plus (y) the minimum aggregate amount of additional consideration, if any, payable to the Company upon the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities. Except as otherwise provided in Section 2.1(i)(3), no further adjustment of the Warrant Price shall be made upon the actual issuance of Common Stock upon conversion or exchange of such Convertible Securities or by reason of the issue or sale of Convertible Securities upon exercise of any Options to purchase any such Convertible Securities for which adjustments of the number of notional Shares have been made pursuant to the other provisions of this Section 2.1(i).

(3) Change in Terms of Derivative Securities. Upon any change in any of (A) the total amount received or receivable by the Company as consideration for the granting or sale of any Derivative Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof, (B) the minimum aggregate amount of additional consideration, if any, payable to the Company upon the exercise of any Options or upon the issuance, conversion or exchange of any Convertible Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof, (C) the rate at which Convertible Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof are convertible into or exchangeable for Common Stock, or (D) the maximum number of shares of Common Stock issuable in connection with any Options referred to in Section 2.1(i)(1) hereof or any Convertible Securities referred to in Section 2.1(i)(2) hereof, then (whether or not the original issuance or sale of such Derivative Securities resulted in an adjustment to the Warrant Price pursuant to this Section 2.1) the Warrant Price at the time of such change shall be adjusted or readjusted, as applicable, to the Warrant Price which would have been in effect at such time pursuant to the provisions of this Section 2.1 had such Derivative Securities still outstanding provided for such changed consideration, conversion rate, or maximum number of shares, as the case may be,

at the time initially granted, issued, or sold, but only if as a result of such adjustment or readjustment, the Warrant Price is decreased.

(4) Treatment of Expired or Terminated Derivative Securities. Upon the expiration or termination of any unexercised Option (or portion thereof) or any unconverted or unexchanged Convertible Security (or portion thereof) for which any adjustment (either upon its original issuance or upon a revision of its terms) was made pursuant to this Section 2.1 (including without limitation upon the redemption or purchase for consideration of all or any portion of such Option or Convertible Security by the Company), the Warrant Price shall forthwith be changed pursuant to the provisions of this Section 2.1 to the Warrant Price which would have been in effect at the time of such expiration or termination had such unexercised Option (or portion thereof) or unconverted or unexchanged Convertible Security (or portion thereof), to the extent outstanding immediately prior to such expiration or termination, never been issued.

(5) Calculation of Consideration Received. If the Company shall, at any time or from time to time after the Issue Date, issue or sell, or is deemed to have issued or sold in accordance with Section 2.1(i), any shares of Common Stock, Options, or Convertible Securities: (A) for cash, the consideration received therefor shall be deemed to be the net amount received by the Company therefor; (B) for consideration other than cash, the amount of the consideration other than cash received by the Company shall be the Fair Market Value of such consideration; (C) for no specifically allocated consideration in connection with an issuance or sale of other securities of the Company, together comprising one integrated transaction, the amount of the consideration therefor shall be deemed to have been issued without consideration; or (D) to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving corporation, the amount of consideration therefor shall be deemed to be the Fair Market Value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options, or Convertible Securities, as the case may be, issued to such owners. The Board of Directors of the Company shall determine the net amount of any cash consideration in its reasonable good faith judgment and the Fair Market Value of any consideration other than cash shall be determined in accordance with the definition thereof.

(6) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company or any of its wholly-owned subsidiaries, and the disposition of any such shares (other than the cancellation or retirement thereof or the transfer of such shares among the Company and its wholly-owned subsidiaries) shall be considered an issue or sale of Common Stock for the purpose of this Section 2.1.

(7) Other Dividends and Distributions. Subject to the provisions of this Section 2.1(i), if the Company shall, at any time or from time to time after the Issue Date, make or declare, or fix a record date for the

determination of holders of Common Stock entitled to receive, a dividend or any other distribution payable in securities of the Company (other than a dividend or distribution of shares of Common Stock, Options, or Convertible Securities in respect of outstanding shares of Common Stock), cash, or other property, then, and in each such event, provision shall be made so that the Holder shall receive upon exercise or conversion of this Warrant, in addition to the amount of cash receivable thereupon, the equivalent cash value of the kind and amount of securities of the Company, cash, or other property which the Holder would have been entitled to receive had the Warrant been notionally exercised or notionally converted in full into Shares on the date of such event and had the Holder thereafter, during the period from the date of such event to and including the exercise date, retained such notional securities, cash, or other property receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this Section 2.1 with respect to the rights of the Holder.

(8) Existing Derivative Securities. For the avoidance of doubt, any changes to the terms of any Derivative Securities outstanding on or prior to the date hereof shall also be subject to the foregoing clause (3) as if such prior-existing Derivative Securities were issued immediately after this Warrant (i.e., resulting in appropriate adjustments, as applicable, to the Warrant Price in accordance with this Section 2.1). Without limiting the foregoing, it is acknowledged and agreed that for purposes of calculating the initial number of Shares notionally underlying this Warrant, the Company and Holder agreed to only take into account out-of-the-money stock options to purchase one million shares of Common Stock (the remaining, disregarded out-of-the-money stock options outstanding on the Issue Date, the "**Disregarded Options**"). For the avoidance of doubt, upon any amendments to the terms of the Disregarded Options that would result in either (x) the strike price thereof with respect to one share of Common Stock being less than the then current Fair Market Value of one share of Common Stock or (y) the strike price thereof with respect to one share of Common Stock being less than the Warrant Price, (I) the Warrant Price at the time of such change shall be adjusted to the Warrant Price which would have been in effect at such time pursuant to the provisions of this Section 2.1 as if such Disregarded Options had been issued at a zero strike immediately after this Warrant (i.e., resulting in appropriate adjustments, as applicable, to the Warrant Price in accordance with this Section 2.1) and (II) the Warrant Price shall be further readjusted to give incremental effect to the changes called for by this Section 2.1 on account of the actual amendment itself (together with any other amendments to the terms of such options from and after the Issue Date) (i.e., at that time, Holder shall benefit from the incremental adjustments attributable to all of the amendments to the terms of all of the options outstanding on the Issue Date, including the Disregarded Options), and any amendments thereafter will continue to be subject to the terms of this Section 2.1, including clause (3) and this clause (8).

2.2 Adjustments to Number of Warrants. Concurrently with any adjustment to the Warrant Price under Section 2.1, the number of notional Shares will be adjusted to be equal to the number of notional Shares immediately prior to such adjustment, *multiplied by* a fraction, (i) the numerator of which is the Warrant Price in effect immediately prior to such adjustment and (ii) the denominator of which is the Warrant Price in effect immediately following such adjustment.

2.3 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Common Stock are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, the Cash Settlement Amount will be calculated based on the number, class and series of Company securities that would have been issued in respect of the Shares as a result of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.3 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.4 Purchase Rights. In addition to any adjustments pursuant to Section 2.1 above, if at any time the Company grants, issues, or sells any shares of Common Stock, Options, Convertible Securities, or rights to purchase stock, warrants, securities, or other property, in each case, pro rata to the record holders of Common Stock (the "**Purchase Rights**"), then the Holder shall be entitled to receive upon the exercise of this Warrant, in addition to the Cash Settlement Amount, upon the terms otherwise applicable to such Purchase Rights, the equivalent cash value of the kind and amount of securities of the Company, cash, or other property which the Holder would have been entitled to receive had it been issued the Purchase Rights in respect of each of the notional Shares underlying the unexercised portion of the Warrant immediately before the date on which a record is taken for the grant, issuance, or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the grant, issue, or sale of such Purchase Rights.

2.5 Successor upon Consolidation, Merger and Sale of Assets

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(a) The Company may not consolidate or merge with, or sell, lease, convey or otherwise transfer in one transaction or a series of related transactions all or substantially all of the consolidated assets of the Company and its subsidiaries to, any other Person (a "**Fundamental Change**") unless the Company is the surviving corporation or the Company requires, as a necessary condition to the consummation of such transaction, that:

(1) the successor to the Company assumes all of the Company's obligations under this Warrant; and

(2) the successor to the Company provides written notice of such assumption to Holder.

(b) In case of any such Fundamental Change, such successor entity shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Company.

2.6 [intentionally omitted].

2.7 Notice/Certificate as to Adjustments. Upon the happening of any event requiring an adjustment of the Warrant Price, Common Stock and/or number of Shares underlying this Warrant, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, class and number of Shares in effect upon the date of such adjustment.

2.8 No Impairment. The Company shall not, directly or indirectly, by amendment of its Certificate of Incorporation or other governing or organizational documents, or through reorganization, consolidation, merger, dissolution, sale of assets, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the Holder of this Warrant against dilution or other impairment.

2.9 Notwithstanding any other provision hereof, the Warrant Price shall not be less than zero as a result of any adjustment hereunder, action, event or otherwise.

2.10 Certain Definitions. For purposes of this Section 2, the following terms shall have their respective meanings set forth below:

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

"**Close of Business**" means 5:00 p.m., New York City time.

"**Convertible Securities**" means any securities (directly or indirectly) convertible into or exchangeable or exercisable for shares of Common Stock (excluding Options).

"**Derivative Securities**" means any Options or Convertible Securities.

"**Effective Consideration**" means the amount paid or payable to acquire shares of Common Stock (or in the case of Convertible Securities, the amount paid or payable to acquire the Convertible Security, if any, plus the exercise price for the underlying Common Stock).

"**Ex-Date**" (i) when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Fair Market Value of such Common Stock was obtained without the right to receive such issuance or distribution, and (ii) when used with respect to any subdivision, split, combination or reclassification of shares of Common Stock, means the first date on which the Common Stock trades, regular way, on such exchange or in such market after the time at which such subdivision, split, combination or

reclassification becomes effective.

"**Open of Business**" means 9:00 a.m., New York City time.

"**Options**" means any warrants or other rights or options to subscribe for or purchase Common Stock.

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Company's Board of Directors or by statute, contract or otherwise).

"**Trading Day**" is any day during which trading in securities generally occurs on The Nasdaq Stock Market LLC or, if the Common Stock is not listed on The Nasdaq Stock Market LLC, on the principal United States national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not listed on a United States national or regional securities exchange, on the principal other market (including any over-the-counter market or quotation system) on which the Common Stock is then traded or, if none of the foregoing apply, on any day that is not a Saturday, Sunday or other day that financial institutions are required to be closed in New York, New York.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) [intentionally omitted].

(b) This Warrant is (and any warrant issued in substitution hereof will be), upon issuance, duly authorized, validly issued, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

(c) The Company's capitalization table delivered to Holder as of the Issue Date is true and complete as of the Issue Date.

(d) The par value of one share of Common Stock as of the Issue Date is $0.001 per share.

3.2 Notice of Certain Events. In the event:

(a) that the Company shall take a record of the holders of its Common Stock (or other capital stock or securities or securities at the time issuable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution (whether in cash, property, stock, or other securities and whether or not a regular cash dividend), to vote at a meeting (or by written consent), to receive any right to subscribe for

or purchase any shares of capital stock of any class or any other securities or to receive any other security;

(b) of any capital reorganization of the Company, any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Common Stock, any consolidation or merger of the Company with or into another Person, or a sale of all or substantially all of the Company's assets to another Person or any anticipated change in the Company's listing status, whether voluntary or involuntary; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in (a) above, at least ten (10) Business Days' prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled thereto) or for determining rights to vote, if any; and

(2) in the case of the matters referred to in (b) or (c) above at least ten (10) Business Days' prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice).

The Company will also provide information reasonably requested by Holder from time to time, within a reasonable time following each such request, that is reasonably necessary to enable Holder to comply with Holder's accounting and reporting requirements.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant is being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company

possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant has not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 No Voting Rights; No Ownership of Shares. Holder, as a Holder of this Warrant, will not have any voting rights, before or after exercise of this Warrant, in respect of the Shares notionally underlying this Warrant. Holder, as a Holder of this Warrant, will not have any ownership interest whatsoever, before or after exercise of this Warrant, in respect of the Shares notionally underlying this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term and Automatic Cashless Exercise Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above and Section 5.1(b) below, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Eastern time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, immediately prior to the expiration of the Warrant, the Fair Market Value of one Share (or other security issuable upon the exercise hereof) is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.1 above as to all notional Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall, in accordance with Section 1.4, pay the aggregate Cash Settlement Amount in respect of such automatic exercise to Holder. For the avoidance of doubt, the Company's obligations to make such payments shall survive the expiration and termination of this Warrant until fully performed.

5.2 [RESERVED].

5.3 Compliance with Securities Laws on Transfer. This Warrant may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to any Affiliate of Holder; *provided*, that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Transfer Procedure. Subject to the provisions of Section 5.3 and upon providing the Company with written notice, Holder may transfer all or part of this Warrant to any Affiliate or other transferee; *provided, however*, in connection with any such transfer, Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable) and the transferee shall agree to be bound by all of the terms and conditions of this Warrant as a precondition to any such transfer.

For purposes of this Warrant, "**Affiliate**" shall mean, with respect to any individual, trust, estate, corporation, partnership, limited liability company or any other incorporated or unincorporated entity ("**Person**"), any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person, or any general partner, managing member, officer, director, trustee, limited partner, member or stockholder of such first Person, or any venture capital fund or other investment fund now or hereafter existing that is controlled by one (1) or more general partners, managing members or investment adviser of, or shares the same management company or investment adviser with, such first Person. As used in this definition, "**control**" (including, with correlative meanings, "**controlled by**" and "**under common control with**") shall mean possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract, or otherwise).

5.5 Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient (or in the case of electronic mail, in the absence of any "bounce-back," "delivery failed" or similar automated feedback indicating rejection of the electronic mail or failure of delivery), or (iv) on the first (1st) Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5; *provided*, *however*, that all notices to Holder must also be delivered via electronic mail in order to be effective (and shall only be effective in the absence of any of any "bounce-back," "delivery failed" or similar automated feedback indicating rejection of the electronic mail or failure of delivery). All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

Lynrock Lake Master Fund LP
Attn: Cynthia Paul; Michael Manley; Operations
Email: cp@lynrocklake.com; mike@lynrocklake.com; and
ops@lynrocklake.com

With a copy (which shall not constitute notice) to:
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park, Floor 45
New York, New York 10036
Attention: Stephen Kuhn; Timothy Clark
Email: skhuhn@akingump.com; tclark@akingump.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

LivePerson, Inc.
530 7th Avenue, Floor M1
New York, New York 10018
Attention: John Collins; Monica Greenberg
Email: jcollins@liveperson.com; mgreenberg@liveperson.com

5.6 [intentionally omitted].

5.7 Successors. All the covenants and provisions hereof by or for the benefit of Holder shall bind and inure to the benefit of its successors and assigns hereunder.

5.8 Waiver. This Warrant and any term hereof may be amended, modified, changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such amendment, modification, change, waiver, discharge or termination is sought.

5.9 Attorney's Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.10 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.11 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles regarding conflicts of law.

5.12 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.13 Equitable Relief. Each of the Company and the Holder acknowledges that a breach or threatened breach by the Company of any of its obligations under this Warrant would give rise to irreparable harm to the Holder for which monetary damages would not be an adequate remedy and hereby agree that in the event of a breach or a threatened breach by the Company of any such obligations, the Holder shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have caused this Warrant to be executed by their duly authorized representatives effective as of the Issue Date written above.

"COMPANY"

LIVEPERSON, INC.

By: /s/ John Collins
Name: John Collins
Title: Chief Financial Officer and Chief Operating Officer

"HOLDER"

LYNROCK LAKE MASTER FUND LP

By: Lynrock Lake Partners LLC, its general partner

By: /s/ Cynthia Paul
Name: Cynthia Paul
Title: Member

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right to receive the Cash Settlement Amount in respect of _____ notional shares of the Common Stock of **LIVEPERSON, INC.** (the "**Company**") in accordance with the attached Warrant

2. Please make payments in accordance with the following wire instructions:

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant as of the date hereof.

[*Signature page follows*]

HOLDER

By:
Name:
Title:

Date:

FIRST AMENDMENT
TO
EXCHANGE AND PURCHASE AGREEMENT

This First Amendment to Exchange and Purchase Agreement (this "Amendment"), dated as of June 3, 2024 (the "Effective Date"), is entered into by and between LivePerson, Inc., a Delaware corporation (the "Company"), and Lynrock Lake Master Fund LP (the "Noteholder"). The Company and the Noteholder are collectively referred to herein as the "Parties" and individually as a "Party" as the context may require.

RECITALS

WHEREAS, the Parties have entered into that certain Exchange and Purchase Agreement dated as of May 13, 2024 (the "Agreement");

WHEREAS, capitalized terms used and not defined in this Amendment have the respective meanings assigned to them in the Agreement;

WHEREAS, Section 5.9 of the Agreement provides that the Agreement may be modified, amended or supplemented only by a written agreement executed by the Parties; and

WHEREAS, the Parties desire to amend the Agreement on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, including the mutual covenants and agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged and agreed, the Parties hereby agree as follows:

AGREEMENT

1. Amendments to the Agreement. As of the Effective Date, the Agreement is hereby amended as follows:

(a) Section 2.12 of the Agreement shall be amended by adding the following immediately after the last sentence thereof:

"In the event that the Notes, or a beneficial interest therein, are assigned or transferred, in whole or in part, to any Person that controls, is controlled by, or is under common control with, the Noteholder, the Noteholder will cause such assignee or transferee, and any subsequent assignee or transferee, to provide the IRS tax forms and, if such assignee or transferee is claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, a U.S. Tax Compliance Certificate."

(b) Section 4.3 of the Agreement shall be amended and restated in its entirety with the following:

"Corporate Governance. For so long as (i) the Noteholder (together with its Affiliates) beneficially owns at least $50,000,000 aggregate principal amount of New Secured Notes and/or (ii) the Noteholder (together with its Affiliates) beneficially owns at least 4.99% of

the Common Stock as a result of holding the Warrants (regardless of whether they are in-the-money) (such period when either (i) or (ii), or both (i) and (ii), are true, the "Corporate Governance Ownership Condition Period"), the Company shall comply with the requirements of Schedule I hereto."

(c) Section 4.5 of the Agreement shall be amended and restated in its entirety with the following:

"Certain Covenants; Warrants Survival.

(i) For so long as the Noteholder (together with its Affiliates) beneficially owns at least $20,000,000 aggregate principal amount of New Secured Notes (the "Ownership Condition Period"), the Company shall comply with those certain covenants set forth on Schedule II hereto and acknowledges and agrees that any violation of such covenants shall be a breach and default under this Agreement and the New Secured Notes Indenture, as applicable.

(ii) The Company covenants and agrees that notwithstanding Section 3.01 of the Indenture, upon the satisfaction and discharge of the Indenture, any Warrants then outstanding shall remain in full force and effect.

The parties may update Schedule II after the date hereof by mutual agreement in writing."

(d) Article IV of the Agreement is hereby amended by adding new Sections 4.10 and 4.11 as follows:

"Section 4.10 Existing Notes. Neither the Noteholder nor any of its Affiliates shall be permitted to purchase or otherwise hold any Existing Notes without the prior written consent of the Company."

"Section 4.11 Delivery of Information. If any notice, report or other information that would otherwise be required to be furnished pursuant to the Indenture or any other Indenture Document (as defined in the Indenture) contains material non-public information with respect to the Company or its Affiliates, or the respective securities of the foregoing ("MNPI"), the Company shall, without disclosing the substance of such MNPI, notify the Noteholder that delivery of a notice, report or other information pursuant to the Indenture Documents would result in the delivery of MNPI to the Noteholder (any such notice, an "MNPI Notice"). The Noteholder may either (i) refuse the delivery of such MNPI or (ii) direct the delivery of such MNPI to (x) a designee of the Noteholder (including counsel to the Noteholder), or (y) the Noteholder, pursuant to procedures acceptable to the Noteholder, to ensure compliance with the restrictions imposed by United States securities laws on purchasing or selling securities when in possession of MNPI or from communicating MNPI to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities in reliance on such information. If the Noteholder elects the option under clause (i) of the preceding sentence, such delivery requirement shall be deemed not to apply; and if the Noteholder elects the option under clause (ii) of the preceding

sentence, the Company shall promptly deliver to the Noteholder or the designee thereof, as applicable, the information subject to such MNPI Notice."

(e) Schedule II of the Agreement shall be amended and restated in its entirety in the form of Schedule II attached hereto.

(f) The form of Warrants attached as Exhibit B of the Agreement shall be amended and restated in its entirety in the form of Exhibit B attached hereto.

2. Limited Effect. Except as expressly provided in this Amendment, all of the terms and provisions of the Agreement are and will remain in full force and effect, and are hereby ratified and confirmed by the Parties. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Agreement or as a waiver of or consent to any further or future action on the part of any Party that would require the waiver or consent of the other Party. On and after the Effective Date, each reference in the Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein" or words of similar import, and each reference to the Agreement in any other agreements, documents or instruments executed and delivered pursuant to, or in connection with, the Agreement, will mean and be a reference to the Agreement as amended by this Amendment.

3. Entire Agreement. This Amendment and the Agreement (to the extent amended hereby), including the Transaction Term Sheet and all other schedules, annexes and exhibits hereto or thereto, and the other documents and agreements executed and delivered among the Parties hereto and thereto in connection with the Transactions embody the entire agreement and understanding of the Parties hereto and thereto with respect to the subject matter hereof and thereof, and supersede all prior and contemporaneous oral or written agreements, representations, warranties, contracts, correspondence, conversations, memoranda and understandings between or among the parties or any of their agents, representatives or affiliates relating to such subject matter, including, without limitation, any term sheets, emails or draft documents exchanged in connection with the negotiation of the Transactions or otherwise.

4. Miscellaneous. Each of the following sections of the Agreement are hereby incorporated by reference herein and shall expressly apply to this Amendment: Section 5.1 (Notice); Section 5.4 (Assignment; Binding Agreement); Section 5.5 (Counterparts); Section 5.6 (Remedies Cumulative); Section 5.7 (Governing Law; Jury Trial); Section 5.8 (No Third-Party Beneficiaries or Other Rights); Section 5.9 (Waiver; Consent); Section 5.12 (Headings); and Section 5.13 (Severability; Conflicts).

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Amendment to be executed as of the date first above written.

COMPANY:
LivePerson, Inc.

By: /s/ John Collins
Name: John Collins
Title: Chief Financial Officer and Chief Operating Officer

NOTEHOLDER:
Lynrock Lake Master Fund LP By: Lynrock Lake Partners LLC, its general partner

By: /s/ Cynthia Paul
Name: Cynthia Paul
Title: Member

Schedule II[1]

1. The Company shall not amend, supplement or otherwise modify, or permit the amendment, supplementation, waiver or modification of, the following sections of the Indenture without the written consent of the Noteholder:

a. Clause (c) of the definition of "Permitted Indebtedness."
b. The definitions of "Lynrock" and "Designated Holders,"
c. Section 4.32.
d. The final paragraph of Section 10.02 of the Indenture.

2. The definition of "Required Holders" shall be deemed to include the Noteholder for purposes of (i) the Intercreditor Agreement and (ii) the following sections of the Indenture:

a. Definition of "Intercreditor Agreement."
b. Clause (b) of the definition of "Permitted Indebtedness."
c. The definition of "Qualified Cash."
d. Section 10.02 in respect of any amendments, supplements, waivers or other modifications of (i) Section 4.12 or Section 4.24 of the Indenture (including any component definitions thereof) that are adverse to the Holders or (ii) Section 4.10 or Section 4.11 of the Indenture (including any component definitions thereof) in order to permit the incurrence of additional pari passu secured or junior secured Indebtedness.

3. The Company shall not permit amendments, supplements or other modifications of the Intercreditor Agreement.

4. The Company shall not amend, supplement or otherwise modify the Indenture to provide for the issuance of any additional Notes.

5. The Company shall not, nor shall it permit any of its Subsidiaries to, enter into any line of business, either directly or through any Subsidiary, except for the businesses in which the Company and its Subsidiaries were engaged on the Original Issue Date or any business similar, related, incidental or ancillary thereto or that constitutes a reasonable extension or expansion thereof.

6. The Company will provide the Noteholder (or its designee) with quarterly written reports in reasonable detail with respect to the amount of the Investments made pursuant to clause (ii) of clause (d) of the definition of "Permitted Investments" and the support therefor, in each case, within ten (10) Business Days after the end of each fiscal quarter (or such later date as the Noteholder may agree in its sole discretion).

7. The Company will provide the Noteholder (or its designee) with monthly written reports in reasonable detail demonstrating compliance with Section 4.24 of the Indenture, in each case, within five (5) Business Days after the end of each month (or such later date as the Noteholder may agree in its sole discretion).

8. The Company will provide the Noteholder (or its designee) with monthly written reports in reasonable detail demonstrating compliance with the use of proceeds of the Notes in accordance with the requirements of clause (ii) of Section 4.32 of the Indenture, in each case, within ten (10) Business Days after the end of each month (or such later date as the Noteholder may agree in its sole discretion).

[1] Capitalized terms used and not defined in this Schedule have the respective meanings assigned to them in that certain Indenture, dated as of June 3, 2024, by and between the Company, the Subsidiary Guarantors from time to time party thereto and U.S. Bank Trust Company, National Association, a national banking association, as trustee and as collateral agent. Each reference to a defined term or section included in the Indenture shall refer to such defined term or section, as the case may be, as in effect on the Original Issue Date, as amended in accordance with the Indenture and this Schedule.

Exhibit B

THIS WARRANT AND THE SHARES ISSUABLE HEREUNDER HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED.

WARRANT TO PURCHASE COMMON STOCK

Company: LIVEPERSON, INC., a Delaware corporation
Number of Shares of Common Stock: [_____]
Warrant Price: $0.75 per Share
Warrant Certificate No.: [_____]
Issue Date: [_____], 20[_]
Expiration Date: [_____], 20[_]

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, Lynrock Lake Master Fund LP, a Cayman Islands exempted limited partnership (together with any successor or permitted assignee or transferee of this Warrant or of any shares issued upon exercise hereof, "**Holder**") is entitled to purchase up to the number of duly authorized, validly issued, fully paid and non-assessable shares (the "**Shares**") of the above-stated common stock (the "**Common Stock**") of the above-named company (the "**Company**") at the above-stated Warrant Price, all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant. The term "**Warrant**" as used herein shall include this Warrant and any warrants delivered in substitution or exchange therefor as provided herein.

SECTION 1. EXERCISE

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company, in any of the manners permitted by Section 5.5, the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1, and, unless Holder is exercising this Warrant pursuant to a cashless exercise set forth in Section 1.2, a check, wire transfer of same-day funds (to an account designated by the Company), or other form of payment acceptable to the Company for the aggregate Warrant Price for the Shares being purchased (rounded up to the nearest whole penny). Notwithstanding any contrary provision herein, in no event shall Holder be required to surrender or deliver an ink-signed paper copy of this Warrant or the Notice of Exercise in connection with its exercise hereof or of any rights hereunder, nor shall Holder be required to surrender or deliver a paper or other physical copy of this Warrant or a paper or other physical copy of the Notice of Exercise in connection with any exercise hereof (in each case, delivery by electronic mail being sufficient).

1.2 Cashless Exercise. On any exercise of this Warrant, in lieu of payment of the aggregate Warrant Price in the manner as specified in Section 1.1 above, but otherwise in

accordance with the requirements of Section 1.1 (a "**Cashless Exercise**"), Holder may elect to receive Shares equal to the value of this Warrant, or portion hereof as to which this Warrant is being exercised. Thereupon, the Company shall issue to the Holder such number of duly authorized, validly issued, fully paid, and non-assessable Shares as are computed using the following formula:

$$X = Y(A-B)/A$$

where:

X = the number of Shares to be issued to the Holder;

Y = the number of Shares with respect to which this Warrant is being exercised (inclusive of the Shares surrendered to the Company in payment of the aggregate Warrant Price);

A = the Fair Market Value of one Share; and

B = the Warrant Price.

1.3 Fair Market Value. "**Fair Market Value**" shall mean: (a) with respect to the Common Stock or any other security that is then listed on a national stock exchange, the closing price or last sale price of such security reported for the business day immediately prior to the applicable date of determination; (b) with respect to the Common Stock or any other security that is not listed on a national stock exchange but is then quoted on the National Association of Securities Dealers, Inc. OTC Bulletin Board or such similar exchange or association, the closing price or last sale price of a share or unit of such security thereon reported for the business day immediately prior to the applicable date of determination; or (c) if neither of the foregoing applies, as jointly determined by the board of directors of the Company and Holder; *provided*, that if the parties are unable to reach agreement within a reasonable period of time, then such fair market value determination shall be determined by a nationally recognized investment banking, accounting or valuation firm that is not affiliated with the Company or Holder, in which case, the determination of such firm shall be final and conclusive (and the fees and expenses of such valuation firm shall be borne by the Company).

1.4 Delivery of Certificate and New Warrant. Within a reasonable time after Holder exercises this Warrant in the manner set forth in Section 1.1 or 1.2 above, the Company shall deliver to Holder a certificate representing the Shares issued to Holder upon such exercise and, if this Warrant has not been fully exercised and has not expired, a new warrant of like tenor representing the Shares not so acquired.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets (including intellectual property) of the Company; (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization or recapitalization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation, reorganization, or recapitalization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation, reorganization, or recapitalization; (iii) any, direct or indirect, purchase offer, tender offer or exchange offer is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding shares of Common Stock; or (iv) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another person or group of related persons (as defined in Rule 13d-5(b)(1) promulgated under the Exchange Act) whereby such other person or group acquires 50% or more of the Company's then-outstanding total voting power.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the Fair Market Value of one Share would be greater than the Warrant Price in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be deemed to be Cashless Exercised pursuant to Section 1.2 above as to all Shares effective immediately prior to and contingent upon the consummation of a Cash/Public Acquisition; *provided*, *however*, that to the extent such exercise would violate the limitations on exercise set forth in Section 1.7, the Company must arrange for any Excess Exercise Shares (as defined herein) to be redeemed for cash instead for an amount equal to (i) the Fair Market Value of one Share, *minus* (ii) the then effective Warrant Price. In connection with such Cashless Exercise, Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as of the date thereof and the Company shall promptly notify the Holder of the number of Shares (or such other securities) issued upon exercise and, to the extent applicable, the amount of cash to be paid in respect of redeemed Excess Exercise Shares. In the event of a Cash/Public Acquisition where the Fair Market Value of one Share would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then, contingent upon the consummation of such Cash/Public Acquisition, this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition. The Company shall not effect any Cash/Public Acquisition unless the material definitive agreement governing such transaction shall provide for the redemption of any Excess Exercise Shares as set forth in this Section 1.6(b).

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition, the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and this Warrant shall thereafter be exercisable for the same securities and/or other property as would have been paid for the Shares issuable upon exercise of the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant, and, in such

case, appropriate adjustment (in form and substance satisfactory to the Holder) shall be made with respect to the Holder's rights under this Warrant to ensure that the provisions of this Warrant shall thereafter be applicable, as nearly as possible, to any securities and/or other property thereafter acquirable upon exercise of this Warrant. The provisions of this Section 1.6(c) shall similarly apply to successive Acquisitions. The Company shall not effect any such Acquisition unless, prior to the consummation thereof, the successor Person (if other than the Company) resulting from such Acquisition shall assume, by written instrument substantially similar in form and substance to this Warrant and satisfactory to the Holder, the obligation to deliver to the Holder such securities and/or other property that, in accordance with the foregoing provisions, Holder shall be entitled to receive upon exercise of this Warrant. Notwithstanding anything to the contrary contained herein, with respect to any corporate event or other transaction contemplated by the provisions of this Section 1.6(c), the Holder shall have the right to elect prior to the consummation of such event or transaction, to give effect to the exercise rights set forth in Section 1 (subject to the limitations set forth in Section 1.7) instead of giving effect to the provisions contained in this Section 1.6(c) with respect to this Warrant.

(d) Notwithstanding any other provision hereof, if an exercise of any portion of this Warrant is to be made in connection with a public offering or a sale of the Company, a Cash/Public Acquisition, or any other transaction, such exercise may at the election of the Holder be conditioned upon the consummation of such offering or transaction, as applicable, in which case such exercise shall not be deemed to be effective until immediately prior to the consummation of such transaction.

(e) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer that would be received by Holder in connection with the Acquisition were Holder to exercise this Warrant on or prior to the closing thereof is then traded on the Nasdaq Stock Market LLC or on another United States national or regional securities exchange, and (iii) following the closing of such Acquisition, Holder would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received by Holder in such Acquisition were Holder to exercise or convert this Warrant in full on or prior to the closing of such Acquisition, except to the extent that any such restriction (x) arises solely under federal or state securities laws, rules or regulations, and (y) does not extend beyond six (6) months from the issuance of this Warrant, if exercised pursuant to Cashless Exercise (or six (6) months beyond the exercise of this Warrant, if exercised for cash).

1.7 Limitations on Exercise.

(a) Notwithstanding anything to the contrary, the Company shall not effect the exercise of any portion of this Warrant for Shares, Holder shall not have the right to exercise any portion of this Warrant for Shares, and any such exercise shall be null and void *ab initio* and treated as if never made, to the extent that after giving effect or immediately prior to such exercise of the Warrant for Shares, Holder (x) together with the other Attribution Parties (as defined below), collectively would beneficially own in excess of 4.99% of the number of shares of Common Stock issued and outstanding immediately after giving effect to such exercise of this

Warrant for Shares or (y) would, for purposes of Section 871(h)(3)(C) of the Internal Revenue Code of 1986, as amended (the "**Code**"), be deemed to own, directly indirectly or by attribution (in accordance with the attribution rules set forth in Sections 871(h)(3)(C) and 881(c) of the Code, beneficially or of record, in excess of 4.99% of the number of shares of Common Stock issued and outstanding immediately after giving effect to such exercise of this Warrant for Shares (the "**Maximum Percentage**"). For purposes of clause (x) of the definition of Maximum Percentage, the aggregate number of shares of Common Stock beneficially owned by Holder and the other Attribution Parties shall include the number of shares of Common Stock held by Holder and all other Attribution Parties plus the number of shares of Common Stock issuable upon conversion of this Warrant with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (A) conversion of the remaining, unexercised portion of this Warrant beneficially owned by such Holder or any of the other Attribution Parties and (B) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any convertible notes, convertible preferred stock or warrants) beneficially owned by such Holder or any of the Attribution Parties subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 1.7. For purposes of clause (x) above, beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. For purposes of determining the number of outstanding shares of Common Stock Holder may acquire upon the exercise of this Warrant without exceeding the Maximum Percentage, Holder may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the Securities and Exchange Commission, as the case may be, (y) a more recent public announcement by the Company or (z) any other written notice by the Company, if any, setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives an Notice of Exercise from Holder at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall notify Holder in writing of the number of shares of Common Stock then outstanding and, to the extent that such Notice of Exercise would otherwise cause such Holder's beneficial or deemed ownership under clause (x) or clause (y) above, as determined pursuant to this Section 1.7, to exceed the Maximum Percentage, such Holder must notify the Company of a reduced number of shares of Common Stock to be delivered pursuant to such Notice of Exercise. Upon delivery of a written notice to the Company, Holder may from time to time increase (with such increase not effective until the sixty-first (61st) day after delivery of such notice) or decrease the Maximum Percentage of such Holder to any other percentage not in excess of 9.99% as specified in the notice; *provided* that (i) any increase in the Maximum Percentage will not be effective until the sixty-first (61st) day after such notice is delivered to the Company and (ii) any such increase or decrease will apply only to Holder and its Attribution Parties, and not to any other holder of a warrant. As used herein, "**Attribution Parties**" means, collectively, the following Persons and entities: (i) any investment vehicle, including any funds, feeder funds or managed accounts, currently, or from time to time after the date hereof, directly or indirectly managed or advised by Holder's investment manager or any of its affiliates or principals, (ii) any direct or indirect affiliates of Holder or any of the foregoing, (iii) any Person acting or who would be deemed to be acting as a Section 13(d) group together with Holder and any of the foregoing and (iv) any other Persons whose beneficial ownership of the Common Stock would be aggregated with Holder's and the other Attribution Parties for purposes of Section 13(d) of the Act.

(b) Any portion of an exercise that would result in the issuance of Shares in excess of the Maximum Percentage ("**Excess Exercise Shares**") shall be cancelled and treated as null and void *ab initio*.

(c) In any case in which the exercise of this Warrant for Shares would result in Holder, together with the other Attribution Parties, collectively beneficially owning shares of Common Stock in excess of the Maximum Percentage, the Company shall issue to Holder the number of shares of Common Stock that would result in Holder beneficially owning, together with the other Attribution Parties, as approximately equal to the Maximum Percentage as possible without the Company issuing any fractional shares of Common Stock.

(d) In furtherance of this Section 1.7, upon written request of Holder, the Company shall within one (1) business day confirm in writing the number of shares of Common Stock then issued and outstanding.

(e) The provisions of this Section 1.7 shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this section to the extent necessary or desirable to properly give effect to the Maximum Percentage.

(f) For purposes of clarity, the shares of Common Stock issuable to Holder pursuant to the terms of this Warrant in excess of the Maximum Percentage shall not be deemed to be beneficially owned by Holder for any purpose, including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the Exchange Act.

(g) The limitations contained in this paragraph may not be waived and shall apply to a successor holder of the Warrant.

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Adjustments to Warrant Price. The Warrant Price shall be subject to adjustment (without duplication) upon the occurrence of any of the following events:

(a) The issuance of Common Stock as a dividend or distribution to all holders of Common Stock, or a subdivision, combination or reclassification of the outstanding shares of Common Stock into a greater or smaller number of shares, in which event the Warrant Price shall be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0}{N_1}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification; and

N_1 = the number of shares of Common Stock equal to (i) in the case of a dividend or distribution, the sum of the number of shares outstanding immediately prior to the Open of Business on the Ex-Date for such dividend or distribution plus the total number of shares issued pursuant to such dividend or distribution or (ii) in the case of a subdivision, combination or reclassification, the number of shares outstanding immediately after such subdivision, combination or reclassification.

Such adjustment shall become effective immediately after the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification. If any dividend or distribution or subdivision, combination or reclassification of the type described in this Section 2.1(a) is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to the Warrant Price that would then be in effect if such dividend or distribution or subdivision, combination or reclassification had not been declared or announced, as the case may be.

(b) The issuance to all holders of Common Stock of shares of Common Stock (or Derivative Securities) at an Effective Consideration per share that is below the Fair Market Value of a share of Common Stock on the Trading Day immediately preceding the date of the announcement of such issuance, in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 + C/M}{N_0 + N_A}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such issuance;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such issuance;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the Ex-Date for such issuance;

N_A = the number of shares of Common Stock issued and, if applicable, issuable upon exercise, conversion or exchange of any Derivative Securities assuming full physical settlement;

C = the total consideration receivable by the Company on issuance and, if applicable, the exercise, conversion or exchange of any Derivative Securities assuming full physical settlement; and

M = the Closing Sale Price of a share of Common Stock on the Trading Day immediately preceding the date of the announcement of such issuance.

Such adjustment shall become effective immediately after the Open of Business on the Ex-Date for such issuance. In the event that an issuance of such Common Stock or Derivative Securities is announced but such Common Stock or Derivative Securities are not so issued, the Warrant Price shall again be adjusted to be the Warrant Price that would then be in effect if the Ex-Date for such issuance had not occurred. If the application of this Section 2.1(b) to any issuance would result in an increase in the Warrant Price, no adjustment shall be made for such issuance under this Section 2.1(b).

(c) The issuance of shares of Common Stock (or Derivative Securities) at an Effective Consideration that is less than the Warrant Price in effect immediately prior to the Open of Business on the date of such issuance, in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 + C/W_0}{N_0 + N_A}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the date of such issuance;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the date of such issuance;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the date of such issuance;

N_A = the number of shares of Common Stock issued and, if applicable, issuable upon exercise, conversion or exchange of any Derivative Securities assuming full physical settlement; and

C = the total consideration receivable by the Company on issuance and, if applicable, the exercise, conversion or exchange of any Derivative Securities assuming full physical settlement.

Such adjustment shall become effective immediately after the Open of Business on the date of such issuance. In the event that an issuance of such Common Stock or Derivative Securities is announced but such Common Stock or Derivative Securities are not so issued, the Warrant Price shall again be adjusted to be the Warrant Price that would then be in effect if the issuance had not

occurred. If the application of this Section 2.1(c) to any issuance would result in an increase in the Warrant Price, no adjustment shall be made for such issuance under this Section 2.1(c).

(d) The issuance as a dividend or distribution to all holders of Common Stock of shares of capital stock, evidences of indebtedness, shares of capital stock (other than Common Stock) or other securities, cash or other property (excluding any dividend or distribution covered by Section 2.1(a) or Section 2.1(b)), in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{M - FMV}{M}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such dividend or distribution;

M = the Fair Market Value of a share of Common Stock on the Trading Day immediately preceding the Ex-Date for such dividend or distribution; and

FMV = the Fair Market Value of the portion of such dividend or distribution applicable to one share of Common Stock on the Trading Day immediately preceding the Ex-Date for such dividend or distribution.

Such decrease shall become effective immediately after the Open of Business on the Ex-Date for such dividend or distribution. In the event that such dividend or distribution is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such distribution had not been declared or announced.

However, if the transaction that gives rise to an adjustment pursuant to this Section 2.1(d) is one pursuant to which the payment of a dividend or other distribution on Common Stock consists of shares of capital stock of, or similar equity interests in, a subsidiary of the Company or other business unit of the Company (i.e., a spin-off) that are, or, when issued, will be, traded or quoted on The Nasdaq Stock Market LLC or any other national or regional securities exchange or market, then the Warrant Price will instead be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{M_0}{M_0 + FMV_0}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on

the Ex-Date for such dividend or distribution;

FMV_0 = the average of the Fair Market Values of the capital stock or similar equity interests distributed to holders of Common Stock applicable to one share of Common Stock over the 10 consecutive Trading Days commencing on, and including, the third Trading Day following the effective date of such spin-off (the "Valuation Period"); and

M_0 = the average of the Fair Market Values of the Common Stock over the Valuation Period for such dividend or distribution.

Such decrease shall be made immediately after the Close of Business on the last Trading Day of the Valuation Period for such dividend or distribution, but shall be given effect immediately after the Open of Business on the Ex-Date for such dividend or distribution; provided that in respect of any exercise during the Valuation Period, references to 10 consecutive Trading Days in the definition of Valuation Period shall be deemed replaced with such lesser number of Trading Days as have elapsed commencing on, and including, the third Trading Day following the effective date of such spin-off and the exercise date in determining the applicable Warrant Price. In the event that such dividend or distribution is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such distribution had not been declared or announced.

(e) The payment in respect of any tender offer or exchange offer by the Company for Common Stock, where the cash and fair value of any other consideration included in the payment per share of the Common Stock exceeds the Fair Market Value of a share of Common Stock on the Trading Day immediately following the expiration date of the tender or exchange offer (the "**Offer Expiration Date**"), in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 \times P}{A + (P \times N_1)}$$

where:

W_1 = the Warrant Price in effect immediately after the Close of Business on the Offer Expiration Date;

W_0 = the Warrant Price in effect immediately prior to the Close of Business on the Offer Expiration Date;

N_0 = the number of shares of Common Stock outstanding immediately prior to the expiration of the tender or exchange offer (prior to giving effect to the purchase or exchange of shares);

N_1 = the number of shares of Common Stock outstanding immediately after the expiration of the tender or exchange offer (after giving effect to the purchase or exchange of shares);

A = the aggregate cash and fair value of any other consideration payable for shares of Common Stock purchased in such tender offer or exchange offer; and

P = the Fair Market Value of a share of Common Stock on the Trading Day immediately following the Offer Expiration Date.

An adjustment, if any, to the Warrant Price pursuant to this clause (e) shall become effective immediately after the Close of Business on the Offer Expiration Date. In the event that the Company or a subsidiary of the Company is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Company or such subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such tender offer or exchange offer had not been made. If the application of this Section 2.1(e) to any tender offer or exchange offer would result in an increase in the Warrant Price, no adjustment shall be made for such tender offer or exchange offer under this Section 2.1(e).

(f) If any single action would require adjustment of the Warrant Price pursuant to more than one subsection of this Section 2.1, only one adjustment shall be made and such adjustment shall be the amount of adjustment that has the highest, relative to the rights and interests of the registered holders of the Warrants then outstanding, absolute value.

(g) The Company may from time to time, to the extent permitted by law and subject to applicable rules of the principal U.S. national securities exchange on which the Common Stock is then listed, decrease the Warrant Price and/or increase the number of Shares issuable upon the exercise of this Warrant by any amount for any period of at least 20 days. In that case, the Company shall give Holder at least 15 days' prior notice of such increase or decrease, and such notice shall state the decreased Warrant Price and/or increased number of shares for which the Warrant may be exercised and the period during which the decrease and/or increase will be in effect. The Company may make such decreases in the Warrant Price and/or increases in the number of Shares for which the Warrant may be exercised, in addition to those set forth in this Section 2.1, as the Company's Board of Directors deems advisable, including to avoid or diminish any income tax to holders of the Common Stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes. For the avoidance of doubt, any increase to the Shares issuable upon exercise of this Warrant or decrease to the Warrant Price made pursuant to this Section 2.1(g) shall not alter the application of the restrictions on exercise set forth in Section 1.7, which shall remain in full force and effect in accordance with their terms.

(h) Notwithstanding this Section 2.1 or any other provision of this Warrant, if a Warrant Price adjustment becomes effective on any Ex-Date, and Holder exercised its Warrants on or after such Ex-Date and on or prior to the related Record Date would be treated as the record holder of the Common Stock on or prior to the Record Date, then, notwithstanding the Warrant Price adjustment provisions in this Section 2.1, the Warrant Price adjustment relating to such Ex-Date will not be made. Instead, Holder will be treated as if such holder were the record owner of shares of Common Stock on an un-adjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

(i) Effect of Certain Events on Adjustment to the Warrant Price. For purposes of determining the adjusted Warrant Price under Section 2.1, the following shall be applicable:

(1) Issuance of Options. If the Company shall, at any time or from time to time after the Issue Date, in any manner, grant or sell (whether directly or by assumption in a merger or otherwise) any Derivative Securities, whether or not such Options or the right to convert or exchange any Convertible Securities issuable upon the exercise of such Options are immediately exercisable, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of Convertible Securities issuable upon the exercise of such Options shall be deemed to have been issued as of the date of granting or sale of such Options (and thereafter shall be deemed to be outstanding for purposes of adjusting the Warrant Price under Section 2.1), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 2.1) of (x) the total amount, if any, received or receivable by the Company as consideration for the granting or sale of all such Options, plus (y) the minimum aggregate amount of additional consideration payable to the Company upon the exercise of all such Options, plus (z) in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Company upon the issuance or sale of all such Convertible Securities and the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the exercise of all such Options or upon the conversion or exchange of all Convertible Securities issuable upon the exercise of all such Options. Except as otherwise provided in Section 2.1(i)(3), no further adjustment of the Warrant Price shall be made upon the actual issuance of Common Stock or of Convertible Securities upon exercise of such Options or upon the actual issuance of Common Stock upon conversion or exchange of Convertible Securities issuable upon exercise of such Options.

(2) Issuance of Convertible Securities. If the Company shall, at any time or from time to time after the Issue Date, in any manner, grant or sell (whether directly or by assumption in a merger or otherwise) any Convertible Securities, whether or not the right to convert or exchange any such Convertible Securities is immediately exercisable, then the total maximum number of shares of Common Stock issuable upon conversion or exchange of the total maximum amount of such Convertible Securities shall be deemed to have been issued as of the date of granting or sale of such Convertible Securities (and thereafter shall be deemed to be outstanding for purposes of adjusting the number of Shares pursuant to Section 2.1), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 2.1) of (x) the total amount, if any, received or receivable by the Company as consideration for the granting or sale of such Convertible Securities, plus (y) the minimum aggregate amount of additional consideration, if any, payable to the Company upon the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities. Except as otherwise provided in Section 2.1(i)(3), no further adjustment of the Warrant Price shall be made upon the actual issuance of Common Stock upon conversion or exchange of such Convertible Securities

or by reason of the issue or sale of Convertible Securities upon exercise of any Options to purchase any such Convertible Securities for which adjustments of the number of Shares have been made pursuant to the other provisions of this Section 2.1(i).

(3) Change in Terms of Derivative Securities. Upon any change in any of (A) the total amount received or receivable by the Company as consideration for the granting or sale of any Derivative Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof, (B) the minimum aggregate amount of additional consideration, if any, payable to the Company upon the exercise of any Options or upon the issuance, conversion or exchange of any Convertible Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof, (C) the rate at which Convertible Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof are convertible into or exchangeable for Common Stock, or (D) the maximum number of shares of Common Stock issuable in connection with any Options referred to in Section 2.1(i)(1) hereof or any Convertible Securities referred to in Section 2.1(i)(2) hereof (in each case, other than in connection with any issuance or sale of shares of Common Stock issued upon the exercise or conversion of this Warrant), then (whether or not the original issuance or sale of such Derivative Securities resulted in an adjustment to the Warrant Price pursuant to this Section 2.1) the Warrant Price at the time of such change shall be adjusted or readjusted, as applicable, to the Warrant Price which would have been in effect at such time pursuant to the provisions of this Section 2.1 had such Derivative Securities still outstanding provided for such changed consideration, conversion rate, or maximum number of shares, as the case may be, at the time initially granted, issued, or sold, but only if as a result of such adjustment or readjustment, the Warrant Price is decreased.

(4) Treatment of Expired or Terminated Derivative Securities. Upon the expiration or termination of any unexercised Option (or portion thereof) or any unconverted or unexchanged Convertible Security (or portion thereof) for which any adjustment (either upon its original issuance or upon a revision of its terms) was made pursuant to this Section 2.1 (including without limitation upon the redemption or purchase for consideration of all or any portion of such Option or Convertible Security by the Company), the Warrant Price shall forthwith be changed pursuant to the provisions of this Section 2.1 to the Warrant Price which would have been in effect at the time of such expiration or termination had such unexercised Option (or portion thereof) or unconverted or unexchanged Convertible Security (or portion thereof), to the extent outstanding immediately prior to such expiration or termination, never been issued.

(5) Calculation of Consideration Received. If the Company shall, at any time or from time to time after the Issue Date, issue or sell, or is deemed to have issued or sold in accordance with Section 2.1(i), any shares of Common Stock, Options, or Convertible Securities: (A) for cash, the consideration received therefor shall be deemed to be the net amount received by the Company therefor; (B) for consideration other than cash, the amount of the consideration other than cash received by the Company shall be the Fair Market Value of such consideration; (C) for no specifically allocated consideration in connection with an issuance or sale of other securities of the Company, together comprising one integrated transaction, the amount of the consideration therefor shall be deemed to have been issued without consideration; or (D) to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving

corporation, the amount of consideration therefor shall be deemed to be the Fair Market Value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options, or Convertible Securities, as the case may be, issued to such owners. The Board of Directors of the Company shall determine the net amount of any cash consideration in its reasonable good faith judgment and the Fair Market Value of any consideration other than cash shall be determined in accordance with the definition thereof.

(6) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company or any of its wholly-owned subsidiaries, and the disposition of any such shares (other than the cancellation or retirement thereof or the transfer of such shares among the Company and its wholly-owned subsidiaries) shall be considered an issue or sale of Common Stock for the purpose of this Section 2.1.

(7) Other Dividends and Distributions. Subject to the provisions of this Section 2.1(i), if the Company shall, at any time or from time to time after the Issue Date, make or declare, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or any other distribution payable in securities of the Company (other than a dividend or distribution of shares of Common Stock, Options, or Convertible Securities in respect of outstanding shares of Common Stock), cash, or other property, then, and in each such event, provision shall be made so that the Holder shall receive upon exercise or conversion of this Warrant, in addition to the number of Shares receivable thereupon, the kind and amount of securities of the Company, cash, or other property which the Holder would have been entitled to receive had the Warrant been exercised or converted in full into Shares on the date of such event and had the Holder thereafter, during the period from the date of such event to and including the exercise date, retained such securities, cash, or other property receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this Section 2.1 with respect to the rights of the Holder.

(8) Existing Derivative Securities. For the avoidance of doubt, any changes to the terms of any Derivative Securities outstanding on or prior to the date hereof shall also be subject to the foregoing clause (3) as if such prior-existing Derivative Securities were issued immediately after this Warrant (i.e., resulting in appropriate adjustments, as applicable, to the Warrant Price in accordance with this Section 2.1). Without limiting the foregoing, it is acknowledged and agreed that for purposes of calculating the initial number of Shares issuable upon exercise of this Warrant, the Company and Holder agreed to only take into account out-of-the-money stock options to purchase one million shares of Common Stock (the remaining, disregarded out-of-the-money stock options outstanding on the Issue Date, the "**Disregarded Options**"). For the avoidance of doubt, upon any amendments to the terms of the Disregarded Options that would result in either (x) the strike price thereof with respect to one share of Common Stock being less than the then current Fair Market Value of one share of Common Stock or (y) the strike price thereof with respect to one share of Common Stock being less than the Warrant Price, (I) the Warrant Price at the time of such change shall be adjusted to the Warrant Price which would have been in effect at such time pursuant to the provisions of this Section 2.1 as if such Disregarded Options had been issued at a zero strike immediately after this Warrant

(i.e., resulting in appropriate adjustments, as applicable, to the Warrant Price in accordance with this Section 2.1) and (II) the Warrant Price shall be further readjusted to give incremental effect to the changes called for by this Section 2.1 on account of the actual amendment itself (together with any other amendments to the terms of such options from and after the Issue Date) (i.e., at that time, Holder shall benefit from the incremental adjustments attributable to all of the amendments to the terms of all of the options outstanding on the Issue Date, including the Disregarded Options), and any amendments thereafter will continue to be subject to the terms of this Section 2.1, including clause (3) and this clause (8).

2.2 Adjustments to Number of Warrants. Concurrently with any adjustment to the Warrant Price under Section 2.1, the number of Shares will be adjusted to be equal to the number of Shares immediately prior to such adjustment, *multiplied by* a fraction, (i) the numerator of which is the Warrant Price in effect immediately prior to such adjustment and (ii) the denominator of which is the Warrant Price in effect immediately following such adjustment.

2.3 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Common Stock are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, this Warrant will be exercisable for the number, class and series of Company securities that Holder would have received had the Shares been outstanding on and as of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.3 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.4 Purchase Rights. In addition to any adjustments pursuant to Section 2.1 above, if at any time the Company grants, issues, or sells any shares of Common Stock, Options, Convertible Securities, or rights to purchase stock, warrants, securities, or other property, in each case, pro rata to the record holders of Common Stock (the "**Purchase Rights**"), then the Holder shall be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder would have acquired if the Holder had held the number of Shares acquirable upon complete exercise or conversion of this Warrant immediately before the date on which a record is taken for the grant, issuance, or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the grant, issue, or sale of such Purchase Rights; *provided*, *however*, that, to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Maximum Percentage, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Maximum Percentage. Anything herein to the contrary notwithstanding, the Holder shall not be entitled to the Purchase Rights granted herein with respect to any issuance or sale of shares of Common Stock issued upon the exercise or conversion of this Warrant.

2.5 Successor upon Consolidation, Merger and Sale of Assets.

(a) The Company may not consolidate or merge with, or sell, lease, convey or otherwise transfer in one transaction or a series of related transactions all or substantially all of the consolidated assets of the Company and its subsidiaries to, any other Person (a "**Fundamental Change**") unless the Company is the surviving corporation or the Company requires, as a necessary condition to the consummation of such transaction, that:

(1) the successor to the Company assumes all of the Company's obligations under this Warrant; and

(2) the successor to the Company provides written notice of such assumption to Holder.

(b) In case of any such Fundamental Change, such successor entity shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Company.

2.6 No Fractional Share. No fractional Share shall be issuable upon exercise of this Warrant and the number of Shares to be issued shall be rounded down to the nearest whole Share. If a fractional Share interest arises upon any exercise of the Warrant, the Company shall eliminate such fractional Share interest by paying Holder in cash the amount computed by multiplying the fractional interest by (i) the Fair Market Value of a full Share, less (ii) the then-effective Warrant Price.

2.7 Notice/Certificate as to Adjustments. Upon the happening of any event requiring an adjustment of the Warrant Price, Common Stock and/or number of Shares issuable upon exercise of this Warrant, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, class and number of Shares in effect upon the date of such adjustment.

2.8 No Impairment. The Company shall not, directly or indirectly, by amendment of its Certificate of Incorporation or other governing or organizational documents, or through reorganization, consolidation, merger, dissolution, sale of assets, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the Holder of this Warrant against dilution or other impairment.

2.9 Notwithstanding any other provision hereof, the Warrant Price shall not be less than zero as a result of any adjustment hereunder, action, event or otherwise.

2.10 Certain Definitions. For purposes of this Section 2, the following terms shall have their respective meanings set forth below:

"**Close of Business**" means 5:00 p.m., New York City time.

"**Convertible Securities**" means any securities (directly or indirectly) convertible into or exchangeable or exercisable for shares of Common Stock (excluding Options).

"**Derivative Securities**" means any Options or Convertible Securities.

"**Effective Consideration**" means the amount paid or payable to acquire shares of Common Stock (or in the case of Convertible Securities, the amount paid or payable to acquire the Convertible Security, if any, plus the exercise price for the underlying Common Stock).

"**Ex-Date**" (i) when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Fair Market Value of such Common Stock was obtained without the right to receive such issuance or distribution, and (ii) when used with respect to any subdivision, split, combination or reclassification of shares of Common Stock, means the first date on which the Common Stock trades, regular way, on such exchange or in such market after the time at which such subdivision, split, combination or reclassification becomes effective.

"**Open of Business**" means 9:00 a.m., New York City time.

"**Options**" means any warrants or other rights or options to subscribe for or purchase Common Stock.

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Company's Board of Directors or by statute, contract or otherwise).

"**Trading Day**" is any day during which trading in securities generally occurs on The Nasdaq Stock Market LLC or, if the Common Stock is not listed on The Nasdaq Stock Market LLC, on the principal United States national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not listed on a United States national or regional securities exchange, on the principal other market (including any over-the-counter market or quotation system) on which the Common Stock is then traded or, if none of the foregoing apply, on any day that is not a Saturday, Sunday or other day that financial institutions are required to be closed in New York, New York.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) The number of Shares first set forth above, together with the

corresponding notional number of Shares underlying that certain Warrant No. 0002, dated as of the date hereof, issued by the Company to Holder (the "**Cash Settlement Warrant**"), represents not less than 11% of the Company's Common Stock, on a fully diluted basis after giving effect to the issuance of the Warrant, together with any other derivative instruments or other rights to acquire Common Stock, assuming full physical settlement and without regards to any restrictions or limitations on exercise or conversion or as to whether such rights or derivatives are in the money (but including only 1,000,000 of the out-of-the-money employee stock options existing as of the execution of the Exchange and Purchase Agreement, excluding the shares issuable underlying the Existing Other Notes and the New Secured Notes and including, solely for these purposes, the Shares notionally associated with the Cash Settlement Warrant), on and as of the Issue Date. As used herein, "**Exchange and Purchase Agreement**" means that certain Exchange and Purchase Agreement, dated as of May 13, 2024, by and between the Company and Holder; "**Existing Notes**" means the 0% Convertible Senior Notes due 2026 issued pursuant to that certain Indenture, dated as of December 4, 2020, by and between the Company, as issuer thereunder, and U.S. Bank Trust Company, National Association (formerly U.S. Bank National Association), as trustee; "**Existing Other Notes**" means the Existing Notes not subject to the exchange contemplated by the Exchange and Purchase Agreement; and "**New Secured Notes**" means the First Lien Convertible Senior Notes due 2029 issued pursuant to that certain Indenture, dated June 3, 2024, by and between the Company, the subsidiary guarantors party thereto from time to time and U.S. Bank Trust Company, National Association, as Trustee and Collateral Agent.

(b) This Warrant is (and any warrant issued in substitution hereof will be), upon issuance, duly authorized, validly issued, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. All Shares which may be issued upon the exercise of this Warrant (and any warrant issued in substitution hereof) shall, upon issuance, be duly authorized, validly issued, fully paid and non-assessable, issued without violation of any preemptive or similar rights of any person or entity, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws. The Company covenants that it shall at all times cause to be reserved and kept available out of its authorized and unissued capital stock such number of shares of Common Stock and other securities as will be sufficient to permit the exercise in full of this Warrant, and further covenants that it shall not cause or permit the stated par value of the Shares or other instruments or securities for which the Warrant is exercisable to exceed $0.001.

(c) The Company's capitalization table delivered to Holder as of the Issue Date is true and complete as of the Issue Date.

(d) The par value of one share of Common Stock as of the Issue Date is $0.001 per share.

3.2 Notice of Certain Events. In the event:

(a) that the Company shall take a record of the holders of its Common Stock (or other capital stock or securities or securities at the time issuable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution (whether in cash, property, stock, or other securities and whether or not a regular

cash dividend), to vote at a meeting (or by written consent), to receive any right to subscribe for or purchase any shares of capital stock of any class or any other securities or to receive any other security;

(b) of any capital reorganization of the Company, any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Common Stock, any consolidation or merger of the Company with or into another Person, or a sale of all or substantially all of the Company's assets to another Person or any anticipated change in the Company's listing status, whether voluntary or involuntary; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in (a) above, at least ten (10) business days' prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled thereto) or for determining rights to vote, if any; and

(2) in the case of the matters referred to in (b) or (c) above at least ten (10) business days' prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice).

The Company will also provide information reasonably requested by Holder from time to time, within a reasonable time following each such request, that is reasonably necessary to enable Holder to comply with Holder's accounting and reporting requirements.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant and the Shares to be acquired upon exercise of this Warrant by Holder are being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant or the Shares.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant and its underlying securities. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the

offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant and its underlying securities involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and its underlying securities and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and its underlying securities and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant and the Shares issuable upon exercise hereof have not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant and the Shares issued upon any exercise hereof must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 No Voting Rights. Holder, as a Holder of this Warrant, will not have any voting rights until the exercise of this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term and Automatic Cashless Exercise Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above and Section 5.1(b) below, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Eastern time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, immediately prior to the expiration of the Warrant, the Fair Market Value of one Share (or other security issuable upon the exercise hereof) is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.2 above as to all Shares (or such other securities) for which it shall not previously have been exercised (or such lesser amount for which it may be exercised in accordance with limitations on exercise set forth in Section 1.7), and the Company shall, within a reasonable time, deliver a certificate representing the Shares (or such other securities) issued upon such exercise to Holder.

5.2 Legends. The Shares shall be imprinted with a legend in substantially the following form:

> THE SHARES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED.

5.3 Compliance with Securities Laws on Transfer. This Warrant and the Shares issued or issuable upon exercise of this Warrant may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to any Affiliate of Holder; *provided*, that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Transfer Procedure. Subject to the provisions of Section 5.3 and upon providing the Company with written notice, Holder may transfer all or part of this Warrant or the Shares issued upon exercise of this Warrant (or the securities issued upon conversion of the Shares, if any) to any Affiliate or other transferee; *provided, however*, in connection with any such transfer, Holder will give the Company notice of the portion of the Warrant and/or Shares (and/or securities issued upon conversion of the Shares, if any) being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable) and the transferee shall agree to be bound by all of the terms and conditions of this Warrant as a precondition to any such transfer.

For purposes of this Warrant, "**Affiliate**" shall mean, with respect to any individual, trust, estate, corporation, partnership, limited liability company or any other incorporated or unincorporated entity ("**Person**"), any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person, or any general partner, managing member, officer, director, trustee, limited partner, member or stockholder of such first Person, or any venture capital fund or other investment fund now or hereafter existing that is controlled by one (1) or more general partners, managing members or investment adviser of, or shares the same management company or investment adviser with, such first Person. As used in this definition, "**control**" (including, with correlative meanings, "**controlled by**" and "**under common control with**") shall mean possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract, or otherwise).

5.5 Notices. All notices and other communications hereunder from the Company to

the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) business day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient (or in the case of electronic mail, in the absence of any "bounce-back," "delivery failed" or similar automated feedback indicating rejection of the electronic mail or failure of delivery), or (iv) on the first (1st) business day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5; *provided*, *however*, that all notices to Holder must also be delivered via electronic mail in order to be effective (and shall only be effective in the absence of any of any "bounce-back," "delivery failed" or similar automated feedback indicating rejection of the electronic mail or failure of delivery). All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

Lynrock Lake Master Fund LP
Attn: Cynthia Paul; Michael Manley; Operations
Email: cp@lynrocklake.com; mike@lynrocklake.com; and
ops@lynrocklake.com

With a copy (which shall not constitute notice) to:
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park, Floor 45
New York, New York 10036
Attention: Stephen Kuhn; Timothy Clark
Email: skhuhn@akingump.com; tclark@akingump.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

LivePerson, Inc.
530 7th Avenue, Floor M1
New York, New York 10018
Attention: John Collins; Monica Greenberg
Email: jcollins@liveperson.com; mgreenberg@liveperson.com

5.6 Registration Rights. Upon the written request of the beneficial owners of the holders of Warrants representing, on exercise, a majority of the Shares (including for these purpose, the holders of Shares issued upon the exercise of the Warrant) (the "**Majority Beneficial Owners**"), the Company shall, within thirty (30) days thereafter, enter into a registration rights agreement with the Majority Beneficial Owners, which shall contain customary terms and provide that:

(a) the Majority Beneficial Owners shall have customary demand, shelf and piggyback registration rights and obligations, including rights with respect to shelf registration on Form S-1 (or any similar or successor form) if the Company is not eligible to use Form S-3 (or any similar or successor form) at such time, with respect to the Shares issuable upon exercise of this Warrant; and

(b) such registration rights shall include customary indemnities and the right to receive customary cooperation from the Company and its directors and officers in connection with any dispositions (which may take the form of underwritten offerings, block trades, derivative transactions and other lawful means of disposition) pursuant to the applicable registration statement(s) (including entering into customary agreements with underwriters and other counterparties and providing such underwriters and other counterparties with customary indemnities, opinions, certificates and due diligence cooperation).

5.7 Successors. All the covenants and provisions hereof by or for the benefit of Holder shall bind and inure to the benefit of its successors and assigns hereunder.

5.8 Waiver. This Warrant and any term hereof may be amended, modified, changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such amendment, modification, change, waiver, discharge or termination is sought.

5.9 Attorney's Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.10 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.11 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles regarding conflicts of law.

5.12 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.13 Equitable Relief. Each of the Company and the Holder acknowledges that a breach or threatened breach by the Company of any of its obligations under this Warrant would give rise to irreparable harm to the Holder for which monetary damages would not be an adequate remedy and hereby agree that in the event of a breach or a threatened breach by the Company of any such obligations, the Holder shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have caused this Warrant to Purchase Common Stock to be executed by their duly authorized representatives effective as of the Issue Date written above.

"COMPANY"

LIVEPERSON, INC.

By:
Name:
Title:

"HOLDER"

LYNROCK LAKE MASTER FUND LP

By: Lynrock Lake Partners LLC, its general partner

By:
Name:
Title:

APPENDIX 1

NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right to purchase _____ shares of the Common Stock of **LIVEPERSON, INC.** (the "**Company**") in accordance with the attached Warrant To Purchase Common Stock, and tenders payment of the aggregate Warrant Price for such shares as follows:

[ ] check in the amount of $_____ payable to the order of the Company enclosed herewith

[ ] Wire transfer of immediately available funds to the Company's account

[ ] Cashless Exercise pursuant to Section 1.2 of the Warrant

[ ] Other [Describe] _____

2. Please issue a certificate or certificates representing the Shares in the name specified below:

_____
Holder's Name

_____

_____
(Address)

_____
(Federal Tax ID or Social Security No.)

3. Delivery Method:

[ ] Certified mail to the above address

[ ] Electronically (provide DWAC Instructions): _____

[ ] Other [Describe] _____

4. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant to Purchase Common Stock as of the date hereof.

[*Signature page follows*]

HOLDER

By:
Name:
Title:

Date:

[*Signature page follows*]

THIS WARRANT HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR THE SECURITIES LAWS OF ANY STATE AND, EXCEPT (1) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE ACT OR (2) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT, MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED.

WARRANT

Company: LIVEPERSON, INC., a Delaware corporation
Notional Number of Shares of Common Stock: [_____]
Warrant Price: $0.75 per Share
Warrant Certificate No.: [_____]
Issue Date: [_____], 20[_]
Expiration Date: [_____], 20[_]

THIS WARRANT CERTIFIES THAT, for good and valuable consideration, Lynrock Lake Master Fund LP, a Cayman Islands exempted limited partnership (together with any successor or permitted assignee or transferee of this Warrant, "**Holder**") is entitled to receive, upon the whole or partial exercise hereof, a cash payment equal to the excess, if any, of the Fair Market Value (as hereinafter defined) of one share of common stock of the above named company (the "**Company**" and such common stock, the "**Common Stock**") over the above-stated Warrant Price in respect of each share to which this Warrant notionally applies (the "**Shares**"), all as set forth above and as adjusted pursuant to Section 2 of this Warrant, subject to the provisions and upon the terms and conditions set forth in this Warrant. The term "**Warrant**" as used herein shall include this Warrant and any warrants delivered in substitution or exchange therefor as provided herein.

SECTION 1. EXERCISE.

1.1 Method of Exercise. Holder may at any time and from time to time exercise this Warrant, in whole or in part, by delivering to the Company, in any of the manners permitted by Section 5.5, the original of this Warrant together with a duly executed Notice of Exercise in substantially the form attached hereto as Appendix 1, whereupon, on and subject to the terms and conditions set forth herein, Holder shall be entitled to receive in respect of each Share notionally subject to such exercise, the excess of the Fair Market Value of one Share, as of the exercise date, over the then current Warrant Price (the "**Cash Settlement Amount**"). Notwithstanding any contrary provision herein, in no event shall Holder be required to surrender or deliver an ink-signed paper copy of this Warrant or the Notice of Exercise in connection with its exercise hereof or of any rights hereunder, nor shall Holder be required to surrender or deliver a paper or other physical copy of this Warrant or a paper or other physical copy of the Notice of Exercise in connection with any exercise hereof (in each case, delivery by electronic mail being sufficient).

1.2 [intentionally omitted].

1.3 Fair Market Value. "**Fair Market Value**" shall mean: (a) with respect to

the Common Stock or any other security that is then listed on a national stock exchange, the closing price or last sale price of such security reported for the Business Day immediately prior to the applicable date of determination; (b) with respect to the Common Stock or any other security that is not listed on a national stock exchange but is then quoted on the National Association of Securities Dealers, Inc. OTC Bulletin Board or such similar exchange or association, the closing price or last sale price of a share or unit of such security thereon reported for the Business Day immediately prior to the applicable date of determination; or (c) if neither of the foregoing applies, as jointly determined by the board of directors of the Company and Holder; *provided*, that if the parties are unable to reach agreement within a reasonable period of time, then such fair market value determination shall be determined by a nationally recognized investment banking, accounting or valuation firm that is not affiliated with the Company or Holder, in which case, the determination of such firm shall be final and conclusive (and the fees and expenses of such valuation firm shall be borne by the Company).

1.4 Settlement; Delivery of New Warrant.

(a) Within three (3 Business Days after Holder exercises this Warrant in the manner set forth in Section 1.1 above, the Company shall pay the aggregate Cash Settlement Amount to, or at the direction of, Holder.

(b) Notwithstanding the foregoing, if payment of all or any portion of the Cash Settlement Amount in accordance with the foregoing clause (a) would result in the Company having less than $100.0 million in Available Cash (as hereinafter defined) immediately after making such payment, the Company shall have the right to defer the payment of the portion of the Cash Settlement Amount that would cause the Company to have less than $100.0 million in Available Cash. Any such deferred payments shall accrue interest continuously at an annualized rate equal to 6.0%, compounded monthly (such deferred payments and the unpaid interest accrued thereon, the "**Deferred Payment Obligations**"). The Company shall be obligated to make payments in respect of any outstanding Deferred Payment Obligations monthly to the extent that doing so would not result in the Company having less than $100.0 million in Available Cash after giving effect to such monthly payment. "**Available Cash**" as used herein shall mean the aggregate amount of unrestricted cash and Cash Equivalents (as defined in that certain Indenture, dated June 3, 2024, by and between the Company, the subsidiary guarantors party thereto from time to time and U.S. Bank Trust Company, National Association, as Trustee and Collateral Agent, governing those certain First Lien Convertible Senior Notes due 2029 (the "**Indenture**")) included on the consolidated balance sheet of the Company and its Subsidiaries (as defined in the Indenture) as of such time. For the avoidance of doubt, the Company's obligations to make payments pursuant to this Section 1.4(b) shall survive the expiration and termination of this Warrant until fully performed.

(c) If this Warrant has not been fully exercised and has not expired, the Company shall deliver to Holder a new warrant of like tenor representing the remaining Shares notionally underlying this Warrant.

1.5 Replacement of Warrant. On receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant and, in the case of loss, theft or destruction, on delivery of an indemnity agreement reasonably satisfactory in form, substance and amount to the Company or, in the case of mutilation, on surrender of this Warrant

to the Company for cancellation, the Company shall, within a reasonable time, execute and deliver to Holder, in lieu of this Warrant, a new warrant of like tenor and amount.

1.6 Treatment of Warrant Upon Acquisition of Company.

(a) Acquisition. For the purpose of this Warrant, "**Acquisition**" means any transaction or series of related transactions involving: (i) the sale, lease, exclusive license, or other disposition of all or substantially all of the assets (including intellectual property) of the Company; (ii) any merger or consolidation of the Company into or with another person or entity (other than a merger or consolidation effected exclusively to change the Company's domicile), or any other corporate reorganization or recapitalization, in which the stockholders of the Company in their capacity as such immediately prior to such merger, consolidation, reorganization, or recapitalization, own less than a majority of the Company's (or the surviving or successor entity's) outstanding voting power immediately after such merger, consolidation, reorganization, or recapitalization; (iii) any, direct or indirect, purchase offer, tender offer or exchange offer is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding shares of Common Stock; or (iv) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another person or group of related persons (as defined in Rule 13d-5(b)(1) promulgated under the Exchange Act) whereby such other person or group acquires 50% or more of the Company's then-outstanding total voting power.

(b) Treatment of Warrant at Acquisition. In the event of an Acquisition in which the consideration to be received by the Company's stockholders consists solely of cash, solely of Marketable Securities or a combination of cash and Marketable Securities (a "**Cash/Public Acquisition**"), and the Fair Market Value of one Share would be greater than the Warrant Price in effect on such date immediately prior to such Cash/Public Acquisition, and Holder has not exercised this Warrant pursuant to Section 1.1 above as to all Shares, then this Warrant shall automatically be deemed to be exercised pursuant to Section 1.1 above as to all notional underlying Shares effective immediately prior to and contingent upon the consummation of a Cash/Public Acquisition. In connection with such automatic exercise, Holder shall be deemed to have restated each of the representations and warranties in Section 4 of the Warrant as of the date thereof and the Company shall promptly notify the Holder the Cash Settlement Amount to be paid in respect of such Shares. Regardless of whether the Fair Market Value of one Share exceeds the Warrant Price then in effect, immediately prior to and contingent upon the consummation of a Cash/Public Acquisition, the Company shall pay or cause to be paid to Holder all of the outstanding Deferred Payment Obligations. In the event of a Cash/Public Acquisition where the Fair Market Value of one Share would be less than the Warrant Price in effect immediately prior to such Cash/Public Acquisition, then, contingent upon the consummation of such Cash/Public Acquisition, this Warrant will expire immediately prior to the consummation of such Cash/Public Acquisition. The Company shall not effect any Cash/Public Acquisition unless the material definitive agreement governing such transaction shall provide for payment of the Cash Settlement Amount for all of the Shares as set forth in this Section 1.6(b) and the payment of any and all outstanding Deferred Payment Obligations in full.

(c) Upon the closing of any Acquisition other than a Cash/Public Acquisition,

the acquiring, surviving or successor entity shall assume the obligations of this Warrant, and the Cash Settlement Amount for this Warrant shall thereafter be calculated based on the same securities and/or other property as would have been paid for the Shares originally notionally underlying the unexercised portion of this Warrant as if such Shares were outstanding on and as of the closing of such Acquisition, subject to further adjustment from time to time in accordance with the provisions of this Warrant, and, in such case, appropriate adjustment (in form and substance satisfactory to the Holder) shall be made with respect to the Holder's rights under this Warrant to ensure that the provisions of this Warrant shall thereafter be applicable, as nearly as possible, to any securities and/or other property thereafter notionally underlying this Warrant. The provisions of this Section 1.6(c) shall similarly apply to successive Acquisitions. The Company shall not effect any such Acquisition unless, prior to the consummation thereof, the successor Person (if other than the Company) resulting from such Acquisition shall assume, by written instrument substantially similar in form and substance to this Warrant and satisfactory to the Holder, the obligation to deliver to the Holder the Cash Settlement Amount that, in accordance with the foregoing provisions, Holder shall be entitled to receive upon exercise of this Warrant, and of any Deferred Payment Obligations. Notwithstanding anything to the contrary contained herein, with respect to any corporate event or other transaction contemplated by the provisions of this Section 1.6(c), the Holder shall have the right to elect prior to the consummation of such event or transaction, to give effect to the exercise rights set forth in Section 1 instead of giving effect to the provisions contained in this Section 1.6(c) with respect to this Warrant.

(d) Notwithstanding any other provision hereof, if an exercise of any portion of this Warrant is to be made in connection with a public offering or a sale of the Company, a Cash/Public Acquisition, or any other transaction, such exercise may at the election of the Holder be conditioned upon the consummation of such offering or transaction, as applicable, in which case such exercise shall not be deemed to be effective until immediately prior to the consummation of such transaction.

(e) As used in this Warrant, "**Marketable Securities**" means securities meeting all of the following requirements: (i) the issuer thereof is then subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and is then current in its filing of all required reports and other information under the Act and the Exchange Act; (ii) the class and series of shares or other security of the issuer to be received by holders of Common Stock in connection with the Acquisition is then traded on the Nasdaq Stock Market LLC or on another United States national or regional securities exchange, and (iii) following the closing of such Acquisition, former holders of Common Stock would not be restricted from publicly re-selling all of the issuer's shares and/or other securities that would be received thereby in such Acquisition, except to the extent that any such restriction arises solely under federal or state securities laws, rules or regulations.

1.7 [intentionally omitted].

SECTION 2. ADJUSTMENTS TO THE SHARES AND WARRANT PRICE.

2.1 Adjustments to Warrant Price. The Warrant Price shall be subject to adjustment (without duplication) upon the occurrence of any of the following events:

(a) The issuance of Common Stock as a dividend or distribution to all holders of Common Stock, or a subdivision, combination or reclassification of the outstanding shares of Common Stock into a greater or smaller number of shares, in which event the Warrant Price shall be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0}{N_1}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification; and

N_1 = the number of shares of Common Stock equal to (i) in the case of a dividend or distribution, the sum of the number of shares outstanding immediately prior to the Open of Business on the Ex-Date for such dividend or distribution plus the total number of shares issued pursuant to such dividend or distribution or (ii) in the case of a subdivision, combination or reclassification, the number of shares outstanding immediately after such subdivision, combination or reclassification.

Such adjustment shall become effective immediately after the Open of Business on (i) the Ex-Date in the case of a dividend or distribution or (ii) the effective date in the case of a subdivision, combination or reclassification. If any dividend or distribution or subdivision, combination or reclassification of the type described in this Section 2.1(a) is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to the Warrant Price that would then be in effect if such dividend or distribution or subdivision, combination or reclassification had not been declared or announced, as the case may be.

(b) The issuance to all holders of Common Stock of shares of Common Stock (or Derivative Securities) at an Effective Consideration per share that is below the Fair Market Value of a share of Common Stock on the Trading Day immediately preceding the date of the announcement of such issuance, in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 + C/M}{N_0 + N_A}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such issuance;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such issuance;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the Ex-Date for such issuance;

N_A = the number of shares of Common Stock issued and, if applicable, issuable upon exercise, conversion or exchange of any Derivative Securities assuming full physical settlement;

C = the total consideration receivable by the Company on issuance and, if applicable, the exercise, conversion or exchange of any Derivative Securities assuming full physical settlement; and

M = the Closing Sale Price of a share of Common Stock on the Trading Day immediately preceding the date of the announcement of such issuance.

Such adjustment shall become effective immediately after the Open of Business on the Ex-Date for such issuance. In the event that an issuance of such Common Stock or Derivative Securities is announced but such Common Stock or Derivative Securities are not so issued, the Warrant Price shall again be adjusted to be the Warrant Price that would then be in effect if the Ex-Date for such issuance had not occurred. If the application of this Section 2.1(b) to any issuance would result in an increase in the Warrant Price, no adjustment shall be made for such issuance under this Section 2.1(b).

(c) The issuance of shares of Common Stock (or Derivative Securities) at an Effective Consideration that is less than the Warrant Price in effect immediately prior to the Open of Business on the date of such issuance, in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 + C/W_0}{N_0 + N_A}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the

date of such issuance;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the date of such issuance;

N_0 = the number of shares of Common Stock outstanding immediately prior to the Open of Business on the date of such issuance;

N_A = the number of shares of Common Stock issued and, if applicable, issuable upon exercise, conversion or exchange of any Derivative Securities assuming full physical settlement; and

C = the total consideration receivable by the Company on issuance and, if applicable, the exercise, conversion or exchange of any Derivative Securities assuming full physical settlement.

Such adjustment shall become effective immediately after the Open of Business on the date of such issuance. In the event that an issuance of such Common Stock or Derivative Securities is announced but such Common Stock or Derivative Securities are not so issued, the Warrant Price shall again be adjusted to be the Warrant Price that would then be in effect if the issuance had not occurred. If the application of this Section 2.1(c) to any issuance would result in an increase in the Warrant Price, no adjustment shall be made for such issuance under this Section 2.1(c).

(d) The issuance as a dividend or distribution to all holders of Common Stock of shares of capital stock, evidences of indebtedness, shares of capital stock (other than Common Stock) or other securities, cash or other property (excluding any dividend or distribution covered by Section 2.1(a) or Section 2.1(b)), in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{M - FMV}{M}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such dividend or distribution;

M = the Fair Market Value of a share of Common Stock on the Trading Day immediately preceding the Ex-Date for such dividend or distribution; and

FMV = the Fair Market Value of the portion of such dividend or distribution applicable to one share of Common Stock on the Trading Day immediately preceding the Ex-Date for such dividend or distribution.

Such decrease shall become effective immediately after the Open of Business on the Ex-Date for such dividend or distribution. In the event that such dividend or distribution is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such distribution had not been declared or announced.

However, if the transaction that gives rise to an adjustment pursuant to this Section 2.1(d) is one pursuant to which the payment of a dividend or other distribution on Common Stock consists of shares of capital stock of, or similar equity interests in, a subsidiary of the Company or other business unit of the Company (i.e., a spin-off) that are, or, when issued, will be, traded or quoted on The Nasdaq Stock Market LLC or any other national or regional securities exchange or market, then the Warrant Price will instead be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{M_0}{M_0 + FMV_0}$$

where:

W_1 = the Warrant Price in effect immediately after the Open of Business on the Ex-Date for such dividend or distribution;

W_0 = the Warrant Price in effect immediately prior to the Open of Business on the Ex-Date for such dividend or distribution;

FMV_0 = the average of the Fair Market Values of the capital stock or similar equity interests distributed to holders of Common Stock applicable to one share of Common Stock over the 10 consecutive Trading Days commencing on, and including, the third Trading Day following the effective date of such spin-off (the "**Valuation Period**"); and

M_0 = the average of the Fair Market Values of the Common Stock over the Valuation Period for such dividend or distribution.

Such decrease shall be made immediately after the Close of Business on the last Trading Day of the Valuation Period for such dividend or distribution, but shall be given effect immediately after the Open of Business on the Ex-Date for such dividend or distribution; *provided* that in respect of any exercise during the Valuation Period, references to 10 consecutive Trading Days in the definition of Valuation Period shall be deemed replaced with such lesser number of Trading Days as have elapsed commencing on, and including, the third Trading Day following the effective date of such spin-off and the exercise date in determining the applicable Warrant Price. In the event that such dividend or distribution is declared or announced but not so paid or made, the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such distribution had not been declared or announced.

(e) The payment in respect of any tender offer or exchange offer by the Company for Common Stock, where the cash and fair value of any other consideration included in the payment per share of the Common Stock exceeds the Fair Market Value of a share of Common Stock on the Trading Day immediately following the expiration date of the tender or exchange offer (the "**Offer Expiration Date**"), in which event the Warrant Price will be adjusted based on the following formula:

$$W_1 = W_0 \times \frac{N_0 \times P}{A + (P \times N_1)}$$

where:

W_1 = the Warrant Price in effect immediately after the Close of Business on the Offer Expiration Date;

W_0 = the Warrant Price in effect immediately prior to the Close of Business on the Offer Expiration Date;

N_0 = the number of shares of Common Stock outstanding immediately prior to the expiration of the tender or exchange offer (prior to giving effect to the purchase or exchange of shares);

N_1 = the number of shares of Common Stock outstanding immediately after the expiration of the tender or exchange offer (after giving effect to the purchase or exchange of shares);

A = the aggregate cash and fair value of any other consideration payable for shares of Common Stock purchased in such tender offer or exchange offer; and

P = the Fair Market Value of a share of Common Stock on the Trading Day immediately following the Offer Expiration Date.

An adjustment, if any, to the Warrant Price pursuant to this clause (e) shall become effective immediately after the Close of Business on the Offer Expiration Date. In the event that the Company or a subsidiary of the Company is obligated to purchase shares of Common Stock pursuant to any such tender offer or exchange offer, but the Company or such subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Warrant Price shall again be adjusted to be the Warrant Price which would then be in effect if such tender offer or exchange offer had not been made. If the application of this Section 2.1(e) to any tender offer or exchange offer would result in an increase in the Warrant Price, no adjustment shall be made for such tender offer or exchange offer under this Section 2.1(e).

(f) If any single action would require adjustment of the Warrant Price pursuant to more than one subsection of this Section 2.1, only one adjustment shall be made and such adjustment shall be the amount of adjustment that has the highest, relative to the rights and interests of the registered holders of the Warrants then outstanding, absolute value.

(g) The Company may from time to time, to the extent permitted by law and subject to applicable rules of the principal U.S. national securities exchange on which the Common Stock is then listed, decrease the Warrant Price and/or increase the number of Shares notionally underlying this Warrant by any amount for any period of at least 20 days. In that case, the Company shall give Holder at least 15 days' prior notice of such increase or decrease, and such notice shall state the decreased Warrant Price and/or increased number of shares for which the Warrant may be exercised and the period during which the decrease and/or increase will be in effect. The Company may make such decreases in the Warrant Price and/or increases in the number of Shares for which the Warrant may be exercised, in addition to those set forth in this Section 2.1, as the Company's Board of Directors deems advisable, including to avoid or diminish any income tax to holders of the Common Stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes.

(h) [intentionally omitted].

(i) Effect of Certain Events on Adjustment to the Warrant Price. For purposes of determining the adjusted Warrant Price under Section 2.1, the following shall be applicable:

(1) Issuance of Options. If the Company shall, at any time or from time to time after the Issue Date, in any manner, grant or sell (whether directly or by assumption in a merger or otherwise) any Derivative Securities, whether or not such Options or the right to convert or exchange any Convertible Securities issuable upon the exercise of such Options are immediately exercisable, then the total maximum number of shares of Common Stock issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of Convertible Securities issuable upon the exercise of such Options shall be deemed to have been issued as of the date of granting or sale of such Options (and thereafter shall be deemed to be outstanding for purposes of adjusting the Warrant Price under Section 2.1), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 2.1) of (x) the total amount, if any, received or receivable by the Company as consideration for the granting or sale of all such Options, plus (y) the minimum aggregate amount of additional consideration payable to the Company upon the exercise of all such Options, plus (z) in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Company upon the issuance or sale of all such Convertible Securities and the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the exercise of all such Options or upon the conversion or exchange of all Convertible Securities

issuable upon the exercise of all such Options. Except as otherwise provided in Section 2.1(i)(3), no further adjustment of the Warrant Price shall be made upon the actual issuance of Common Stock or of Convertible Securities upon exercise of such Options or upon the actual issuance of Common Stock upon conversion or exchange of Convertible Securities issuable upon exercise of such Options.

(2) Issuance of Convertible Securities. If the Company shall, at any time or from time to time after the Issue Date, in any manner, grant or sell (whether directly or by assumption in a merger or otherwise) any Convertible Securities, whether or not the right to convert or exchange any such Convertible Securities is immediately exercisable, then the total maximum number of shares of Common Stock issuable upon conversion or exchange of the total maximum amount of such Convertible Securities shall be deemed to have been issued as of the date of granting or sale of such Convertible Securities (and thereafter shall be deemed to be outstanding for purposes of adjusting the number of notional Shares pursuant to Section 2.1), at a price per share equal to the quotient obtained by dividing (A) the sum (which sum shall constitute the applicable consideration received for purposes of Section 2.1) of (x) the total amount, if any, received or receivable by the Company as consideration for the granting or sale of such Convertible Securities, plus (y) the minimum aggregate amount of additional consideration, if any, payable to the Company upon the conversion or exchange of all such Convertible Securities, by (B) the total maximum number of shares of Common Stock issuable upon the conversion or exchange of all such Convertible Securities. Except as otherwise provided in Section 2.1(i)(3), no further adjustment of the Warrant Price shall be made upon the actual issuance of Common Stock upon conversion or exchange of such Convertible Securities or by reason of the issue or sale of Convertible Securities upon exercise of any Options to purchase any such Convertible Securities for which adjustments of the number of notional Shares have been made pursuant to the other provisions of this Section 2.1(i).

(3) Change in Terms of Derivative Securities. Upon any change in any of (A) the total amount received or receivable by the Company as consideration for the granting or sale of any Derivative Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof, (B) the minimum aggregate amount of additional consideration, if any, payable to the Company upon the exercise of any Options or upon the issuance, conversion or exchange of any Convertible Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof, (C) the rate at which Convertible Securities referred to in Section 2.1(i)(1) or Section 2.1(i)(2) hereof are convertible into or exchangeable for Common Stock, or (D) the maximum number of shares of Common Stock issuable in connection with any Options referred to in Section 2.1(i)(1) hereof or any Convertible Securities referred to in Section 2.1(i)(2) hereof, then (whether or not the original issuance or sale of such Derivative Securities resulted in an adjustment to the Warrant Price pursuant to this Section 2.1) the Warrant Price at the time of such change shall be adjusted or readjusted, as applicable, to the Warrant Price which would have been in effect at such time pursuant to the provisions of this Section 2.1 had such Derivative Securities still outstanding provided for such changed

consideration, conversion rate, or maximum number of shares, as the case may be, at the time initially granted, issued, or sold, but only if as a result of such adjustment or readjustment, the Warrant Price is decreased.

(4) Treatment of Expired or Terminated Derivative Securities. Upon the expiration or termination of any unexercised Option (or portion thereof) or any unconverted or unexchanged Convertible Security (or portion thereof) for which any adjustment (either upon its original issuance or upon a revision of its terms) was made pursuant to this Section 2.1 (including without limitation upon the redemption or purchase for consideration of all or any portion of such Option or Convertible Security by the Company), the Warrant Price shall forthwith be changed pursuant to the provisions of this Section 2.1 to the Warrant Price which would have been in effect at the time of such expiration or termination had such unexercised Option (or portion thereof) or unconverted or unexchanged Convertible Security (or portion thereof), to the extent outstanding immediately prior to such expiration or termination, never been issued.

(5) Calculation of Consideration Received. If the Company shall, at any time or from time to time after the Issue Date, issue or sell, or is deemed to have issued or sold in accordance with Section 2.1(i), any shares of Common Stock, Options, or Convertible Securities: (A) for cash, the consideration received therefor shall be deemed to be the net amount received by the Company therefor; (B) for consideration other than cash, the amount of the consideration other than cash received by the Company shall be the Fair Market Value of such consideration; (C) for no specifically allocated consideration in connection with an issuance or sale of other securities of the Company, together comprising one integrated transaction, the amount of the consideration therefor shall be deemed to have been issued without consideration; or (D) to the owners of the non-surviving entity in connection with any merger in which the Company is the surviving corporation, the amount of consideration therefor shall be deemed to be the Fair Market Value of such portion of the net assets and business of the non-surviving entity as is attributable to such shares of Common Stock, Options, or Convertible Securities, as the case may be, issued to such owners. The Board of Directors of the Company shall determine the net amount of any cash consideration in its reasonable good faith judgment and the Fair Market Value of any consideration other than cash shall be determined in accordance with the definition thereof.

(6) Treasury Shares. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company or any of its wholly-owned subsidiaries, and the disposition of any such shares (other than the cancellation or retirement thereof or the transfer of such shares among the Company and its wholly-owned subsidiaries) shall be considered an issue or sale of Common Stock for the purpose of this Section 2.1.

(7) Other Dividends and Distributions. Subject to the

provisions of this Section 2.1(i), if the Company shall, at any time or from time to time after the Issue Date, make or declare, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or any other distribution payable in securities of the Company (other than a dividend or distribution of shares of Common Stock, Options, or Convertible Securities in respect of outstanding shares of Common Stock), cash, or other property, then, and in each such event, provision shall be made so that the Holder shall receive upon exercise or conversion of this Warrant, in addition to the amount of cash receivable thereupon, the equivalent cash value of the kind and amount of securities of the Company, cash, or other property which the Holder would have been entitled to receive had the Warrant been notionally exercised or notionally converted in full into Shares on the date of such event and had the Holder thereafter, during the period from the date of such event to and including the exercise date, retained such notional securities, cash, or other property receivable by them as aforesaid during such period, giving application to all adjustments called for during such period under this Section 2.1 with respect to the rights of the Holder.

(8) Existing Derivative Securities. For the avoidance of doubt, any changes to the terms of any Derivative Securities outstanding on or prior to the date hereof shall also be subject to the foregoing clause (3) as if such prior-existing Derivative Securities were issued immediately after this Warrant (i.e., resulting in appropriate adjustments, as applicable, to the Warrant Price in accordance with this Section 2.1). Without limiting the foregoing, it is acknowledged and agreed that for purposes of calculating the initial number of Shares notionally underlying this Warrant, the Company and Holder agreed to only take into account out-of-the-money stock options to purchase one million shares of Common Stock (the remaining, disregarded out-of-the-money stock options outstanding on the Issue Date, the "**Disregarded Options**"). For the avoidance of doubt, upon any amendments to the terms of the Disregarded Options that would result in either (x) the strike price thereof with respect to one share of Common Stock being less than the then current Fair Market Value of one share of Common Stock or (y) the strike price thereof with respect to one share of Common Stock being less than the Warrant Price, (I) the Warrant Price at the time of such change shall be adjusted to the Warrant Price which would have been in effect at such time pursuant to the provisions of this Section 2.1 as if such Disregarded Options had been issued at a zero strike immediately after this Warrant (i.e., resulting in appropriate adjustments, as applicable, to the Warrant Price in accordance with this Section 2.1) and (II) the Warrant Price shall be further readjusted to give incremental effect to the changes called for by this Section 2.1 on account of the actual amendment itself (together with any other amendments to the terms of such options from and after the Issue Date) (i.e., at that time, Holder shall benefit from the incremental adjustments attributable to all of the amendments to the terms of all of the options outstanding on the Issue Date, including the Disregarded Options), and any amendments thereafter will continue to be subject to the terms of this Section 2.1, including clause (3) and this clause (8).

2.2 Adjustments to Number of Warrants. Concurrently with any adjustment to the Warrant Price under Section 2.1, the number of notional Shares will be adjusted to be equal to the number of notional Shares immediately prior to such adjustment, *multiplied by* a fraction, (i) the numerator of which is the Warrant Price in effect immediately prior to such adjustment and (ii) the denominator of which is the Warrant Price in effect immediately following such adjustment.

2.3 Reclassification, Exchange, Combinations or Substitution. Upon any event whereby all of the outstanding shares of the Common Stock are reclassified, exchanged, combined, substituted, or replaced for, into, with or by Company securities of a different class and/or series, then from and after the consummation of such event, the Cash Settlement Amount will be calculated based on the number, class and series of Company securities that would have been issued in respect of the Shares as a result of the consummation of such event, and subject to further adjustment thereafter from time to time in accordance with the provisions of this Warrant. The provisions of this Section 2.3 shall similarly apply to successive reclassifications, exchanges, combinations substitutions, replacements or other similar events.

2.4 Purchase Rights. In addition to any adjustments pursuant to Section 2.1 above, if at any time the Company grants, issues, or sells any shares of Common Stock, Options, Convertible Securities, or rights to purchase stock, warrants, securities, or other property, in each case, pro rata to the record holders of Common Stock (the "**Purchase Rights**"), then the Holder shall be entitled to receive upon the exercise of this Warrant, in addition to the Cash Settlement Amount, upon the terms otherwise applicable to such Purchase Rights, the equivalent cash value of the kind and amount of securities of the Company, cash, or other property which the Holder would have been entitled to receive had it been issued the Purchase Rights in respect of each of the notional Shares underlying the unexercised portion of the Warrant immediately before the date on which a record is taken for the grant, issuance, or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of Common Stock are to be determined for the grant, issue, or sale of such Purchase Rights.

2.5 Successor upon Consolidation, Merger and Sale of Assets.

(a) The Company may not consolidate or merge with, or sell, lease, convey or otherwise transfer in one transaction or a series of related transactions all or substantially all of the consolidated assets of the Company and its subsidiaries to, any other Person (a "**Fundamental Change**") unless the Company is the surviving corporation or the Company requires, as a necessary condition to the consummation of such transaction, that:

(1) the successor to the Company assumes all of the Company's obligations under this Warrant; and

(2) the successor to the Company provides written notice of such assumption to Holder.

(b) In case of any such Fundamental Change, such successor entity shall succeed to and be substituted for the Company with the same effect as if it had been named herein as the Company.

2.6 [intentionally omitted].

2.7 Notice/Certificate as to Adjustments. Upon the happening of any event requiring an adjustment of the Warrant Price, Common Stock and/or number of Shares underlying this Warrant, the Company, at the Company's expense, shall notify Holder in writing within a reasonable time setting forth the adjustments to the Warrant Price, class and/or number of Shares and facts upon which such adjustment is based. The Company shall, upon written request from Holder, furnish Holder with a certificate of its Chief Financial Officer, including computations of such adjustment and the Warrant Price, class and number of Shares in effect upon the date of such adjustment.

2.8 No Impairment. The Company shall not, directly or indirectly, by amendment of its Certificate of Incorporation or other governing or organizational documents, or through reorganization, consolidation, merger, dissolution, sale of assets, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such action as may be necessary or appropriate in order to protect the rights of the Holder of this Warrant against dilution or other impairment.

2.9 Notwithstanding any other provision hereof, the Warrant Price shall not be less than zero as a result of any adjustment hereunder, action, event or otherwise.

2.10 Certain Definitions. For purposes of this Section 2, the following terms shall have their respective meanings set forth below:

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

"**Close of Business**" means 5:00 p.m., New York City time.

"**Convertible Securities**" means any securities (directly or indirectly) convertible into or exchangeable or exercisable for shares of Common Stock (excluding Options).

"**Derivative Securities**" means any Options or Convertible Securities.

"**Effective Consideration**" means the amount paid or payable to acquire shares of Common Stock (or in the case of Convertible Securities, the amount paid or payable to acquire the Convertible Security, if any, plus the exercise price for the underlying Common Stock).

"**Ex-Date**" (i) when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the relevant exchange or in the relevant market from which the Fair Market Value of such Common Stock was obtained without the right to receive such issuance or distribution, and (ii) when used with respect to any subdivision, split, combination or reclassification of shares of Common Stock, means the first date on which the Common Stock trades, regular way, on such exchange

or in such market after the time at which such subdivision, split, combination or reclassification becomes effective.

"**Open of Business**" means 9:00 a.m., New York City time.

"**Options**" means any warrants or other rights or options to subscribe for or purchase Common Stock.

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Company's Board of Directors or by statute, contract or otherwise).

"**Trading Day**" is any day during which trading in securities generally occurs on The Nasdaq Stock Market LLC or, if the Common Stock is not listed on The Nasdaq Stock Market LLC, on the principal United States national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not listed on a United States national or regional securities exchange, on the principal other market (including any over-the-counter market or quotation system) on which the Common Stock is then traded or, if none of the foregoing apply, on any day that is not a Saturday, Sunday or other day that financial institutions are required to be closed in New York, New York.

SECTION 3. REPRESENTATIONS AND COVENANTS OF THE COMPANY.

3.1 Representations and Warranties. The Company represents and warrants to, and agrees with, the Holder as follows:

(a) [intentionally omitted].

(b) This Warrant is (and any warrant issued in substitution hereof will be), upon issuance, duly authorized, validly issued, and free of any liens and encumbrances except for restrictions on transfer provided for herein or under applicable federal and state securities laws.

(c) The Company's capitalization table delivered to Holder as of the Issue Date is true and complete as of the Issue Date.

(d) The par value of one share of Common Stock as of the Issue Date is $0.001 per share.

3.2 Notice of Certain Events. In the event:

(a) that the Company shall take a record of the holders of its Common Stock (or other capital stock or securities or securities at the time issuable upon the exercise of this Warrant) for the purpose of entitling or enabling them to receive any dividend or other distribution (whether in cash, property, stock, or other securities and whether or not a regular cash dividend), to vote at a meeting (or by written consent), to receive any right to subscribe for

or purchase any shares of capital stock of any class or any other securities or to receive any other security;

(b) of any capital reorganization of the Company, any reclassification, exchange, combination, substitution, reorganization or recapitalization of the outstanding shares of the Common Stock, any consolidation or merger of the Company with or into another Person, or a sale of all or substantially all of the Company's assets to another Person or any anticipated change in the Company's listing status, whether voluntary or involuntary; or

(c) of the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

then, in connection with each such event, the Company shall give Holder:

(1) in the case of the matters referred to in (a) above, at least ten (10) Business Days' prior written notice of the earlier to occur of the effective date thereof or the date on which a record will be taken for such dividend, distribution, or subscription rights (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled thereto) or for determining rights to vote, if any; and

(2) in the case of the matters referred to in (b) or (c) above at least ten (10) Business Days' prior written notice of the date when the same will take place (and specifying the date on which the holders of outstanding shares of the Common Stock will be entitled to exchange their shares for the securities or other property deliverable upon the occurrence of such event and such reasonable information as Holder may reasonably require regarding the treatment of this Warrant in connection with such event giving rise to the notice).

The Company will also provide information reasonably requested by Holder from time to time, within a reasonable time following each such request, that is reasonably necessary to enable Holder to comply with Holder's accounting and reporting requirements.

SECTION 4. REPRESENTATIONS, WARRANTIES OF THE HOLDER.

The Holder represents and warrants to the Company as follows:

4.1 Purchase for Own Account. This Warrant is being acquired for investment for Holder's account, not as a nominee or agent, and not with a view to the public resale or distribution within the meaning of the Act. Holder also represents that it has not been formed for the specific purpose of acquiring this Warrant.

4.2 Disclosure of Information. Holder is aware of the Company's business affairs and financial condition and has received or has had full access to all the information it considers necessary or appropriate to make an informed investment decision with respect to the acquisition of this Warrant. Holder further has had an opportunity to ask questions and receive answers from the Company regarding the terms and conditions of the offering of this Warrant and its underlying securities and to obtain additional information (to the extent the Company

possessed such information or could acquire it without unreasonable effort or expense) necessary to verify any information furnished to Holder or to which Holder has access.

4.3 Investment Experience. Holder understands that the purchase of this Warrant involves substantial risk. Holder has experience as an investor in securities of companies in the development stage and acknowledges that Holder can bear the economic risk of such Holder's investment in this Warrant and has such knowledge and experience in financial or business matters that Holder is capable of evaluating the merits and risks of its investment in this Warrant and/or has a preexisting personal or business relationship with the Company and certain of its officers, directors or controlling persons of a nature and duration that enables Holder to be aware of the character, business acumen and financial circumstances of such persons.

4.4 Accredited Investor Status. Holder is an "accredited investor" within the meaning of Regulation D promulgated under the Act.

4.5 The Act. Holder understands that this Warrant has not been registered under the Act in reliance upon a specific exemption therefrom, which exemption depends upon, among other things, the bona fide nature of the Holder's investment intent as expressed herein. Holder understands that this Warrant must be held indefinitely unless subsequently registered under the Act and qualified under applicable state securities laws, or unless exemption from such registration and qualification are otherwise available. Holder is aware of the provisions of Rule 144 promulgated under the Act.

4.6 No Voting Rights; No Ownership of Shares. Holder, as a Holder of this Warrant, will not have any voting rights, before or after exercise of this Warrant, in respect of the Shares notionally underlying this Warrant. Holder, as a Holder of this Warrant, will not have any ownership interest whatsoever, before or after exercise of this Warrant, in respect of the Shares notionally underlying this Warrant.

SECTION 5. MISCELLANEOUS.

5.1 Term and Automatic Cashless Exercise Upon Expiration.

(a) Term. Subject to the provisions of Section 1.6 above and Section 5.1(b) below, this Warrant is exercisable in whole or in part at any time and from time to time on or before 6:00 PM, Eastern time, on the Expiration Date and shall be void thereafter.

(b) Automatic Cashless Exercise upon Expiration. In the event that, immediately prior to the expiration of the Warrant, the Fair Market Value of one Share (or other security issuable upon the exercise hereof) is greater than the Warrant Price in effect on such date, then this Warrant shall automatically be deemed on and as of such date to be exercised pursuant to Section 1.1 above as to all notional Shares (or such other securities) for which it shall not previously have been exercised, and the Company shall, in accordance with Section 1.4, pay the aggregate Cash Settlement Amount in respect of such automatic exercise to Holder. For the avoidance of doubt, the Company's obligations to make such payments shall survive the expiration and termination of this Warrant until fully performed.

5.2 [RESERVED].

5.3 Compliance with Securities Laws on Transfer. This Warrant may not be transferred or assigned in whole or in part except in compliance with applicable federal and state securities laws by the transferor and the transferee (including, without limitation, the delivery of investment representation letters and legal opinions reasonably satisfactory to the Company, as reasonably requested by the Company). The Company shall not require Holder to provide an opinion of counsel if the transfer is to any Affiliate of Holder; *provided*, that any such transferee is an "accredited investor" as defined in Regulation D promulgated under the Act. Additionally, the Company shall also not require an opinion of counsel if there is no material question as to the availability of Rule 144 promulgated under the Act.

5.4 Transfer Procedure. Subject to the provisions of Section 5.3 and upon providing the Company with written notice, Holder may transfer all or part of this Warrant to any Affiliate or other transferee; *provided, however*, in connection with any such transfer, Holder will give the Company notice of the portion of the Warrant being transferred with the name, address and taxpayer identification number of the transferee and Holder will surrender this Warrant to the Company for reissuance to the transferee(s) (and Holder if applicable) and the transferee shall agree to be bound by all of the terms and conditions of this Warrant as a precondition to any such transfer.

For purposes of this Warrant, "**Affiliate**" shall mean, with respect to any individual, trust, estate, corporation, partnership, limited liability company or any other incorporated or unincorporated entity ("**Person**"), any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person, or any general partner, managing member, officer, director, trustee, limited partner, member or stockholder of such first Person, or any venture capital fund or other investment fund now or hereafter existing that is controlled by one (1) or more general partners, managing members or investment adviser of, or shares the same management company or investment adviser with, such first Person. As used in this definition, "**control**" (including, with correlative meanings, "**controlled by**" and "**under common control with**") shall mean possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract, or otherwise).

5.5 Notices. All notices and other communications hereunder from the Company to the Holder, or vice versa, shall be deemed delivered and effective (i) when given personally, (ii) on the third (3rd) Business Day after being mailed by first-class registered or certified mail, postage prepaid, (iii) upon actual receipt if given by facsimile or electronic mail and such receipt is confirmed in writing by the recipient (or in the case of electronic mail, in the absence of any "bounce-back," "delivery failed" or similar automated feedback indicating rejection of the electronic mail or failure of delivery), or (iv) on the first (1st) Business Day following delivery to a reliable overnight courier service, courier fee prepaid, in any case at such address as may have been furnished to the Company or Holder, as the case may be, in writing by the Company or such Holder from time to time in accordance with the provisions of this Section 5.5; *provided*, *however*, that all notices to Holder must also be delivered via electronic mail in order to be effective (and shall only be effective in the absence of any of any "bounce-back," "delivery failed" or similar automated feedback indicating rejection of the electronic mail or failure of delivery). All notices to Holder shall be addressed as follows until the Company receives notice of a change of address in connection with a transfer or otherwise:

Lynrock Lake Master Fund LP
Attn: Cynthia Paul; Michael Manley; Operations
Email: cp@lynrocklake.com; mike@lynrocklake.com; and
ops@lynrocklake.com

With a copy (which shall not constitute notice) to:
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park, Floor 45
New York, New York 10036
Attention: Stephen Kuhn; Timothy Clark
Email: skhuhn@akingump.com; tclark@akingump.com

Notice to the Company shall be addressed as follows until Holder receives notice of a change in address:

LivePerson, Inc.
530 7th Avenue, Floor M1
New York, New York 10018
Attention: John Collins; Monica Greenberg
Email: jcollins@liveperson.com; mgreenberg@liveperson.com

5.6 [intentionally omitted].

5.7 Successors. All the covenants and provisions hereof by or for the benefit of Holder shall bind and inure to the benefit of its successors and assigns hereunder.

5.8 Waiver. This Warrant and any term hereof may be amended, modified, changed, waived, discharged or terminated (either generally or in a particular instance and either retroactively or prospectively) only by an instrument in writing signed by the party against which enforcement of such amendment, modification, change, waiver, discharge or termination is sought.

5.9 Attorney's Fees. In the event of any dispute between the parties concerning the terms and provisions of this Warrant, the party prevailing in such dispute shall be entitled to collect from the other party all costs incurred in such dispute, including reasonable attorneys' fees.

5.10 Counterparts; Facsimile/Electronic Signatures. This Warrant may be executed in counterparts, all of which together shall constitute one and the same agreement. Any signature page delivered electronically or by facsimile shall be binding to the same extent as an original signature page with regards to any agreement subject to the terms hereof or any amendment thereto.

5.11 Governing Law. This Warrant shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to its principles regarding conflicts of law.

5.12 Headings. The headings in this Warrant are for purposes of reference only and shall not limit or otherwise affect the meaning of any provision of this Warrant.

5.13 Equitable Relief. Each of the Company and the Holder acknowledges that a breach or threatened breach by the Company of any of its obligations under this Warrant would give rise to irreparable harm to the Holder for which monetary damages would not be an adequate remedy and hereby agree that in the event of a breach or a threatened breach by the Company of any such obligations, the Holder shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction.

[*Signature page follows*]

IN WITNESS WHEREOF, the parties have caused this Warrant to be executed by their duly authorized representatives effective as of the Issue Date written above.

"COMPANY"

LIVEPERSON, INC.

By: _____
Name:
Title:

"HOLDER"

LYNROCK LAKE MASTER FUND LP

By: Lynrock Lake Partners LLC, its general partner

By: _____
Name:
Title:

APPENDIX 1
NOTICE OF EXERCISE

1. The undersigned Holder hereby exercises its right to receive the Cash Settlement Amount in respect of _____ notional shares of the Common Stock of **LIVEPERSON, INC.** (the "**Company**") in accordance with the attached Warrant

2. Please make payments in accordance with the following wire instructions:

3. By its execution below and for the benefit of the Company, Holder hereby restates each of the representations and warranties in Section 4 of the Warrant as of the date hereof.

[*Signature page follows*]

HOLDER

By:
Name:
Title:

Date: