

**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): October 29, 2021

INSTRUCTURE HOLDINGS, INC.
(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-40647
(Commission
File Number)

84-4325548
(IRS Employer
Identification No.)

**6330 SOUTH 3000 EAST
SUITE 700
SALT LAKE CITY, UTAH**
(Address of Principal Executive Offices)

84121
(Zip Code)

Registrant's telephone number, including area code: (800) 203-6755

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 \$0.01 per share	INST	The New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

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

Credit Agreement

On October 29, 2021, Instructure Holdings, Inc. (the "Company") and certain of its subsidiaries entered into a credit agreement (the "Credit Agreement") with JPMorgan Chase Bank, N.A., as administrative agent, and the lenders named therein, governing the Company's senior secured credit facilities (the "Senior Secured Credit Facilities"), consisting of a \$500.0 million senior secured term loan facility (the "Senior Term Loan") and a \$125.0 million senior

secured revolving credit facility (the “Senior Revolver”). The proceeds from the new Senior Secured Credit Facilities will be used, in addition to cash on hand, (1) to refinance, in full, all existing indebtedness under the Credit Agreement, dated as of March 24, 2020, by and among Instructure Intermediate Holdings III, LLC, Instructure Holdings, LLC and certain of its subsidiaries, Golub Capital Markets LLC, as administrative agent, and the lenders named therein (the “Refinancing”), (2) to pay certain fees and expenses incurred in connection with the entry into the Credit Agreement and the Refinancing, and (3) to finance working capital needs of the Company and its subsidiaries for general corporate purposes.

The Senior Term Loan has a seven-year maturity and the Senior Revolver has a five-year maturity. The Credit Agreement provides that the Company may make one or more offers to the lenders, and consummate transactions with individual lenders that accept the terms contained in such offers, to extend the maturity date of the lender’s term loans and/or revolving commitments, subject to certain conditions, and any extended term loans or revolving commitments will constitute a separate class of term loans or revolving commitments.

All of the Company’s obligations under the Senior Secured Credit Facilities are guaranteed by the subsidiary guarantors named therein (the “Subsidiary Guarantors”). Pursuant to (1) the Security Agreement, dated as of October 29, 2021, among the Company, the Subsidiary Guarantors and JPMorgan Chase Bank, N.A., as administrative agent, and (2) the Guaranty, dated as of October 29, 2021, among the Company, the Subsidiary Guarantors and JPMorgan Chase Bank, N.A. as administrative agent, subject to certain exceptions, the obligations under the Senior Secured Credit Facilities are secured by a pledge of 100% of the capital stock of certain domestic subsidiaries owned by the Company and a security interest in substantially all of the Company’s tangible and intangible assets and the tangible and intangible assets of each Subsidiary Guarantor.

The Senior Revolver includes borrowing capacity available for letters of credit. Any issuance of letters of credit will reduce the amount available under the Senior Revolver. Upon closing, there were no borrowings drawn under the Senior Revolver.

At the Company’s option, the Company may add one or more new term loan facilities or increase the commitments under the Senior Revolver or request to add one or more series of junior lien term loans or notes, subordinated term loans or notes or senior unsecured term loans or notes in an unlimited amount so long as certain conditions, including compliance with the applicable financial covenants for such period (on a junior or unsecured basis), in each case on a pro forma basis, are satisfied.

Borrowings under the Senior Secured Credit Facilities bear interest at the Applicable Rate, plus, at the Company’s option: (i) a Base Rate equal to the greater of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by the administrative agent as its “prime rate,” (c) a Eurocurrency Rate for such date plus 1.00% and (d) 1.00%; or (ii) the Eurocurrency Rate (provided that the Eurocurrency Rate applicable to the Senior Term Loan shall not be less than 0.50% per annum) as set forth below.

The Applicable Rate for the Senior Term Loan and the Senior Revolver are as follows:

- A percentage per annum equal to, with respect to the Senior Term Loan, 2.75% per annum for Eurocurrency Rate Loans and 1.75% per annum for Base Rate Loans.
- A percentage per annum equal to, with respect to the Senior Revolver:

<u>Pricing Level</u>	<u>Consolidated First Lien Net Leverage Ratio</u>	<u>Eurocurrency Rate Loans, SO NIA Loans and Alternative Currency Term Rate Loans</u>	<u>Base Rate Loans</u>
1	Greater than 2.00:1.00	2.50%	1.50%
2	Equal to or less than 2.00:1.00 and greater than 1.00:1.00	2.25%	1.25%
3	Equal to or less than 1.00:1.00	2.00%	1.00%

The Company is also required to pay an unused commitment fee to the lenders under the Senior Revolver at the Applicable Commitment Fee (as set forth below) of the average daily unutilized commitments. The Company must also pay customary letter of credit fees, including a fronting fee as well as administration fees.

<u>Pricing Level</u>	<u>Consolidated First Lien Net Leverage Ratio</u>	<u>Applicable Commitment Fee</u>
1	Greater than 2.00:1.00	0.50%
2	Equal to or less than 2.00:1.00 and greater than 1.00:1.00	0.45%
3	Equal to or less than 1.00:1.00	0.40%

The Credit Agreement requires the Company to make mandatory prepayments, subject to certain exceptions, with: (i) 50% of excess cash flow, subject to certain exceptions and thresholds; *provided*, that the prepayment percentage may be reduced to 25% or 0% based on the Company’s Consolidated First Lien Net Leverage Ratio, (ii) 100% of net cash proceeds of all non-ordinary course assets sales or other dispositions of property or casualty events, subject to certain exceptions and thresholds; *provided*, that the prepayment percentage may be reduced to 50% or 0% based on the Company’s Consolidated First Lien Net Leverage Ratio, and (iii) 100% of the net cash proceeds of any debt incurrence, other than debt permitted under the Credit Agreement. Commencing June 30, 2022, the Company is required to repay the Senior Term Loan portion of the Senior Secured Credit Facilities in quarterly principal installments of 0.25% of the aggregate original principal amount of the Senior Term Loan at closing, with the balance payable at maturity.

The Credit Agreement contains a financial covenant solely with respect to the Senior Revolver. If the outstanding amounts under the Senior Revolver exceed 35% of the aggregate amount of the Senior Revolver commitments, the Company is required to maintain at the end of each fiscal quarter, commencing with the quarter ending June 30, 2022, a Consolidated First Lien Net Leverage Ratio of not more than 7.75 to 1.00.

The Credit Agreement also contains a number of covenants that, among other things, restrict, subject to certain exceptions, the Company's ability and the ability of its subsidiaries to: (i) incur additional indebtedness; (ii) create liens on assets; (iii) engage in mergers or consolidations; (iv) sell assets; (v) pay dividends and distributions or repurchase the Company's capital stock; (vi) make investments, loans or advances; (vii) repay certain junior indebtedness; (viii) engage in certain transactions with affiliates; (ix) enter into sale and leaseback transactions; (x)

amend material agreements governing certain of the Company's junior indebtedness; (xi) change the Company's lines of business; (xii) make certain acquisitions; and (xiii) limitations on the letter of credit cash collateral account. The Credit Agreement contains customary affirmative covenants and events of default.

The foregoing summary of the Credit Agreement is qualified in its entirety by reference to the Credit Agreement, which is filed herewith as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

Item 1.02 Termination of a Material Definitive Agreement

The information set forth under "Item 1.01 Entry into a Material Definitive Agreement" with respect to the Refinancing is incorporated into this Item 1.02 by reference.

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 Entry into a Material Definitive Agreement" with respect to the Senior Secured Credit Facilities is incorporated into this Item 2.03 by reference.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits.

The following exhibits are furnished as part of this Current Report on Form 8-K:

<u>Exhibit Number</u>	<u>Description</u>
10.1*	Credit Agreement, dated as of October 29, 2021, by and among Instructure Holdings, Inc. and certain of its subsidiaries, JPMorgan Chase Bank, N.A., as administrative agent, and the lenders named therein.
104	Cover Page Interactive Data File - the cover page iXBRL tags are embedded within the Inline XBRL document.

* Exhibits and schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K and will be provided on a supplemental basis to the Securities and Exchange Commission upon request.

SIGNATURES

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

Date: November 1, 2021

INSTRUCTURE HOLDINGS, INC.

By: /s/ Matthew A. Kaminer
Name: Matthew A. Kaminer
Title: Chief Legal Officer

CREDIT AGREEMENT

dated as of October 29, 2021

among

INSTRUCTURE HOLDINGS, INC.,

as Borrower,

JPMORGAN CHASE BANK, N.A.,

as Administrative Agent, Collateral Agent and an L/C Issuer,

**THE OTHER LENDERS AND L/C ISSUERS
FROM TIME TO TIME PARTY HERETO**

and

**JPMORGAN CHASE BANK, N.A.,
MORGAN STANLEY SENIOR FUNDING, INC.,****CITIBANK, N.A.,****CITICORP USA, INC.,****CITICORP NORTHAMERICA, INC., and****GOLUB CAPITAL LLC,**

as Arrangers

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CREDIT AGREEMENT

This **CREDIT AGREEMENT** is entered into as of October 29, 2021, among Instructure Holdings, Inc., a Delaware corporation (the “**Borrower**”), each lender from time to time party hereto (collectively, the “**Lenders**” and individually, a “**Lender**”), each L/C Issuer party hereto and JPMorgan Chase Bank, N.A. (“**JPM**”), as Administrative Agent, Collateral Agent and an L/C Issuer.

PRELIMINARY STATEMENTS

WHEREAS, the Borrower has requested that, upon the satisfaction or waiver of the conditions precedent set forth in the applicable provisions of Article IV below, the applicable Lenders (a) make term loans to the Borrower in an aggregate principal amount of \$500,000,000 under the Initial Term Commitment and (b) make available to the Borrower a \$125,000,000 multicurrency revolving credit facility for the making, from time to time, of revolving loans and the issuance, from time to time, of letters of credit, in each case on the terms and subject to the conditions set forth in this Agreement.

WHEREAS, the Borrower intends to use the proceeds of the initial borrowing under the Facilities to finance the repayment in full of outstanding loans under that certain Credit Agreement, dated as of March 24, 2020 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time “**Existing Credit Agreement**”), by and among Instructure Intermediate Holdings III, LLC, as holdings, Instructure, Inc. and Instructure Holdings, LLC, each as a borrower, the guarantors from time to time party thereto, Golub Capital Markets LLC, as the administrative agent and collateral agent, and the lenders and other parties party thereto (collectively, the “**Closing Date Refinancing**”), to pay Transaction Costs and for working capital and general corporate purposes.

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

ARTICLE I**DEFINITIONS AND ACCOUNTING TERMS**

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

“**Acceleration**” has the meaning specified in Section 8.01(e).

“**Acquired Indebtedness**” means, with respect to any specified Person, (a) Indebtedness of any other Person existing at the time such other Person is merged, amalgamated or consolidated with or into or becomes a Restricted Subsidiary of such specified Person, whether or not such Indebtedness is Incurred in connection with, or in contemplation of, such other Person merging, amalgamating or consolidating with or into, or becoming a Restricted Subsidiary of, such specified Person, and (b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“**Adjusted Cash**” means the amount of unrestricted cash after giving effect to unrealized gains and losses under (and as determined by) any currency Swap Contracts in place at the time of determination (but only with respect to the then-elapsed portion of the current monthly or quarterly (as applicable under the relevant currency Swap Contract) calculation period thereunder).

“**Adjusted Eurocurrency Rate**” means for any Interest Period as to any Eurocurrency Rate Loan, an interest rate per annum equal to the Eurocurrency Rate for such Interest Period; provided, that if any such rate with respect to (x) the Initial Term Loans is less than 0.50%, such Eurocurrency Rate shall be deemed to be 0.50%, and (y) with respect to the Revolving Credit Facility is less than 0.00%, such Eurocurrency Rate will be deemed to be 0.00%.

“**Administrative Agent**” means JPM acting through such of its Affiliates or branches as it may designate, in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent permitted by the terms hereof.

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

“**Administrative Questionnaire**” means an Administrative Questionnaire in substantially the form of Exhibit D-2 or any other form approved by the Administrative Agent.

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

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“**Affiliate Lenders**” means, collectively, the Sponsor and its Affiliates (other than any Natural Person, the Borrower and any of the Borrower’s Subsidiaries).

“**Affiliate Transaction**” has the meaning specified in Section 6.20(a).

“**Agent-Related Distress Event**” means, with respect to the Administrative Agent, the Collateral Agent or any Person that directly or indirectly controls the Administrative Agent or the Collateral Agent (each, a “**Distressed Agent-Related Person**”), a voluntary or involuntary case with respect to such Distressed Agent-Related Person under any Debtor Relief Law is commenced, or a custodian, conservator, receiver or similar official is appointed for such Distressed Agent-Related Person or any substantial part of such Distressed Agent-Related Person’s assets, or such Distressed Agent-Related Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Agent-Related Person to be, insolvent or bankrupt; *provided* that an Agent-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in the Administrative Agent, the Collateral Agent or any Person that directly or indirectly controls the Administrative Agent by a Governmental Authority or an instrumentality thereof, so long as such ownership interest does not result in or provide the Administrative Agent or the Collateral Agent with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit the Administrative Agent or the Collateral Agent (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with the Administrative Agent or the Collateral Agent.

“**Agent-Related Persons**” means each Agent, together with its Related Parties.

“**Agent’s Spot Rate of Exchange**” has the meaning specified in Section 1.08(a).

“**Agents**” means, collectively, the Administrative Agent, the Collateral Agent, the Arrangers, the Incremental Arrangers and the Supplemental Agents (if any).

“**Aggregate Commitments**” means the Commitments of all the Lenders.

“**Agreement**” means this credit agreement, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Agreement Currency**” has the meaning specified in Section 10.23.

“**All-in Yield**” means, with respect to any Indebtedness, the yield of such Indebtedness, whether in the form of interest rate, margin, OID, upfront fees or index floors, in each case payable by the Borrower generally to lenders; *provided* that OID and upfront fees shall be equated to interest rate assuming a four-year life to maturity, as the context requires, and shall not include arrangement fees, structuring fees, ticking fees, commitment fees, unused line fees, underwriting fees, call protection and end of term fees, prepayment premiums, any amendment fees, consent fees and similar fees

(regardless of whether paid in whole or in part to the relevant lenders) or any other fees regardless of whether paid or payable generally to all lenders by the applicable borrower in the primary syndication of such indebtedness; *provided, further*, that, if such Indebtedness includes an index floor greater than the one applicable to the Initial Term Loans, such greater amount shall be added to the applicable interest rate margin solely for purposes of determining the All-in Yield of such Indebtedness, but only to the extent that an increase in the interest rate floor would cause an increase in the interest rate margin then in effect with respect to such interest rate.

“**Alternative Currency**” means (a) Euros, Pounds Sterling and Canadian dollars and (b) any currency added pursuant to Section 2.21.

“**Alternative Currency Borrowing**” means a Borrowing comprising of Alternative Currency Term Rate Loans.

“**Alternative Currency Successor Rate**” has the meaning specified in Section 3.04(b).

“**Alternative Currency Term Rate**” means, for any Interest Period, with respect to any Credit Extension:

- (a) denominated in Euros, the rate per annum equal to the Euro Interbank Offered Rate, as published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) on the day that is two TARGET Days preceding the first day of such Interest Period with a term equivalent to such Interest Period; provided, that, if any Alternative Currency Term Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement; and
- (b) denominated in Canadian dollars, the rate per annum equal to the Canadian Dollar Offered Rate (“**CDOR**”), as published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) (in such case, the “**CDOR Rate**”) on the first day of such Interest Period (or if such day is not a Business Day, then on the immediately preceding Business Day) with a term equivalent to such Interest Period.

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“**Alternative Currency Term Rate Loan**” means a Committed Loan that bears interest at a rate based on the definition of “Alternative Currency Term Rate.” All Alternative Currency Term Rate Loans must be denominated in Euros or Canadian dollars.

“**Ancillary Fees**” has the meaning specified in Section 10.01(d).

“**Anticipated Cure Deadline**” has the meaning specified in Section 8.03(a).

“**Anti-Corruption Laws**” has the meaning specified in Section 5.20.

“**Applicable Authority**” means (a) with respect to SOFR, the SOFR Administrator or any Governmental Authority having jurisdiction over the Administrative Agent or the SOFR Administrator and (b) with respect to any Alternative Currency, the applicable administrator for the relevant rate for such Alternative Currency or any Governmental Authority having jurisdiction over the Administrative Agent or such administrator.

“**Applicable Commitment Fee**” means a percentage per annum equal to (a) from the Closing Date until the first Business Day that immediately follows the date on which a Compliance Certificate is delivered pursuant to Section 6.02(a) in respect of the first full fiscal quarter ending after the Closing Date, 0.50% per annum, and (b) thereafter, the applicable percentage per annum set forth below, as determined by reference to Consolidated First Lien Net Leverage Ratio, as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

<u>Pricing Level</u>	<u>Consolidated First Lien Net Leverage Ratio</u>	<u>Applicable Commitment Fee</u>
1	Greater than 2.00:1.00	0.50%
2	Equal to or less than 2.00:1.00 and greater than 1.00:1.00	0.45%
3	Equal to or less than 1.00:1.00	0.40%

Any increase or decrease in the Applicable Commitment Fee resulting from a change in the Consolidated First Lien Net Leverage Ratio shall become effective as of the first Business Day immediately following the date the applicable Compliance Certificate is delivered pursuant to Section 6.02(a); *provided, however*, that “Pricing Level 1” shall apply without regard to the Consolidated First Lien Net Leverage Ratio at any time after the date on which any annual or quarterly financial statement was required to have been delivered pursuant to Section 6.01(a) or Section 6.01(b) (after giving effect to the grace period set forth in Section 8.01(c)) but was not delivered (or the Compliance Certificate related to such financial statements was required to have been delivered pursuant to Section 6.02(a) (after giving effect to the grace period set forth in Section 8.01(c)) but was not delivered), commencing with the first Business Day immediately following such date and continuing until the first Business Day immediately following the date on which such financial statements (or, if later, the Compliance Certificate related to such financial statements) are delivered.

“**Applicable Discount**” has the meaning specified in the definition of “Dutch Auction”.

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“**Applicable Intercreditor Arrangements**” means (i) the Junior Lien Intercreditor Agreement, (ii) the Pari Passu Intercreditor Agreement and (iii) any other intercreditor or subordination agreement or arrangement (which may take the form of a “waterfall” or similar provision), as applicable, the terms of which are (a) consistent with market terms (as determined by the Borrower and the Administrative Agent in good faith) governing arrangements for the

sharing and/or subordination of liens and/or arrangements relating to the distribution of payments, as applicable, at the time the relevant intercreditor agreement is proposed to be established in light of the type of Indebtedness subject thereto or (b) reasonably acceptable to the Borrower and the Administrative Agent; provided, that, with respect to this clause (iii)(b), the terms shall be deemed reasonably acceptable to the Administrative Agent and/or Collateral Agent (and the Administrative Agent and/or Collateral Agent shall be automatically and irrevocably deemed to have been directed by the Lenders to enter into such other intercreditor agreement) if such intercreditor agreement is either substantially in the form of (x) Exhibit G-1 as modified solely with immaterial changes or to add new parties, (y) Exhibit G-2 as modified solely with immaterial changes or to add new parties or (z) posted to the Lenders and not objected to by the Required Lenders within 10 Business Days of the posting thereof.

“**Applicable Jurisdiction**” means the United States and any other jurisdiction approved by the Revolving Credit Lenders or the Term Lenders of the applicable Tranche, as applicable, and the Administrative Agent, in each case, acting reasonably and in good faith.

“**Applicable Rate**” means:

(a) a percentage per annum equal to, with respect to the Revolving Credit Facility, (i) from the Closing Date until the first Business Day that immediately follows the date on which a Compliance Certificate is delivered pursuant to Section 6.02(a) in respect of the first full fiscal quarter ending after the Closing Date, 2.50% per annum for Eurocurrency Rate Loans, SONIA Loans and Alternative Currency Term Rate Loans, 1.50% per annum for Base Rate Loans and (ii) thereafter, the applicable percentage per annum set forth below, as determined by reference to the Consolidated First Lien Net Leverage Ratio, as set forth in the then most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a):

Pricing Level	Consolidated First Lien Net Leverage Ratio	Eurocurrency Rate Loans, SONIA Loans and Alternative Currency Term Rate Loans		Base Rate Loans
1	Greater than 2.00:1.00		2.50%	1.50%
2	Equal to or less than 2.00:1.00 and greater than 1.00:1.00		2.25%	1.25%
3.	Equal to or less than 1.00:1.00		2.00%	1.00%

(b) a percentage per annum equal to, with respect to the Initial Term Loans, 2.75% per annum for Eurocurrency Rate Loans and 1.75% per annum for Base Rate Loans.

Any increase or decrease in the Applicable Rate resulting from a change in the Consolidated First Lien Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a); *provided, however*, that “Pricing Level 1” for the table set forth in clause (a) above shall apply without regard to the Consolidated First Lien Net Leverage Ratio, at any time after the date on which any annual or quarterly financial statement was required to have been delivered pursuant to Section 6.01(a) or Section 6.01(b) (after giving effect to the grace period set forth in Section 8.01(c)) but was not delivered (or the Compliance Certificate related to such financial statements was required to have been delivered pursuant to Section 6.02(a) (after giving effect to the grace period set forth in Section 8.01(c)) but was not delivered), commencing with the first Business Day immediately following such date and continuing until the first Business Day immediately following the date on which such financial statements (or, if later, the Compliance Certificate related to such financial statements) are delivered.

“**Appropriate Lender**” means, at any time, (a) with respect to any Facility, a Lender that has a Commitment with respect to such Facility or holds Loans made under such Facility at such time, and (b) with respect to the Letter of Credit Sublimit, (i) each L/C Issuer and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders.

“**Approved Commercial Bank**” means a commercial bank with a consolidated combined capital and surplus of at least \$5,000,000,000.

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

“**Arrangers**” means each of JPMorgan Chase Bank, N.A., Morgan Stanley Senior Funding, Inc., Citibank, N.A., Citicorp USA, Inc., Citicorp North America, Inc., and Golub Capital LLC, in their respective capacities as exclusive joint lead arrangers and bookrunners.

“**Asset Sale**” means:

(a) the sale, conveyance, transfer or other disposition (whether in a single transaction or a series of related transactions) of property or assets of any Borrower Party (including any disposition of property to a Divided LLC or Divided LP pursuant to an LLC Division or LP Division, respectively, or any allocation of assets to any Series LLC or Series LP), or

(b) the issuance or sale of Equity Interests (other than Preferred Stock and Disqualified Stock of Restricted Subsidiaries issued in compliance with Section 7.01 and directors’ qualifying shares or shares or interests required to be held by foreign nationals or other third parties to the extent required by applicable law) of any Restricted Subsidiary of the Borrower (other than to the Borrower or another Restricted Subsidiary) (whether in a single transaction or a series of related transactions) (each of the foregoing referred to in this definition as a “**Disposition**”; the term “**Dispose**” as a verb has a corresponding meaning).

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

(a) a sale, exchange or other disposition of cash, Cash Equivalents or Investment Grade Securities of the Borrower Parties, or of obsolete, damaged, unnecessary, surplus, immaterial, unsuitable or worn out equipment or other assets in the ordinary course of business, sales, conveyances, transfers or dispositions of property not material or no longer used, useful or economically practicable to maintain in the conduct of the business of the Borrower Parties (including allowing any registrations or any applications for registration of any intellectual property or other intellectual property rights to lapse or become abandoned, or otherwise disposing of any intellectual property rights);

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(b) any Disposition in compliance with Section 7.03 other than any provision of Section 7.03 that permits dispositions permitted under this Agreement (including under Section 7.04);

(c) any Restricted Payment that is permitted to be made, and is made, pursuant to Section 7.05 (including pursuant to any exceptions provided for in the definition of "Restricted Payment") or any Permitted Investment;

(d) any Disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary, in a single transaction or series of related transactions, with an aggregate Fair Market Value of less than or equal to the greater of (x) \$20,400,000 and (y) 10.0% of Four Quarter Consolidated EBITDA;

(e) any transfer or Disposition of property or assets or issuance or sale of Equity Interests by a Restricted Subsidiary to the Borrower or by any Borrower Party to another Restricted Subsidiary;

(f) the creation of any Lien permitted under this Agreement;

(g) any Dispositions of assets not constituting Collateral, including the Equity Interests of Unrestricted Subsidiaries;

(h) the sale, lease, assignment, license or sublease of inventory, equipment, accounts receivable, notes receivable or other current assets held for sale in the ordinary course of business or the conversion of accounts receivable and related assets to notes receivable or dispositions of accounts receivable and related assets in connection with the collection or compromise thereof;

(i) the lease, assignment, license, sublicense or sublease of any real or personal property in the ordinary course of business;

(j) a sale, assignment or other transfer of Receivables Assets, or participations therein, and related assets (i) to a Receivables Subsidiary in a Qualified Receivables Financing or (ii) to any other Person in a Qualified Receivables Factoring;

(k) a sale, assignment or other transfer of Receivables Assets, or participations therein, and related assets by a Receivables Subsidiary in a Qualified Receivables Financing;

(l) any Permitted Asset Swap;

(m) (i) non-exclusive licenses, sublicenses or cross-licenses of intellectual property, other intellectual property rights or other general intangibles, (ii) Intercompany License Agreements, and (iii) exclusive licenses, sublicenses or cross-licenses of intellectual property, other intellectual property rights or other general intangibles in the ordinary course of business of the Borrower Parties;

(n) any transfer in a Sale/Leaseback Transaction of any property acquired or built after the Closing Date; *provided* that such sale is for at least Fair Market Value (as determined in good faith by the Borrower on the date on which a definitive agreement for such Sale/Leaseback Transaction was entered into);

(o) the surrender or waiver of obligations of trade creditors or customers or other contract rights that were incurred in the ordinary course of business of any Borrower Party, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer or compromise, settlement, release or surrender of a contract, tort or other litigation claim, arbitration or other disputes;

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(p) Dispositions arising from foreclosures, condemnations, eminent domain, seizure, nationalization or any similar action with respect to assets, dispositions of property subject to casualty events;

(q) Dispositions of Investments (including Equity Interests) in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements or rights of first refusal between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(r) to the extent allowable under Section 1031 of the Code, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(s) the issuance of directors' qualifying shares and shares issued to foreign nationals to the extent required by applicable law;

(t) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property that is purchased (or a commitment to purchase has been entered into) within 90 days of such Disposition or (ii) the proceeds of such Disposition are applied within 90 days of such Disposition to the purchase price of such replacement property (which replacement property is purchased (or a commitment to purchase has been entered into) within 90 days of such disposition);

(u) a sale or transfer of equipment receivables, or participations therein, and related assets;

(v) any Dispositions in connection with the Transactions, a Permitted Tax Reorganization;

(w) (i) the Disposition of assets acquired pursuant to any Permitted Investment or other Investment permitted under Section 7.05, which assets are not used or useful to the core or principal business of the Borrower Parties or which Disposition is required by regulatory (including antitrust) authorities; and (ii) the Disposition of assets that are necessary or advisable, in the good faith judgment of the Borrower, in order to obtain the approval of any Governmental Authority (including anti-trust authorities) to consummate or avoid the prohibition or other restrictions on the consummation of any Permitted Investment, any Investment permitted under Section 7.05 or acquisition; and

(x) any Disposition to effect the formation of any Restricted Subsidiary that is a Divided LLC or a Divided LP and would otherwise not be prohibited hereunder; and

(y) any Disposition (x) existing on the Closing Date and listed on Schedule 7.04 or (y) made pursuant to binding commitments in effect on the Closing Date and listed on Schedule 7.04.

For the avoidance of doubt, the unwinding of Swap Contracts shall not be deemed to constitute an Asset Sale.

“Assignee Group” means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit D-1, or otherwise in form and substance reasonably acceptable to the Administrative Agent.

“Auction Amount” has the meaning specified in the definition of “Dutch Auction”.

“Auction Notice” has the meaning specified in the definition of “Dutch Auction”.

“Auto-Renewal Letter of Credit” has the meaning specified in Section 2.03(c)(iii).

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to clause (g) of Section 3.04.

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

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

“Base Rate” means, for any day, a fluctuating rate of interest per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by as its “prime rate,” (c) Eurocurrency Rate for such date plus 1.00% and (d) 1.00%. The “prime rate” is a rate set by Administrative Agent based upon various factors including Administrative Agent’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Administrative Agent shall take effect at the opening of business on the day specified in the public announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.04 hereof, then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Benchmark” means, initially, with respect to any (i) SONIA Loan, Daily Simple SONIA or (ii) Eurocurrency Rate Loan, the Eurocurrency Rate; provided that if a Benchmark Transition Event, a Term SOFR Transition Event, a Term ESTR Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date have occurred with respect to Eurocurrency Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) or clause (c) of Section 3.04.

“Benchmark Replacement” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date; provided that, in the case of any Loan denominated in an Alternative Currency (other than a Loan denominated in Euros), “Benchmark Replacement” shall mean the alternative set forth in (3) below:

(1)

(A) In the case of any Loan denominated in Dollars, the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;

(B) in the case of any Loan denominated in Euros, the sum of (a) Term ESTR and (b) the related Benchmark Replacement Adjustment;

(2)

(A) In the case of any Loan denominated in Dollars, the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;

(B) in the case of any Loan denominated in Euros, the sum of (a) Daily Simple ESTR and (b) the related Benchmark Replacement Adjustment;

(3) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities denominated in the applicable Agreed Currency at such time in the United States and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1)(A) or (1)(C), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; *provided further that*, (x) with respect to a Loan denominated in Dollars, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (a) Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1)(A) of this definition (subject to the first proviso above) and (y) with respect to a Loan denominated in Euros, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term ESTR Transition Event, and the delivery of a Term ESTR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (a) Term ESTR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1)(C) of this definition (subject to the first proviso above).

If the Benchmark Replacement as determined pursuant to clause (1), (2) or (3) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

- (1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by the Administrative Agent:
 - a. the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;

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- b. the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and
- (2) for purposes of clause (3) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable Agreed Currency at such time;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides in its reasonable discretion, in consultation with the Borrower, may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary, in consultation with the Borrower, in connection with the administration of this Agreement and the other Loan Documents).

“Benchmark Replacement Date” means, with respect to any Benchmark, the earliest to occur of the following events with respect to the then-current Benchmark:

- (1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof);

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- (2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein;
 - (3) in the case of a Term SOFR Transition Event or a Term ESTR Transition Event, as applicable, the date that is thirty (30) days after the date a Term SOFR Notice or a Term ESTR Notice, as applicable, is provided to the Lenders and the Borrower pursuant to Section 3.04(c); or
 - (4) in the case of an Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

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

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

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the FRB, the NYFRB, the central bank for the Agreed Currency applicable to such Benchmark, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

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

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

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“Benchmark Unavailability Period” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 3.04 and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 3.04.

“beneficial owner” has the meaning given to that term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, in each case as in effect on the date hereof, except that in calculating the beneficial ownership of any particular “person” (as that term is used in Section 13(d)(3) of the Exchange Act, as in effect on the date hereof), such “person” will not be deemed to have beneficial ownership of any securities that such “person” has the right to acquire or vote only upon the happening of any future event or contingency (including the passage of time) that has not yet occurred. The terms “beneficial ownership,” “beneficially owns” and “beneficially owned” have a corresponding meaning.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation, in form and substance substantially the same as the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly, in May 2018, by the Loan Syndications and Trading Association and Securities Industry and Financial Markets Association.

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

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

“BHC ACT Affiliate” means an “affiliate” (as defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)).

“Board of Directors” means as to any Person, the board of directors, board of managers, sole member or managing member or other governing body of such Person, or if such Person is owned or managed by a single entity or has a general partner, the board of directors, board of managers, sole member or managing member or other governing body of such entity or general partner, or in each case, any duly authorized committee thereof, and the term “directors” means members of the Board of Directors.

“Borrower” means, collectively, (i) the Borrower and (ii) each Co-Borrower (or, as the context requires, any one of them). In the event the Borrower consummates any merger, amalgamation or consolidation in accordance with Section 7.03, the surviving Person in such merger, amalgamation or consolidation shall be deemed to be the “Borrower” for all purposes of this Agreement and the other Loan Documents.

“Borrower Materials” has the meaning specified in Section 6.02.

“Borrower Parties” means the collective reference to the Borrower and its Restricted Subsidiaries, and **“Borrower Party”** means any one of them.

“Borrowing” means a Revolving Credit Borrowing or a Term Borrowing, as the context may require.

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“Budgeted Amounts” has the meaning specified in Section 2.05(b)(i)(B)(7).

“Business Day” means:

(a) for all purposes other than as covered by clauses (b) and (c) below, any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, New York City;

(b) if such day relates to any interest rate settings, fundings, disbursements, settlements or payments in connection with a Loan or Letter of Credit as to an Alternative Currency Term Rate Loan denominated in Euros, any fundings, disbursements, settlements and payments in Euros in respect of any such Eurocurrency Loan, or any other dealings in Euros to be carried out pursuant to this Agreement in respect of any such Alternative Currency Term Rate Loan, means a Business Day that is also a TARGET Day;

(c) if such day relates to any interest rate settings, fundings, disbursements, settlements or payments in connection with a Loan or Letter of Credit as to a SONIA Loan, means a day other than a day banks are closed for general business in London because such day is a Saturday, Sunday or a legal holiday under the laws of the United Kingdom; and

(d) if such day relates to any interest rate settings, fundings, disbursements, settlements or payments in connection with a Loan or Letter of Credit as to an Alternative Currency Term Rate Loan denominated in Canadian dollars, means a day other than a day banks are closed for general business in Canada because such day is a Saturday, Sunday or a legal holiday under the laws of Canada

“Capital Stock” means:

(a) in the case of a corporation or company, corporate stock or share capital;

(b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(c) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person (it being understood and agreed, for the avoidance of doubt, that “cash-settled phantom appreciation programs” in connection with employee benefits that do not require a dividend or distribution shall not constitute Capital Stock).

“Capitalized Lease Obligation” means at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP.

“Capitalized Software Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by the Borrower and the Restricted Subsidiaries during such period in respect of purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of the Borrower and the Restricted Subsidiaries.

“Cash-Capped Incremental Facility” has the meaning specified in Section 2.14(a).

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