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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**  
**Form 10-K**

**(Mark one)**

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

**For the fiscal year ended October 1, 2022  
or**

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

**For the transition period from \_\_\_\_\_ to \_\_\_\_\_.  
Commission File Number 0-21272**

**Sanmina Corporation**

(Exact name of registrant as specified in its charter)

**DE**

(State or other jurisdiction of incorporation or organization)

**77-0228183**

(I.R.S. Employer Identification Number)

**2700 N. First St., San Jose CA**

(Address of principal executive offices)

**95134**

(Zip Code)

Registrant's telephone number, including area code:

**408 964-3500**

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

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Securities Act. Yes  No

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

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

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

Large Accelerated Filer            Accelerated filer       Non-accelerated filer       Smaller reporting company   
Emerging growth company

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C.7262(b)) by the registered public accounting firm that prepared or issued its audit report.

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

The aggregate market value of the voting and non-voting common stock held by non-affiliates of the registrant was approximately \$1,453,429,173 as of April 2, 2022 based upon the last reported sale price of the common stock on the NASDAQ Global Select Market on April 1, 2022.

As of November 3, 2022, the number of shares outstanding of the registrant's common stock was 57,429,717.

**DOCUMENTS INCORPORATED BY REFERENCE**

Certain information is incorporated into Part III of this report by reference to the Proxy Statement for the registrant's 2023 annual meeting of stockholders to be filed with the Securities and Exchange Commission pursuant to Regulation 14A not later than 120 days after the end of the fiscal year covered by this Form 10-K.

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## **Item 1. Business**

### **Overview**

Sanmina Corporation (“we” or “Sanmina” or the “Company”) is a leading global provider of integrated manufacturing solutions, components, products and repair, logistics and after-market services. We provide these comprehensive offerings primarily to original equipment manufacturers, or OEMs, in the following industries: industrial, medical, defense and aerospace, automotive, communications networks and cloud infrastructure. The combination of our advanced technologies, extensive manufacturing expertise and economies of scale enables us to meet the specialized needs of our customers. We were originally incorporated in Delaware in May 1989.

Our end-to-end solutions, combined with our global expertise in supply chain management, enable us to manage our customers’ products throughout their life cycles. These solutions include:

- product design and engineering, including concept development, detailed design, prototyping, validation, preproduction services and manufacturing design release and product industrialization;
- manufacturing of components, subassemblies and complete systems;
- high-level assembly and test;
- direct order fulfillment and logistics services;
- after-market product service and support; and
- global supply chain management.

We operate in the Electronics Manufacturing Services (EMS) industry and manage our operations as two businesses:

- 1) Integrated Manufacturing Solutions (IMS). Our IMS business consists of printed circuit board assembly and test, high-level assembly and test and direct-order-fulfillment. This segment generated approximately 80% of our total revenue in 2022.
- 2) Components, Products and Services (CPS). Components include printed circuit boards, backplanes and backplane assemblies, cable assemblies, fabricated metal parts, precision machined parts, and plastic injected molded parts. Products include memory solutions from our Viking Technology division; high-performance storage platforms for hyperscale and enterprise solutions from our Viking Enterprise Solutions (VES) division; optical, radio frequency (RF) and microelectronic (microE) design and manufacturing services from Advanced Microsystems Technologies; defense and aerospace products from SCI Technology; and cloud-based manufacturing execution software from our 42Q division. Services include design, engineering and logistics and repair. CPS generated approximately 20% of our total revenue in 2022.

We service our customers from 24 countries on five continents. We locate our facilities near our customers and their end markets in major centers for the electronics industry or in lower cost locations. Many of our operations located near our customers and their end markets are focused primarily on new product introduction, lower-volume, higher-complexity component and subsystem manufacturing and assembly, and high-level assembly and test. Our operations located in lower cost areas engage primarily in higher-volume component and subsystem manufacturing and assembly for both higher and lower complexity products.

As one of the largest global manufacturing solutions providers, we are able to capitalize on our competitive strengths including our:

- customer-focused organization with 34,000 employees;
- mission critical end-to-end solutions;
- product design and engineering resources;
- vertically integrated global/regional manufacturing capabilities;
- comprehensive IT systems and flexible global supplier base;
- expertise in serving diverse end markets; and

- expertise in industry standards and regulatory requirements.

## Industry Overview

EMS companies are the principal beneficiaries of the increased use of outsourced manufacturing services by the electronics and other industries. Outsourced manufacturing refers to an OEM's use of EMS companies to manufacture their products, rather than using internal manufacturing resources. As the EMS industry has evolved, OEMs have increased their reliance on EMS companies for end-to-end services including product design and engineering, manufacturing, high-level assembly and test, direct-order-fulfillment and logistics services, after-market product service and support, and global supply chain management.

We believe OEMs will continue to outsource manufacturing because it allows them to:

- focus on core competencies;
- access leading design and engineering capabilities;
- optimize their supply chain while reducing risk and maximizing purchasing power;
- reduce operating costs and capital investment;
- access global manufacturing services; and
- accelerate time to market.

## Our Business Strategy

Our vision is to be the trusted leader in providing mission critical products, services and supply chain solutions to accelerate customer success. Key elements of our business strategy to deliver this vision include:

**Capitalizing on Our Comprehensive Solutions.** Capitalizing on our end-to-end solutions allows us to sell additional solutions to our existing customers and attract new customers. Our end-to-end solutions include product design and engineering, manufacturing, high-level assembly and test, direct order fulfillment and logistics services, after-market product service and support, and global supply chain management. Our vertically integrated manufacturing solutions enable us to manufacture additional system components and subassemblies for our customers. When we provide a customer with a number of services, such as component manufacturing or higher value-added solutions, we can often improve our margins and profitability. Consequently, our goal is to increase the number of manufacturing programs for which we provide multiple solutions. To achieve this goal, our sales and marketing organization seeks to cross-sell our solutions to customers.

**Extending Our Technology Capabilities.** We rely on advanced processes and technologies to provide our products, components and vertically integrated manufacturing solutions. We continually improve our manufacturing processes and develop more advanced technologies, providing a competitive advantage to our customers. We work with our customers to anticipate their future product and manufacturing requirements and align our technology investment activities with their needs. We use our design expertise to develop product technology platforms that we can customize by incorporating other components and subassemblies to meet the needs of particular OEMs. These technologies enhance our ability to manufacture complex, high-value added products, maximizing our potential to continue to win business from existing and new customers.

**Attracting and Retaining Long-Term Customer Partnerships.** A core component of our strategy is to attract, build and retain long-term partnerships with companies in growth industries that will benefit from our global/regional footprint and unique value proposition in advanced electronics manufacturing.

**Promoting New Product Introduction (NPI) and Joint Design Manufacturing (JDM) Solutions.** As a result of customer feedback and our customers' desire to manage research and development expenses, we offer product design services to develop systems and components jointly with our customers. Our NPI services include quick-turn prototyping, supply chain readiness, functional test development, and release-to-volume production. In a JDM model, our customers bring market knowledge and product requirements, and we bring complete design engineering and NPI services. Our design engineering offerings include product architecture development, detailed design, simulation, test and validation, system integration, regulatory and qualification services.

**Continuing to Penetrate Diverse End Markets.** We focus our marketing and sales efforts on major end markets within the electronics technology industry. We target markets we believe offer significant growth opportunities and for which OEMs sell mission critical products that are subject to strict regulatory requirements and/or rapid technological change because the

manufacturing of these products requires higher value-added services. We seek to diversify our business across market segments and customers to reduce our dependence on any particular market or customer.

**Pursuing Strategic Transactions.** We continually seek to identify and undertake strategic transactions that give us the opportunity to grow our business by accessing new customers' products, manufacturing solutions, repair service capabilities, intellectual property, technologies and geographic markets.

**Continuing to Seek Cost Savings and Efficiency Improvements.** We seek to optimize our facilities to provide cost-effective services for our customers. We continue to invest in factory automation, process improvements, robotics and AI to further enhance our efficiency output. We maintain extensive operations in lower cost locations, including Latin America, Eastern Europe, China, Southeast Asia and India, and we plan to expand our presence in these lower cost locations as appropriate to meet the needs of our customers. We believe we are well positioned to take advantage of future opportunities on a global/regional basis.

## Our Competitive Strengths

We believe our competitive strengths differentiate us from our competitors and enable us to better serve the needs of OEMs. Our competitive strengths include:

**End-to-End Solutions.** We provide solutions throughout the world to support our customers' products during their entire life cycle, from product design and engineering, through manufacturing, to direct order fulfillment, logistics and after-market product service and support. Our end-to-end solutions are among the most comprehensive in the industry because we focus on adding value before and after the actual manufacturing of our customers' products. These solutions also enable us to 1) provide our customers with a single source of supply for their design, supply chain and manufacturing needs, 2) reduce the time required to bring products to market and 3) lower product costs, while allowing our customers to focus on those activities they expect to add the highest value to their business. We believe our end-to-end solutions allow us to develop closer relationships with our customers and more effectively compete for their future business.

**Product Design and Engineering Resources.** We provide product design and engineering services for new product designs, cost reductions and Design-for-Manufacturability/Assembly/Test (DFx). Our engineers work with our customers during the complete product life cycle. Our design and NPI centers provide turnkey system design services, including: electrical, mechanical, thermal, software, layout, simulation, test development, design verification, validation, regulatory compliance and testing services. We design high-speed digital, analog, radio frequency, mixed-signal, wired, wireless, optical and electro-mechanical modules and systems.

Our engineering engagement models include Joint Design Manufacturing (JDM), Contract Design Manufacturing (CDM) and consulting engineering for DFx, Value Engineering (cost reduction re-design), and design for global environmental compliance regulations such as the European Union's Restrictions of Hazardous Substances (RoHS) and Waste Electrical and Electronic Equipment (WEEE). We focus on industry segments that include industrial, medical, defense and aerospace, automotive, communications networks and cloud infrastructure. System solutions for these industry segments are supported by our vertically integrated component technologies, namely printed circuit boards, backplanes, enclosures, cable assemblies, precision machining, plastics, memory modules, and optical, RF and microelectronics modules.

In these engagement models, our customers bring market knowledge and product requirements and we provide complete design engineering and new product introductions (NPI) services. For JDM products, the intellectual property is typically jointly owned by us and the customer, and we perform manufacturing and logistics services. For CDM projects, customers pay for all services and own the intellectual property.

**Vertically Integrated Manufacturing Solutions.** We provide a range of vertically integrated manufacturing solutions, including high-technology components, new product introduction and test development services. These solutions are provided in every major region worldwide, with design and prototyping close to our customer's product development centers. Our customers benefit significantly from our experience in these areas, including product cost reduction, minimization of assets deployed for manufacturing, accelerated time-to-market and a simplified supply chain. Key system components we manufacture include high-technology printed circuit boards and printed circuit board assemblies, backplanes and backplane assemblies, cable assemblies, fabricated metal parts, precision machined parts, plastic injected molded parts, and optical and RF modules and memory modules. These components and sub-assemblies are integrated into a final product or system, configured and tested to our customer's or the end-customer's specifications and delivered to the final point of use, with us managing the entire supply chain. By manufacturing system components and subassemblies ourselves, we enhance continuity of supply and reduce costs for our customers.

Customers also benefit from our combined design, technology and manufacturing experience with specific products and markets. For example, in communications networks, we have over 40 years of experience in developing high-speed printed circuit boards (PCBs) and backplanes. Examples of products for which our experience and vertically integrated model provide competitive advantage include wireless base stations, network switches, routers and gateways, optical switches, servers and storage appliances, automotive products, avionics and satellite systems, magnetic resonance imaging (MRI) and computer tomography (CT) scanners, and equipment used in semiconductor manufacturing processes, including equipment for photolithography, chemical mechanical polishing, vapor deposition and robotics for wafer transfer. For these and many other products, customers can gain a competitive advantage with our manufacturing technology, while reducing the capital requirements associated with manufacturing and global supply chain management.

**Advanced Component Technologies.** We provide advanced component technologies, which we believe allow us to differentiate ourselves from our competitors. These advanced technologies include the fabrication of complex printed circuit boards, backplanes and backplane assemblies, cable assemblies fabricated metal parts, precision machined parts, plastic injected molded parts, memory modules, and optical, RF and microelectronics modules. For example, we produce some of the most advanced printed circuit boards and backplanes in the world that are manufactured with a range of low signal loss, high-performance materials and include features such as buried capacitance and thin-film resistors, high-density interconnects and micro via technology. We also manufacture high-density rigid-flex printed circuit boards with up to 32 layers and 8 transition layers for the defense and aerospace markets and high-end medical electronics market.

Our printed circuit board assembly technologies include micro ball grid arrays, chip scale packages, fine-pitch discretes and small form factor radio frequency and optical components, chip on board, as well as advanced packaging technologies used in high pin count applications for specific integrated circuits and network processors. We use innovative design solutions and advanced metal forming techniques to develop and fabricate high-performance indoor and outdoor chassis, enclosures, racks and frames. Our assembly services use advanced technologies, including precision optical alignment, multi-axis precision stages and machine vision technologies. We use sophisticated procurement and production management tools to manage inventories for our customers and ourselves as effectively as possible. We have also developed build-to-order (BTO) and configure-to-order (CTO) systems and processes that enable us to manufacture and ship finished systems in as little as 8 hours after receipt of an order. We utilize a centralized Technology Council to coordinate the development and introduction of new technologies to meet our customers' needs in various locations and to increase technical collaboration among our facilities and divisions.

**Global Manufacturing Capabilities.** Most of our customers compete and sell their products on a global basis. As such, they require global solutions that include regional manufacturing for selected end markets, especially when time to market, local manufacturing or content and low cost solutions are critical objectives. Our global network of manufacturing facilities provides our customers a combination of sites to maximize both the benefits of regional and low cost manufacturing solutions and repair services. In addition to our manufacturing and repair locations, we support our customers' logistics and repair requirements through a certified partner network.

To manage and coordinate our global operations, we employ an enterprise-wide Enterprise Resource Planning (ERP) system at substantially all of our manufacturing locations that operates on a single IT platform and provides us with company-wide inventory planning and purchasing capabilities. This system enables us to standardize planning and purchasing at the facility level and to optimize inventory visibility and management, improve asset utilization worldwide and reduce risk throughout the entire product lifecycle. Our systems also enable our customers to receive key information regarding the status of their programs.

We purchase large quantities of electronic components and other materials from a wide range of suppliers. We are committed to selecting ethical business partners that adhere to the Responsible Business Alliance (RBA) Code of Conduct. Our primary supply chain goal is to consolidate our global spend to create the synergy and leverage to drive our supply base for better cost competitiveness, more favorable terms and leading-edge supply chain solutions. As a result, we often receive favorable terms and supply chain solutions from suppliers, which generally enables us to provide our customers with greater total cost reductions than they could obtain themselves. Our strong supplier relationships are beneficial when electronic components and other materials are in short supply and provide us the necessary support to better optimize the use of our inventories.

Supply chain management also involves the planning, purchasing, transportation and warehousing of product components. We use state of the art production management systems to manage our procurement and manufacturing processes in an efficient and cost-effective manner. We collaborate with our customers to enable us to respond to their changing component requirements and to reflect any changes in these requirements in our ERP system. This system enables us to forecast

future supply and demand imbalances and develop strategies to help our customers manage their component requirements, especially during supply shortages that have affected our industry in the recent past. Our enterprise-wide ERP systems provide us with company-wide information regarding component inventories and orders to help optimize inventories, planning and purchasing at the facility level.

**Customer-Focused Organization.** We believe customer relationships are critical to our success and we are focused on providing a high level of customer service. Account teams led by global account managers are directly responsible for account management. Global account managers coordinate the additional resources required to facilitate customer-specific solutions. As needed, these teams may include subject matter experts in design, specific technology components, services, products, and supply chain. These teams create the hub for interaction between the customer and our locations, providing local support to customers worldwide.

**Expertise in Serving Diverse End Markets.** We have experience in serving customers in the industrial, medical, defense and aerospace, automotive, communications networks and cloud infrastructure end markets. Our diversification across end markets reduces our dependence upon any one customer or end market. In order to service to the specialized needs of customers in particular market segments, we have dedicated personnel, and in some cases facilities, with industry-specific capabilities and expertise.

**Expertise in Industry Standards and Regulatory Requirements.** We maintain compliance with industry standards and regulatory requirements applicable to certain markets, including, among others, medical, automotive and defense and aerospace.

## Our Products and Solutions

We offer our OEM customers a diverse set of products and solutions with a focus on wireless, wireline and optical communications and network infrastructure equipment, such as switches, routers and base stations, computing and storage systems, defense and commercial avionics and communications, medical imaging, diagnostic and patient monitoring systems, semiconductor tools for metrology, lithography, dry and wet processing, industrial products, including large format printers and automated teller machines, energy and clean technology products such as solar and wind energy components, LED lighting, smart meters and battery systems, electric vehicle power control (and charging) systems, automotive infotainment devices, and automotive engine-control modules. These products may require us to use some or all of our end-to-end solutions, including design, component technologies and logistics and repair services.

**Integrated Manufacturing Solutions** includes:

**Printed Circuit Board Assembly and Test.** To meet the ever-changing needs across our diverse customer base, we continue to evolve in support of their current and future requirements. PCBAs are at the core of all electronic systems, and we continue to work to ensure that our PCBA manufacturing capabilities are aligned with the requirements for such systems. Printed circuit board assembly involves attaching electronic components, such as integrated circuits, capacitors, microprocessors, resistors, memory modules, and connectors to printed circuit boards. The most common technologies used to attach components to printed circuit boards employ surface mount technology (SMT) and pin-through-hole assembly (PTH) and press-fit technology for connectors. We use SMT, PTH, press-fit and other attachment technologies focused on miniaturization and increasing the density of component placement on printed circuit boards. These technologies, which support the needs of our customers to provide greater functionality in smaller products, include chip-scale packaging, ball grid array, direct chip attach and high density interconnect. We perform in-circuit and functional testing of printed circuit board assemblies. In-circuit testing verifies that all components are properly inserted and attached and that electrical circuits are complete. Functional tests are performed to confirm the board or assembly operates in accordance with its final design and manufacturing specifications. We design and procure test fixtures and develop our own test software or use our customers' test fixtures and test software. In addition, we provide environmental stress tests of the board or assembly that are designed to confirm that the board or assembly will meet the environmental stresses, such as heat, to which it will be subjected.

**High-Level Assembly and Test.** We provide high-level assembly and test in which assemblies and modules are combined to form complete, finished products. Examples include complex electro-mechanical assemblies, fluid and blood analysis systems, food dispensing equipment, diagnostic medical devices, high-voltage power management systems, rotating x-ray equipment for airport security, particle analyzers for homeland security and motorized magnetic resonance imaging units. Our facilities also support full system level assembly and test and logistic support for a variety of complex electronic systems, including radio base stations and transmission equipment for 5G wireless networks, optical central offices and wireline switching and routing hardware, server and storage systems for data centers, carriers central offices and video streaming service providers, surgical controllers, ultrasound systems, patient monitoring systems, automotive sensor assemblies, and electric

vehicle power control systems and modules. With decades of experience in automated system assembly and test, we have focused on glucose meters, disposable sensors, IOT communication modules and disposable drug delivery systems. These products require highly specialized manufacturing capabilities and processes, as well as integrated IT systems and, in some cases, industry-specific certifications.

**Direct-Order-Fulfillment.** We provide direct-order-fulfillment for our OEM customers. Direct-order-fulfillment involves receiving customer orders, configuring products to quickly fill the orders and delivering the products either to the OEM, a distribution channel, or directly to the end customer. We manage our direct-order-fulfillment processes using a core set of common systems and processes that receive order information from the customer and provide comprehensive supply chain management, including procurement and production planning. These systems and processes enable us to process orders for multiple system configurations and varying production quantities including single units. Our direct-order-fulfillment services include BTO and CTO capabilities: in BTO, we build a system with the particular configuration ordered by the OEM customer; in CTO, we configure systems to an end customer's order, for example by installing software desired by the end customer. The end customer typically places this order by choosing from a variety of possible system configurations and options. Using advanced manufacturing processes and a real-time warehouse management and data control system on the manufacturing floor, we can usually meet a 48 to 72 hour turn-around-time for BTO and CTO requests. We support our direct-order-fulfillment services with logistics that include delivery of parts and assemblies to the final assembly site, distribution and shipment of finished systems and processing of customer returns.

**Components, Products and Services** includes:

**Product Design and Engineering.** Our design and engineering groups provide customers with comprehensive services from initial product design and detailed product development to prototyping and validation, production launch and end-of-life support for a wide range of products covering all our market segments. These groups complement our vertically integrated manufacturing capabilities by providing component level design services for printed circuit boards, backplanes and a variety of electro-mechanical systems. Our offerings in design engineering include product architecture, detailed development, simulation, test and validation, integration and regulatory and qualification services, and our NPI services include quick-turn prototypes, functional test development and release-to-volume production. We also offer post-manufacturing and end-of-life support, including repair and sustaining engineering support through our Global Services division. We can also complement our customer's design team with our unique skills and services which can be used to develop custom, high-performance products that are manufacturable and cost optimized to meet product and market requirements. Such engineering services can help in improving a customer's time-to-market and cost-to-market objectives.

**Printed Circuit Boards.** We produce a wide range of multilayer printed circuit boards on a global basis with high layer counts and fine line circuitry. Specialized production equipment along with an in-depth understanding of high performance laminate materials allow us to fabricate some of the largest form factor and highest speed circuit boards in the industry.

Our ability to support NPI and quick-turn fabrication followed by manufacturing in both North America and Asia allows our customers to accelerate their time-to-market as well as their time-to-volume. Standardized processes and procedures make transitioning of products easier for our customers. Our worldwide engineering teams support designers in Design for Manufacturability (DFM) analysis and assemblers with field applications support.

**Backplanes and Backplane Assemblies.** Backplanes are typically very large printed circuit boards that serve as the backbones of sophisticated electronics products, such as internet routers. Backplanes provide interconnections for printed circuit board assemblies, power supplies, and other electronic components. We fabricate backplanes in our printed circuit board factories. Backplane fabrication is significantly more complex than printed circuit board fabrication due to the large size and thickness of the backplanes. We manufacture backplane assemblies by press-fitting high density connectors into plated through-holes in the fabricated backplane. In addition, many of the newer, advanced technology backplanes require surface-mounted attachment of components, including active high-pin count packages that come in a variety of sophisticated package types. These advanced assembly processes require specialized equipment and a strong focus on quality and process control. We often perform in-circuit and functional tests on backplane assemblies. We have developed proprietary technologies and process "know-how" which enable backplanes to run at data rates in excess of 50 gigahertz. We currently have capabilities to manufacture backplanes at greater than 60 layers in sizes up to 26x40 inches and up to a nominal thickness of 0.425 inches and in a wide variety of high performance laminate materials. These are among the largest and most complex commercially manufactured backplanes and the test equipment we have ensures the quality and performance of these backplane systems is "world class." We are capable of testing the signal integrity of these backplanes, and often also utilize state of the art x-ray equipment to verify defect-free installation of the new high density/high speed connectors.

**Cable Assemblies.** Cable assemblies are used to connect modules, assemblies and subassemblies, including backplane assemblies in electronic systems. We provide a broad range of cable assembly products and services, from cable assemblies and harnesses for automobiles to very complex harnesses for industrial products and semiconductor manufacturing equipment. We also provide mechanical assembly and integration services where we often assemble, integrate and test cables with electromechanical systems or sub-systems. We design and manufacture a broad range of high-speed data, radio frequency and fiber optic cabling products. We build cable assemblies that are used in power systems typically classified as low and medium voltage. Our manufacturing footprint with facilities in the U.S., the EU, Mexico and China enables us to support our customers' NPI and volume production needs on a global basis.

**Fabricated Metal Parts.** Parts that are fabricated from metal are often used in sub-assemblies and full enclosures, racks or cabinets that are used to house and protect complex, critical and fragile electronic components, modules and sub-systems so that the system's functional performance is not compromised due to mechanical, environmental or any other use conditions. Our mechanical systems manufacturing services are capable of fabricating mechanical components that range from single parts to complex enclosures, racks or cabinets and we often integrate these with various electronic components and sub-systems including backplane assemblies and cables with power and thermal management, and other sensor and control systems. Our services often will include overseeing specialist cleaning or surface treatments with our suppliers as well as painting using a variety of techniques in our own facilities.

**Precision Machined Parts.** We offer a suite of world-class precision machining services in the U.S. and Israel. We use advanced numerically controlled machines enabling the manufacture of components that are machined to very tight tolerances and we often perform further assembly services with these components in clean-room environments. Our capabilities include complex medium and large format mill and lathe machining of aluminum, stainless steel, plastics, ferrous and nonferrous alloys and exotic alloys. We also have helium and hydrostatic leak-test capabilities. By leveraging our established supply chain, we oversee lapping, anodizing, electrical discharge machining (EDM), heat-treating, cleaning, laser inspection, painting and packaging. We have specialized facilities supporting machining and complex integration with access to a range of state-of-the-art, computer-controlled machining equipment that can satisfy rigorous demands for production and quality and meet very tight tolerance specifications. With some of the largest horizontal milling machines in the U.S., we are a supplier of vacuum chamber systems for the semiconductor, flat-panel display, LED equipment, industrial, medical and AS9100-certified aerospace markets.

**Plastic Injection Molded Parts.** Plastic injection molded parts are used to create a vast array of everyday items, from very small intricate plastic parts to cosmetic enclosures designed to protect sensitive electronic equipment. Our diverse capability within the plastic injection molding space spans all major markets and industries. We are equipped with nearly 80 plastic injection molding machines with a wide variety of clamping pressures. Our experienced tooling, process, quality and resin engineers work concurrently using a scientific molding approach to develop cost-effective, highly reliable manufacturing solutions for medical, industrial, defense, multimedia, computing and data storage customers. Strategic relationships with U.S. and Asian toolmakers allow us to deliver cost-effective high-quality plastic manufacturing solutions.

**Advanced Microsystems Technologies.** Optical and radio frequency (RF) components built off of advanced micro-electronics are key building blocks of many systems. Our Advanced Microsystems Technologies product technology and engineering division focuses on optical, RF and microelectronics (microE) design and manufacturing services. Our mission is to deliver leading-edge technology solutions that enable our customer products while optimizing the value and performance of our customers' applications.

Based on our microelectronic design and advanced manufacturing technologies, built off Advanced Microsystems Technologies foundational IP, we provide RF and optical components, modules and systems for customers across many industries including the communications, networking, automotive, medical, industrial, military and aerospace markets. Within the Advanced Microsystems Technologies Division, we produce both passive and active optical components as well as modules that are built from a combination of industry standard and/or custom components and interconnected using microelectronic and micro-optic technologies to achieve a unique function. Our experience in RF and optical communication and networking products spans across long-haul/ultra-long-haul and metro applications for transport/transmission, as well as broadband access and switching applications, including last-mile solutions. We currently supply optical products ranging from 10G to 800G to the optical communication marketplace. For the medical end market, we develop components and subassemblies that support Sammina's medical manufacturing operations for products such as blood analyzers, food contamination analyzers, and specialized optical spectrometers and fluorometers utilizing the latest optical technologies. In the

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automotive and industrial end markets, we are working with customers on next generation photonics based Lidar product offerings.

Our Advanced Microsystems Technologies service offerings are designed to deliver end-to-end solutions with special focus on product design, test infrastructure development and commercialization, along with optical module and mmWave RF components and module manufacturing. Customers can couple these components with Sanmina's broader IMS services of blade server manufacturing, as well as system integration and test, providing a complete end-to-end solution for their customers.

**Viking Technology.** Viking Technology supplies leading-edge Solid State Drives (SSD), DRAM memory modules and Non-Volatile DIMMs (NVDIMM), along with state-of-the-art ruggedized Microelectronics Multi-Chip Package (MCP) memory solutions.

Viking Technology provides DRAM memory and flash storage solutions, including high-performance computing SSDs tailored, high reliable / high performance small form factor flash and DRAM modules, to diverse application for the networking, industrial, data center, transportation, medical, AI to military markets.

**Viking Enterprise Solutions.** Viking Enterprise Solutions (VES) is a market leader in high-performance storage platforms for hyperscale and enterprise data centers worldwide. Leveraging our portfolio of proven product designs, Viking Enterprise Solutions provides advanced data center products, including NVMe flash memory and disk-based storage server appliances, JBOD storage systems and related products for a variety of storage and data center applications including rack scale solutions. With advances in interconnect speeds and architectural changes to disaggregate storage and compute for scale, Viking Enterprise Solutions is well positioned with a product portfolio to take advantage of these trends.

VES provides end-to-end, design and manufacturing solutions for both platform-based and fully customized data center products. From our US-based design and development team, we provide a full array of services from early product conceptualization, through design, product validation and world-wide product certifications. In addition, VES supports all phases of product manufacturing, including NPI, support for unique product configurations, RMA and product end-of-life support.

**SCI Technology Inc. (SCI).** SCI has provided engineering services, products, manufacturing, test, and depot and repair solutions to the global defense and aerospace industry for nearly 60 years. SCI offers advanced products for aircraft systems and tactical communications, unmanned aerial systems and components, counter-unmanned aerial systems and components, and fiber-optics capabilities for use in a variety of defense-related applications.

SCI's customers include U.S. government agencies, U.S. allies and major defense and aerospace prime contractors. SCI has the infrastructure and facility security clearance to support the stringent certifications, regulations, processes and procedures required by these customers.

**Global Services.** Sanmina Global Services complements our end-to-end manufacturing strategy by integrating engineering, supply chain, manufacturing, logistics, repair and environmentally friendly disposition into a seamless solution for customers, for both Sanmina manufactured, and non-Sanmina manufactured products around the world. We provide a wide range of services, including new product introduction, high-level assembly, distribution services and warranty management, life-extension services and end-of-life management as well as programs that focus on reuse, repair, refurbishment, recycle, recover and redesign.

**42Q.** 42Q provides an innovative, world-class cloud-based manufacturing execution solution (MES) that is scalable, flexible, secure and easy to implement. Our solution provides customers advantages in efficiencies and costs relative to legacy systems and offers traceability and genealogy, multi-plant visibility, compliance management and on-demand work instructions.

## Our End Markets

We target markets that we believe offer significant growth opportunities and in which OEMs sell complex mission critical products that are subject to strict regulatory requirements and/or rapid technological change. We believe that markets involving complex, rapidly changing products offer opportunities to produce products with higher margins because they require higher value-added manufacturing services and may also include our advanced vertically integrated components. Our

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diversification across the industrial, medical, defense and aerospace, automotive, communications networks and cloud infrastructure market segments and customers helps mitigate our dependence on any particular market or customer.

### **Seasonality**

Because of the diversity of our customer base, we generally have not experienced significant seasonality in our business in recent years. However, we cannot predict whether this trend will continue.

### **Backlog**

We generally do not obtain firm, long-term commitments from our customers and our customers usually do not make firm orders for product delivery more than thirty to ninety days in advance. Additionally, customers may cancel or postpone scheduled deliveries, in some cases without significant penalty. Therefore, we do not believe the backlog of expected product sales covered by firm orders is a meaningful measure of future sales.

### **Customers and Marketing**

A key component of our strategy is to attract and retain long-term customer partnerships with leading companies in growth industries that will benefit from our global/regional footprint and unique value proposition in advanced electronics manufacturing. We develop relationships with our customers and market our vertically integrated manufacturing solutions through our sales and marketing staff. Our sales team works closely with our customers' engineering and technical personnel to understand their strategy and roadmaps to enable their go-to-market strategy. Our sales and marketing staff supports our business strategy of providing end-to-end solutions by encouraging cross-selling vertically integrated manufacturing solutions and component manufacturing across a broad range of major OEM products. We utilize our existing technical capabilities in design, technology components, and complex assembly, integration, and after-sales services to provide tailored solutions to our customers. With our extensive market knowledge and global/regional footprint, we can align these solutions to our facilities in each region around the world.

Sales to our ten largest customers typically represent approximately 50% of our net sales. Nokia and Motorola each represented 10% or more of our net sales in 2022. Nokia represented 10% or more of our net sales in 2021 and 2020.

We typically enter into supply agreements with our major OEM customers with terms ranging from three to five years. Our supply agreements generally do not obligate the customer to purchase minimum quantities of products. However, the customer is typically liable for the cost of the materials and components we have ordered to meet their production forecast but which are not used, provided that the material was ordered in accordance with an agreed-upon procurement plan. In some cases, the procurement plan contains provisions regarding the types of materials for which our customers will assume responsibility. Our supply agreements generally contain provisions permitting cancellation and rescheduling of orders upon notice and are subject to cancellation charges and, in some cases, rescheduling charges. In some circumstances, our supply agreements with customers include provisions for cost reduction objectives during the term of the agreement, which can have the effect of reducing revenue and profitability from these arrangements.

### **Competition**

For our integrated manufacturing solutions business, we face competition from other major global EMS companies such as Benchmark Electronics, Inc., Celestica, Inc., Flex Ltd., Hon Hai Precision Industry Co., Ltd. (Foxconn), Jabil Inc. and Plexus Corp. Our components, products and services business faces competition from EMS and non-EMS companies that often have a regional product, service or industry-specific focus. In addition, our potential customers may also compare the benefits of outsourcing their manufacturing to us with the merits of manufacturing products themselves.

We compete with different companies depending on the type of solution or geographic area. We believe the primary competitive factors in our industry include manufacturing technology, quality, global/regional footprint, delivery, responsiveness, provision of value-added solutions and price. We believe our primary competitive strengths include our ability to provide mission critical end-to-end solutions, product design and engineering resources, vertically integrated manufacturing solutions, advanced technologies, global manufacturing capabilities, global supplier base, customer focus and responsiveness, expertise in serving diverse end markets, and expertise in industry standards and regulatory requirements.

### **Intellectual Property**

We hold U.S. and foreign patents and patent applications relating to, among other things, printed circuit board manufacturing technology, enclosures, cables, memory modules, optical technology, medical devices and computing and

storage. For other proprietary processes, we rely primarily on trade secret protection. A number of our patents have expired or will expire in the near term. The expiration and abandonment of patents reduces our ability to assert claims against competitors or others who use similar technologies and to license such patents to third parties. We have registered a number of trademarks and have pending trademark applications in both the U.S. and internationally. Sanmina, Viking, Viking Enterprise Solutions, Viking Technology and 42Q are registered trademarks of Sanmina Corporation.

## **Compliance with Government Regulations**

### *Environmental Regulations*

We are subject to a variety of local, state, federal and foreign environmental laws and regulations relating to the storage and use of hazardous materials used in our manufacturing processes, as well as the storage, treatment, discharge, emission and disposal of hazardous waste that are by-products of these processes. We are also subject to occupational safety and health laws, product labeling and product content requirements, either directly or as required by our customers. Proper waste disposal is a major consideration for printed circuit board manufacturers due to the metals and chemicals used in the manufacturing process. Water used in the printed circuit board manufacturing process must be treated to remove metal particles and other contaminants before it can be discharged into municipal sanitary sewer systems. We operate on-site wastewater treatment systems at our printed circuit board manufacturing plants in order to treat wastewater generated in the fabrication process.

Additionally, the electronics assembly process can generate lead dust. Upon vacating a facility, we are responsible for remediating lead dust from the interior of the manufacturing facility. Although there are no applicable standards for lead dust remediation in manufacturing facilities, we endeavor to remove the residues. To date, lead dust remediation costs have not been material to our results of operations. We also monitor for airborne concentrations of lead in our buildings and are unaware of any significant lead concentrations in excess of the applicable OSHA or other local standards.

We have a range of corporate programs that aim to reduce the use of hazardous materials in manufacturing. We developed corporate-wide standardized environmental management systems, auditing programs and policies to enable better management of environmental compliance activities. For example, almost all of our manufacturing facilities are certified under ISO 14001, a set of standards and procedures relating to environmental compliance management. In addition, the electronics industry must adhere to the European Union's Restrictions of Hazardous Substances (RoHS) and Waste Electrical and Electronic Equipment (WEEE). Parallel initiatives have been adopted in other jurisdictions throughout the world, including several states in the U.S. and the Peoples' Republic of China. RoHS limits the use of lead, mercury and other specified substances in electronics products. WEEE requires producers to assume responsibility for the collection, recycling and management of waste electronic products and components. We have implemented procedures intended to ensure our manufacturing processes are compliant with RoHS and the European Union's Registration, Evaluation and Authorization of Chemicals (REACH) legislation, when required. WEEE compliance is primarily the responsibility of OEMs.

Asbestos containing materials, or ACM, are present at several of our manufacturing facilities. Although ACM is being managed and controls have been put in place pursuant to ACM operations and maintenance plans, the presence of ACM could give rise to remediation obligations and other liabilities.

Our facilities generally operate under environmental permits issued by governmental authorities. For the most part, these permits must be renewed periodically and are subject to revocation in the event of violations of environmental laws. Any such revocation may require us to cease or limit production at one or more of our facilities, adversely affecting our results of operations.

In connection with certain acquisitions, we have incurred liabilities associated with environmental contamination. These include ongoing investigation and remediation activities at a number of current and former sites, including those located in Owego, New York; Derry, New Hampshire; and Brockville, Ontario. In addition, we have been named in a lawsuit alleging operations at our current and former facilities in Orange County, California contributed to groundwater contamination, and also have ongoing investigation activities at and adjacent to a former facility to determine the extent of any soil, soil vapor, and groundwater contamination. Finally, there are some sites, including our acquired facility in Gunzenhausen, Germany, which are known to have groundwater contamination caused by a third-party, and that third-party has provided indemnification to us for the related liability. However, in certain situations, third-party indemnities may not be effective to reduce our liability for environmental contamination.

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We use environmental consultants primarily for risk assessments and remediation, including remedial investigation and feasibility studies, remedial action planning and design and site remediation. Our consultants provide information regarding the nature and extent of site contamination, acceptable remediation alternatives and estimated costs associated with each remediation alternative. We consider their recommendations together with other information when determining the appropriate amount to accrue for environmental liabilities.

Our capital expenditures for environmental control facilities were not material in any of the last three fiscal years and we do not expect to make material expenditures for this purpose during the current fiscal year.

### *Other Regulations*

We are also subject to a number of domestic and foreign regulations relating to our operations worldwide. In particular, our sales activities must comply with restrictions relating to the export of controlled technology and sales to denied or sanctioned parties contained in the U.S. International Traffic in Arms Regulations (ITAR), U.S. Export Administration Regulations and sanctions administered by the Office of Foreign Asset Controls of the U.S. Treasury Department (OFAC). We must also comply with regulations relating to the award, administration and performance of U.S. government contracts and subcontracts with respect to our defense business, including regulations that govern price negotiations, cost accounting standards, procurement practices, termination at the election of the government and many other aspects of performance under government contracts and subcontracts. These regulations are complex, require extensive compliance efforts and expenditures in the form of additional personnel, systems and processes, and, in some cases, require us to ensure that our suppliers adhere to such regulations. Furthermore, our compliance with these regulations is subject to audit or investigation by governmental authorities and, from time to time, we receive formal and informal inquiries from government agencies and regulators regarding our compliance. Finally, the design, manufacture and repair of products that we conduct for the medical industry often requires compliance with domestic and foreign regulations, including the Food and Drug Administration's (FDA's) quality system regulations and the European Union's medical device directive. In addition to complying with these standards, our medical facilities comply with ISO 13485 (formerly EN 46002) and ISO 9001, where required. Should we be found to have violated one or more of such regulations, we could become subject to civil damages (which in some cases can be trebled) or criminal penalties and administrative sanctions, including fines, penalties, appointment of government monitors, termination of our government contracts and, ultimately, debarment from doing further business with the U.S. government. Any of such results would increase our expenses, reduce our revenue and damage our reputation as both a commercial and government supplier.

## **Human Capital Resources**

### *General Information About Our Human Capital Resources*

As of October 1, 2022, we had approximately 34,000 employees and approximately 4,000 temporary employees, in 24 countries.

Region	Approximate Breakdown of Employees
Americas	51 %
APAC	37 %
EMEA	12 %
Total	100 %

### *Core Principles*

At Sanmina, we believe our employees are the key to our success. We cultivate an agile, innovative workplace culture fueled by collaboration, diversity, equity and inclusion. Having highly engaged employees is essential to our culture and achieving our mission. We embrace diverse perspectives and empower our employees to improve our organization, help us innovate, and continuously strengthen our workplace.

As a founding member of the Responsible Business Alliance ("RBA"), the principles of the RBA are fundamental to our corporate culture and core values and are reflected in our commitments to our customers, stakeholders, employees and communities in which we do business around the world. We have aligned our work programs, processes and procedures to the RBA Code of Conduct to help ensure a safe and positive work environment for our employees that emphasizes learning and professional development, respect for individuals and ethical conduct, and that is facilitated by a direct management-employee engagement model.

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For over a decade, we have tracked human capital metrics that we consider to be key to our business, including health and safety, career growth and development, turnover, hiring and diversity, equity and inclusion. Management regularly reviews these metrics and seeks to improve them.

### *Health and Safety*

The health and safety of our employees is of utmost importance to us. In the U.S., we are subject to the requirements of the United States Department of Labor's Occupational Safety & Health Administration ("OSHA") and we are guided by the Environmental Health and Safety principles as described in the RBA's Code of Conduct worldwide. We conduct regular self-assessments and audits to ensure compliance with our health and safety guidelines and regulatory requirements. Our ultimate goal is to achieve a level of work-related injuries as close to zero as possible through continuous investment in our safety programs. We provide protective gear (e.g. eye protection, masks and gloves) as required by applicable standards and as appropriate given employee job duties. Additionally, during the COVID-19 pandemic, we have invested heavily to help ensure the health of our employees. Through the use of education and awareness, provision of necessary PPE, and changes to our manufacturing sites and screening, we strive to make our workplaces a safe place for employees during the workday.

### *Career Growth and Development*

We invest resources in professional development and growth as a means of improving employee performance and retaining our employees. We leverage both formal and informal programs, including in-person, virtual, social and self-directed learning, mentoring, coaching, and outside seminars and educational programs, when applicable, to identify, foster, and retain top talent. Employees have access to courses through our learning and development platforms including Pilgrim, Sanmina Online Education and Sanmina University.

Our performance review process is intended to promote transparent communication of team member performance, which we believe is a key factor in our success. The performance reviews enable ongoing assessments, reviews, and mentoring to identify career development and learning opportunities for our employees. Our emphasis on employee retention, talent reviews, employee evaluations and succession planning contributed to a promotion rate of approximately 5% in 2022.

### *Turnover*

We continually monitor employee turnover rates, both regionally and as a whole, as our success depends upon retaining our highly trained manufacturing and operating personnel. We believe the combination of competitive compensation, career growth and development opportunities have helped increase employee tenure and reduce voluntary turnover. The average tenure of our employees is approximately seven years and approximately 30% of our employees have been employed by us for more than ten years.

### *Hiring Practices*

We recruit the best people for the job without regard to gender, ethnicity or other protected traits and it is our policy to comply fully with all domestic, foreign and local laws relating to discrimination in the workplace.

### *Diversity, Equity and Inclusion*

At Sanmina, we are focused on creating a culture of belonging where employees can be their authentic selves and cultivate a workplace where everyone has an opportunity to succeed. Recognizing and respecting our global presence, we strive to maintain a diverse, equitable and inclusive workforce everywhere we operate. Almost 50% of our employees worldwide are female and, in the U.S., non-Caucasian employees account for almost 55% of the employee base. Our diversity, equity and inclusion principles are reflected in our employee training, in particular with respect to our policies against harassment and bullying and the elimination of bias in the workplace.

### *Management Engagement Practices*

We believe in a direct management-employee engagement model by which managers and employees maintain a regular dialogue about working conditions, compensation, compliance with laws and applicable standards, safety and advancement opportunities. This model is also reflected in our training and compliance programs, which emphasize the need to report concerns about violations of policy or law. None of our U.S. employees are represented by a labor union. In some

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international locations, our employees are represented by labor unions on either a national or plant level or are subject to collective bargaining agreements.

**Available Information**

Our Internet address is <http://www.sanmina.com>. We make available through our website, free of charge, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission, or SEC. All reports we file with the SEC are also available free of charge via EDGAR through the SEC's website at <http://www.sec.gov>.

## INFORMATION ABOUT OUR EXECUTIVE OFFICERS

The following table sets forth the name, position and age of our current executive officers and their ages as of October 1, 2022.

Name	Age	Position
Jure Sola	71	Chairman and Chief Executive Officer
Kurt Adzema	53	Executive Vice President, Chief Financial Officer
Alan Reid	59	Executive Vice President, Global Human Resources

**Jure Sola** has served as our Chairman and Chief Executive Officer since August 2020. Prior to that time, from October 2017 until August 2020, Mr. Sola served as our Executive Chairman. Mr. Sola also served as our Chief Executive Officer from April 1991 until October 2017, as Chairman of our Board of Directors from April 1991 until December 2001 and from December 2002 until October 2017, and as Co-Chairman of our Board of Directors from December 2001 until December 2002. In 1980, Mr. Sola co-founded Sanmina and initially held the position of Vice President of Sales. In October 1987, he became the Vice President and General Manager of Sanmina, responsible for manufacturing operations, sales and marketing. Mr. Sola served as our President from October 1989 to March 1996.

**Kurt Adzema** has served as our Executive Vice President and Chief Financial Officer since October 2019. Mr. Adzema previously served as the Executive Vice President, Finance and Chief Financial Officer of Finisar Corporation, an optical components company, from March 2010 until September 2019. Prior to March 2010, Mr. Adzema held the positions of Vice President of Strategy and Corporate Development at Finisar, which he joined in 2005. Prior to joining Finisar, Mr. Adzema held various positions at SVB Alliant, a subsidiary of Silicon Valley Bank, which advised technology companies on merger and acquisition transactions, at Montgomery Securities/Banc of America Securities, an investment banking firm, and in the financial restructuring group of Smith Barney.

**Alan Reid** has served as our Executive Vice President of Global Human Resources since October 2012. Mr. Reid has held various roles at Sanmina, including Senior Vice President of Global Human Resources and Human Resources Director of EMEA, from July 2001 to October 2012. Prior to joining us, he was Group Human Resources Manager at Kymata Ltd., an optoelectronic technology startup from June 2000 to July 2001. Prior to Kymata, Mr. Reid held various roles in operations and human resources with The BOC Group PLC. (British Oxygen Company), a global industrial gases and engineering company, from September 1986 to June 2000.

## **Item 1A. Risk Factors**

### **End Market and Operational Risks**

***Worldwide supply chain shortages caused by supply/demand imbalances, most notably in the semiconductor industry, the COVID-19 pandemic and geopolitical events are collectively limiting our ability to manufacture and ship all of the products, for which we have demand; our profitability will be reduced if we are unable to pass on increasing component costs.***

Our supply chain is being significantly impacted by a number of factors, including supply/demand imbalances, most notably in the semiconductor industry, interruptions in supplier and port operations due to the COVID-19 pandemic during a time when strong worldwide demand for electronic products and components has resumed and geopolitical events, such as the war in Ukraine. As a result, we are experiencing delays in delivery and shortages of certain components, particularly certain types of capacitors, resistors and discrete semiconductors needed for many of the products we manufacture. These conditions have limited our ability to manufacture and ship all of the products for which we have demand and that require these components and have resulted in an increase in our inventories of other components that cannot be assembled into finished products without these components. These factors are exacerbated by the fact that we are dependent on a number of limited and sole source suppliers to provide key components, which we incorporate into our products. We expect these delays and shortages to persist through at least the remainder of calendar year 2022 and that such shortages could result in delays in shipments to our customers during the period of such shortages. Any such delays would reduce our revenue, margins and operating cash flow for the periods affected.

In addition, inflationary pressures resulting from supply chain constraints and generally improved economic conditions are leading to sustained increases in the prices we pay for components and materials used in production and in our labor and transportation costs. While we seek to pass on to our customers the increased prices for components and shipping, plus a margin, our gross margins and profitability could decrease, perhaps significantly, over a sustained period of time if we are unable to do so.

***The COVID-19 pandemic has had, and may continue to have, a significant impact on our results of operations and financial condition by reducing demand from our customers, interrupting the flow of components needed for our customers' products, limiting the operations or productivity of our manufacturing facilities and creating health risks to our employees.***

Our business, operations and results of operations were significantly and negatively impacted by the COVID-19 pandemic over the past two years. Among other impacts, the pandemic:

- Resulted in the temporary closure of certain of our facilities;
- Temporarily reduced the amount of staffing at certain of our plants;
- Required us in some cases to pay staff who are not able to work due to government orders or illness;
- Limited the capacity of logistics providers to deliver the components we use and ship the products we manufacture;
- Reduced demand for certain of our customers' products;
- Resulted in interruptions in supply of components, either because our suppliers have themselves been prevented from operating or because major distribution channels (e.g. sea transport) were disrupted by the pandemic; and
- Resulted in certain of our customers and suppliers experiencing financial difficulties, which could impact their ability or willingness to satisfy their payment or delivery obligations, respectively, to us in the future.

Although conditions have improved in many of the regions in which we operate, we cannot predict when the COVID-19 pandemic will cease to present risks to our business due to a large number of uncertainties, including the duration of ongoing supply chain constraints directly and indirectly caused by the pandemic, the extent of the impact of the pandemic on our customers' businesses, the number of our employees who may become infected, the continued efficacy and availability of COVID-19 vaccines and treatments, the geographic locations of any future outbreaks, including outbreaks caused by variants of COVID-19, such as the Omicron variant of COVID-19 and its subvariants, and actions that government authorities may take in response. For example, China continues to maintain a "zero tolerance" policy towards COVID-19 infections, which has disrupted and could continue to disrupt our operations and our suppliers operations there. Thus, we believe that the pandemic could continue to have a negative impact on our business, results of operations and financial condition for the foreseeable future.

***Adverse changes in the key end markets we target could harm our business by reducing our sales.***

We provide products and services to companies that serve the industrial, medical, defense and aerospace, automotive, communications networks and cloud infrastructure industries. Adverse changes in any of these end markets could reduce

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demand for our customers' products or make these customers more sensitive to the cost of our products and services, either of which could reduce our sales, gross margins and net income. A number of factors could affect these industries in general and our customers in particular, leading to reductions in net sales. These factors include:

- intense competition among our customers and their competitors, leading to reductions in prices for their products and increases in pricing pressure placed on us;
- failure of our customers' products to gain widespread commercial acceptance, which could decrease the volume of orders our customers place with us;
- changes in regulatory requirements affecting the products we build for our customers, leading to product redesigns or obsolescence and potentially causing us to lose business; and
- the negative effects of inflation and any potential resultant recession on customer demand.

We realize a substantial portion of our revenues from communications equipment customers. This market is highly competitive, particularly in the area of price. Should any of our larger customers in this market fail to effectively compete with their competitors, they could reduce their orders to us or experience liquidity difficulties, either of which could have the effect of substantially reducing our revenue and net income. There can be no assurance that we will not experience declines in demand in this or in other end markets in the future.

### ***Our operating results are subject to significant uncertainties, which can cause our future sales, net income and cash generated from operations to be variable.***

Our operating results can vary due to a number of significant uncertainties, including:

- our ability to replace declining sales from end-of-life programs and customer disengagements with new business wins;
- conditions in the global economy as a whole and in the industries we serve, which have been significantly impacted by the COVID-19 pandemic;
- fluctuations in component prices, component shortages and extended component lead times caused by high demand and supply chain constraints, disruptions relating to the COVID-19 pandemic, geopolitical events, such as the war in Ukraine, natural disasters or otherwise;
- timing and success of new product developments and ramps by our customers, which create demand for our services, but which can also require us to incur start-up costs relating to new tooling and processes;
- levels of demand in the end markets served by our customers;
- timing of orders from customers and the accuracy of their forecasts;
- our inventory levels, which have been driven higher as a result of ongoing supply chain disruptions, with higher levels of inventory reducing our operating cash flow;
- customer payment terms and the extent to which we factor customer receivables during the quarter;
- increasing labor costs in the regions in which we operate;
- mix of products ordered by and shipped to major customers, as high volume and low complexity manufacturing services typically have lower gross margins than more complex and lower volume services;
- our ability to pass tariffs and price increases of components through to our customers;
- resolution of quality or other claims made by our customers;
- the degree to which we are able to fully utilize our available manufacturing capacity;
- customer insolvencies resulting in bad debt or inventory exposures that are in excess of our reserves;
- our ability to efficiently move manufacturing operations to lower cost regions when requested by our customers;
- changes in our tax provision due to changes in our estimates of pre-tax income in the jurisdictions in which we operate, uncertain tax positions and our continued ability to utilize our deferred tax assets; and
- political and economic developments in countries in which we or our customers or our suppliers have operations, which could restrict our operations or those of our suppliers and/or customers or increase our costs.

Variability in our operating results may also lead to variability in cash generated by operations, which can adversely affect our ability to make capital expenditures, engage in strategic transactions and repurchase stock.

### ***We are subject to risks arising from our international operations.***

The substantial majority of our net sales are generated through our non-U.S. operations. As a result, we are or can be negatively impacted by economic, political and other conditions in the foreign countries in which we do business, including:

- changes in trade and tax laws that may result in us or our customers being subject to increased taxes, duties and tariffs and import and export restrictions, which could increase our costs and/or reduce our customers' willingness to use our services in countries in which we are currently manufacturing their products;
- compliance with foreign laws, including labor laws that generally provide for increased notice, severance and consultation requirements compared to U.S. labor laws;
- labor unrest, including strikes;
- difficulties in staffing due to immigration or travel restrictions imposed by national governments, including the U.S.;
- security concerns;
- political instability and/or regional military tension or hostilities, such as the war in Ukraine, the possibility of such conflict broadening to areas outside of Ukraine, and the actions taken by national governments in response to such hostilities, such as sanctions and export bans;
- fluctuations in currency exchange rates, which may either increase or decrease our operating costs and for which we have significant exposure;
- the imposition of currency controls, which would have the effect of preventing us from repatriating profits from our foreign subsidiaries;
- exposure to heightened corruption risks;
- aggressive, selective or lax enforcement of laws and regulations by national governmental authorities; and
- potentially increased risk of misappropriation of intellectual property.

We operate in countries that have experienced labor unrest, political instability or conflict and strife in the past, including China, India, Israel, Malaysia, Mexico and Thailand, and we have experienced work stoppages and similar disruptions at our plants in these countries. To the extent these factors prevent us from adequately staffing our plants and manufacturing and shipping products in those jurisdictions, our margins and net income could be reduced and our reputation as a reliable supplier could be negatively impacted.

***We rely on a relatively small number of customers for a substantial portion of our sales, and declines in sales to these customers could significantly reduce our net sales and net income.***

Sales to our ten largest customers have historically represented approximately half of our net sales. We expect to continue to depend upon a relatively small number of customers for a significant percentage of our sales for the foreseeable future. The loss of, a significant reduction in sales or pricing to, or an inability to recover components liabilities from our largest customers could therefore substantially reduce our revenue and margins.

***Current U.S. trade policy could increase the cost of using both our onshore and offshore manufacturing services for our U.S. customers, leading them to reduce their orders to us.***

Although we maintain significant manufacturing capacity in the U.S., the majority of our manufacturing operations are located outside the U.S. The U.S., China, the E.U. and several other countries have imposed tariffs on certain imported products. In particular, the U.S. has imposed tariffs impacting certain components and products imported from China by us into the U.S. These tariffs apply to both components imported into the U.S. from China for use in the manufacture of products at our U.S. plants and to certain of our customers' products that we manufacture for them in China and that are then imported into the U.S. Any decision by a large number of our customers to cease using our manufacturing services due to the application of tariffs would materially reduce our revenue and net income. In addition, our gross margins would be reduced in the event we are for any reason unable to pass on any tariffs that we incurred to our customers. Although our customers are generally liable for tariffs we pay on their behalf on importation of components used in the manufacture of their products, our gross margins would be reduced in the event we were for any reason unable to recover tariffs or duties from our customers. Further, although we are required to pay tariffs upon importation of the components, we may not be able to recover these amounts from customers until sometime later, if at all, which would adversely impact our operating cash flow in a given period.

***Customer order cancellations, push-outs and reduced forecasts could reduce our sales, net income and liquidity.***

We generally do not obtain firm, long-term purchase commitments from our customers and our bookings may generally be canceled prior to the scheduled shipment date. Although customers are generally liable for components we procure on their behalf, finished goods and work-in-process at the time of cancellation, customers may fail to honor this commitment or we may be unable or, for other business reasons, choose not to enforce our contractual rights. Cancellations, reductions or push-outs of orders by customers and reduced customer forecasts customers could cause our inventory levels to increase, consuming working capital, lead to write-offs of inventory that customers fail to purchase for any reason and reduce our sales, net income and liquidity.

***Our strategy to pursue higher margin business depends in part on the success of our CPS businesses, which, if not successful, could cause our future gross margins and operating results to be lower.***

A key part of our strategy to capitalize on our ability to provide end-to-end manufacturing solutions is to grow our Components, Products and Services (“CPS”) businesses, which supplies printed circuit boards, backplane and backplane assemblies, cable assemblies, fabricated metal parts, precision machined parts, and plastic injected molded parts, memory, RF, optical and microelectronic solutions, and data storage solutions and design, engineering, logistics and repair services and our SCI defense and aerospace products. A decrease in orders for these components, products and services can have a disproportionately adverse impact on our profitability since these components, products and services generally carry higher than average contribution margins than our core IMS business. In addition, in order to grow this portion of our business profitably, we must continually make substantial investments in the development of our product development capabilities, research and development activities, test and tooling equipment and skilled personnel, all of which reduce our operating results in the short term. The success of our CPS businesses also depends on our ability to increase sales of our proprietary products, convince our customers to purchase our components rather than those of third parties for use in the manufacture of their products, and expand the number of our customers who contract for our design, engineering, logistics and repair services. We may face challenges in achieving commercially viable yields and difficulties in manufacturing components in the quantities and to the specifications and quality standards required by our customers, as well as in qualifying our components for use in our customers’ designs. Our proprietary products and design, engineering, logistics and repair services must compete with products and services offered by established vendors which focus solely on development of similar technologies or the provision of similar services. Any of these factors could reduce the revenue and margins of our CPS businesses, which in turn would have an adverse and potentially disproportionate effect on our overall revenues and profitability.

***Customer requirements to transfer business may increase our costs.***

Our customers sometimes require that we transfer the manufacturing of their products from one of our facilities to another to achieve cost reductions, tariff reductions and other objectives. These transfers have resulted in increased costs to us due to facility downtime, less than optimal utilization of our manufacturing capacity and delays and complications related to the transition of manufacturing programs to new locations. These transfers, and any decision by a significant customer to terminate manufacturing services in a particular facility, could require us to close or reduce operations at certain facilities and, as a result, we may incur in the future significant costs for the closure of facilities, employee severance and related matters. We may be required to relocate additional manufacturing operations in the future and, accordingly, we may incur additional costs that decrease our net income.

***Transfers of our operations to other facilities caused by lease terminations could cause disruptions in our ability to service our customers***

Certain of our foreign manufacturing facilities are leased from third parties. To the extent we are unable to renew the leases covering such facilities as they expire on reasonable terms, or are forced to move our operations at those facilities to other locations as a result of a failure to agree upon renewal terms, production for our customers may be interrupted, we may breach our customer agreements, we could incur significant start-up costs at new facilities and our lease expense may increase, potentially significantly.

**Regulatory, Compliance and Litigation Risks**

***We are subject to a number of U.S. export control and other regulatory requirements, with which the failure to comply could result in fines and reduction of future revenue.***

We are subject to a number of laws and regulations relating to the export of U.S. technology, anti-corruption and the award, administration and performance of U.S. government contracts and subcontracts. In particular, our activities must comply with the restrictions relating to the export of controlled technology and sales to denied or sanctioned parties contained in the International Traffic in Arms Regulations (“ITAR”), the U.S. Export Administration Regulations and sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”). The U.S. Commerce Department recently released rules that in some cases significantly restrict the export of U.S. technology to or from China. These laws could negatively impact our operations in China by making it more difficult to import components containing U.S. technology into China and to export finished products containing such components out of China. Any failure to comply with export control laws could result in significant fines or penalties. We must also comply with regulations relating to the award, administration and performance of U.S. government contracts and subcontracts with respect to our defense business, including regulations that govern price negotiations, cost accounting standards, procurement practices, termination at the election of the government and many other aspects of performance under government contracts and subcontracts. These laws and regulations are complex, require extensive compliance efforts and expenditures in the form of additional systems and personnel, and, in some cases,

require us to ensure that our suppliers adhere to such regulations. Furthermore, our compliance with such regulations is subject to audit or investigation by governmental authorities. From time to time, we receive formal and informal inquiries from government agencies and regulators regarding our compliance. Should we be found to have violated one or more of such laws or regulations, we could become subject to civil damages (which in some cases could be trebled) or criminal penalties and administrative sanctions, including appointment of government monitors, termination of our government contracts and, ultimately, debarment from doing further business with the U.S. government. Any of such results would increase our expenses, reduce our revenue and damage our reputation as both a commercial and government supplier.

***If we manufacture or design defective products, if there are manufacturing defects in the components we incorporate into customer products or if our manufacturing processes do not comply with applicable statutory and regulatory requirements and standards, we could be subject to claims, damages and fines and lose customers.***

We manufacture products to our customers' specifications, and in some cases our manufacturing processes and facilities need to comply with various statutory and regulatory requirements and standards. For example, many of the medical products that we manufacture, as well as the facilities and manufacturing processes that we use to produce them, must comply with standards established by the U.S. Food and Drug Administration and products we manufacture for the automotive end market are generally subject to the IATF 16949:2016 standard. In addition, our customers' products and the manufacturing processes that we use to produce them often are highly complex. As a result, products that we design or manufacture may at times contain design or manufacturing defects, and our manufacturing processes may be subject to errors or may not be in compliance with applicable statutory and regulatory requirements and standards. Finally, customer products can experience quality problems or failures as a result of defects in the components they specify to be included in the products we manufacture for them. Defects in the products we design or manufacture, even if caused by components specified by the customer, may result in product recalls, warranty claims by customers, including liability for repair costs, delayed shipments to customers or reduced or canceled customer orders. The failure of the products that we design or manufacture or of our manufacturing processes and facilities to comply with applicable statutory and regulatory requirements and standards may subject us to legal fines or penalties, cause us to lose business and, in some cases, require us to shut down or incur considerable expense to correct a manufacturing program or facility. In addition, these defects may result in product liability claims against us by third parties. The risk and magnitude of such claims may increase as we continue to expand our presence in the medical and automotive end markets since defects in these types of products can result in death or significant injury to end users of these products. Even when our customers are contractually responsible for defects in the design of a product and defects in components used in the manufacture of such products, there is no guarantee that these customers will have the financial resources to indemnify us for such liabilities and we could nonetheless be required to expend significant resources to defend ourselves if named in a product liability suit over such defects.

***If we are unable to protect our intellectual property or if we infringe, or are alleged to infringe, upon the intellectual property of others, we could be required to pay significant amounts in costs or damages.***

We rely on a combination of copyright, patent, trademark and trade secret laws and contractual restrictions to protect our intellectual property rights. However, a number of our patents covering certain aspects of our manufacturing processes or products have expired and will continue to expire in the future. Such expirations reduce our ability to assert claims against competitors or others who use or sell similar technology. Any inability to protect our intellectual property rights could diminish or eliminate the competitive advantages that we derive from our proprietary technology. In addition, should a current or former employee use or disclose any of our or our customers' proprietary information, we could become subject to legal action by our customers or others, our key technologies could become compromised and our ability to compete could be adversely impacted.

In addition, we may become involved in administrative proceedings, lawsuits or other proceedings if others allege that the products we manufacture for our customers or our own manufacturing processes and products infringe on their intellectual property rights. If successful, such claims could force our customers and us to stop importing or producing products or components of products that use the challenged intellectual property, to pay up to treble damages and to obtain a license to the relevant technology or to redesign those products or services so as not to use the infringed technology. The costs of defense and potential damages and/or impact on production of patent litigation could be significant and have a materially adverse impact on our financial results. In addition, although our customers typically indemnify us against claims that the products we manufacture for them infringe others' intellectual property rights, there is no guaranty that these customers will have the financial resources to stand behind such indemnities should the need arise, nor is there any guarantee that any such indemnity could be fully enforced. We sometimes design products on a contract basis or jointly with our customers. In such situations, we may become subject to claims that products we design infringe third party intellectual property rights and may also be required to indemnify our customer against liability caused by such claims.

Any of these events could reduce our revenue, increase our costs and damage our reputation with our customers.

***Allegations of failures to comply with domestic or international employment and related laws could result in the payment of significant damages, which would reduce our net income.***

We are subject to a variety of domestic and foreign employment laws, including those related to safety, wages and overtime, discrimination, harassment, organizing, whistleblowing, classification of employees, privacy and severance payments. We may be required to defend against allegations that we have violated such laws. Allegations that we have violated labor laws could lead to damages being awarded to employees or fines from or settlements with plaintiffs or federal, state or foreign regulatory authorities, the amounts of which could be substantial, and which would reduce our net income. For example, in the first quarter of 2022, we paid approximately \$4 million in a judicially approved settlement in connection with a lawsuit against the Company alleging violations of California Labor Code provisions governing overtime, meal and rest periods, wages, wage statements and reimbursements of business expenses.

***Cyberattacks and other disruptions of our information technology network and systems could interrupt our operations, lead to loss of our customer and employee data and subject us to damages.***

We rely on internal and cloud-based networks and systems furnished by third parties for worldwide financial reporting, inventory management, procurement, invoicing, employee payroll and benefits administration and email communications, among other functions. In addition, our 42Q manufacturing execution solutions software used by us and certain of our customers operates in the cloud. Despite our business continuity planning, including maintaining redundant data sites and network availability, both our internal and cloud-based infrastructure may be susceptible to outages due to fire, floods, power loss, telecommunications failures, terrorist attacks and similar events. In addition, despite the implementation of numerous network security measures, both our internal and our cloud-based infrastructure may also be vulnerable to hacking, computer viruses, the installation of malware and similar disruptions either by third parties or employees with access to key IT infrastructure. Cybersecurity attacks can come in many forms, including distributed denial of service attacks, advanced persistent threat, phishing, business email compromise efforts and ransomware attacks. Recently, a cyberattack involving malware delivered through network monitoring software sold by SolarWinds resulted in the penetration of the systems of a multitude of governmental and commercial entities. While we were not affected by this cyberattack, there can be no assurance that a future malware attack will not be successful in breaching our systems. Hacking, malware and other cybersecurity attacks, if not prevented, could lead to the collection and disclosure of sensitive personal or confidential information relating to our customers, employees or others, exposing us to legal liability and causing us to suffer reputational damage. In addition, our SCI defense and aerospace business is subject to U.S. government regulations requiring the safeguarding of certain unclassified government information and to report to the U.S. government certain cyber incidents that affect such information. The increasing sophistication of cyberattacks requires us to continually evaluate new technologies and processes intended to detect and prevent these attacks. Our insurance coverage for cyberattacks is limited. There can be no assurance that our cybersecurity measures will be sufficient to protect the data we manage. If we and our cloud infrastructure vendors are not successful in preventing such outages and cyberattacks, our operations could be disrupted, we could incur losses, including losses relating to claims by our customers, employees or privacy regulators relating to loss of personal or confidential business information, the willingness of customers to do business with us may be damaged and, in the case of our defense business, we could be barred from future participation in U.S. government programs.

***Global, national and corporate initiatives addressing climate change could increase our costs.***

Concern over climate change may lead to state, federal and international legislative and regulatory initiatives aimed at reducing carbon dioxide and other greenhouse gas emissions through incentives, taxes or mandates and there is increased stockholder interest generally in voluntary corporate commitments to reduce the generation of greenhouse gases. Collectively, such initiatives and commitments could lead to an increase in both the price of energy and our operating costs. A sustained increase in energy prices for any reason could increase our raw material, components, operations and transportation costs, which we may not be able to pass on to our customers and which would therefore reduce our profitability, as would increased operating costs and investments due to our adoption, whether voluntary or mandatory, of measures to reduce our carbon footprint. We could also suffer reputational damage if our sustainability practices are perceived to be inadequate.

***Any failure to comply with applicable environmental laws could adversely affect our business by causing us to pay significant amounts for cleanup of hazardous materials or for damages or fines.***

We are subject to various federal, state, local and foreign environmental laws and regulations, including those governing the use, generation, storage, discharge and disposal of hazardous substances and waste in the ordinary course of our manufacturing operations. If we violate environmental laws or if we own or operate, or owned or operated in the past, a site at which we or a predecessor company caused contamination, we may be held liable for damages and the costs of remedial

actions. For example, in June 2022, a court issued a tentative ruling finding us liable for certain investigation costs relating to a site owned by a predecessor company in Southern California at which a disposal was alleged to have occurred. Although we estimate and regularly reassess our potential liability with respect to violations or alleged violations and accrue for such liability, our accruals may not be sufficient. Any increase in existing reserves or establishment of new reserves for environmental liability would reduce our net income. Our failure or inability to comply with applicable environmental laws and regulations could also limit our ability to expand facilities or could require us to acquire costly equipment or to incur other significant expenses to comply with these laws and regulations.

Partly as a result of certain of our acquisitions, we have incurred liabilities associated with environmental contamination. These liabilities include ongoing investigation and remediation activities at a number of current and former sites. The time required to perform environmental remediation can be lengthy and there can be no assurance that the scope, and therefore cost, of these activities will not increase as a result of the discovery of new contamination or contamination on adjoining landowners' properties or the adoption of more stringent regulatory standards covering sites at which we are currently performing remediation activities.

We cannot assure that past disposal activities will not result in liability that will materially affect us in the future, nor can we provide assurance that we do not have environmental exposures of which we are unaware and which could adversely affect our future operating results. Changes in or restrictions on discharge limits, emissions levels, permitting requirements and material storage or handling could require a higher than anticipated level of remediation activities, operating expenses and capital investment or, depending on the severity of the impact of the foregoing factors, costly plant relocation, any of which would reduce our net income.

***Changes in financial accounting standards or policies have affected, and in the future may affect, our reported financial condition or results of operations; there are inherent limitations to our system of internal controls; changes in corporate governance policies and practices may impact our business.***

We prepare our consolidated financial statements in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). The preparation of our financial statements in accordance with GAAP requires that we make estimates and assumptions that affect the recorded amounts of assets, liabilities and net income during the reporting period. A change in the facts and circumstances surrounding those estimates could result in a change to our estimates and could impact our future operating results. GAAP is subject to interpretation by the Financial Accounting Standards Board ("FASB"), the SEC and various bodies formed to interpret and create accounting policies. A change in those policies can have a significant effect on our reported results and may affect our reporting of transactions which are completed before a change is announced. For example, in fiscal 2019, we implemented the new revenue recognition standard, which is complex and requires significant management judgment. Although we believe the judgments we applied in implementation of the new revenue recognition standard are appropriate, there can be no assurance that we will not be required to change our judgments relating to implementation of such standard in the future, whether as a result of new guidance or otherwise. A significant change in our accounting judgments could have a significant impact on our reported revenue, gross profit, assets and liabilities. In general, changes to accounting rules or challenges to our interpretation or application of the rules by regulators may have a material adverse effect on our reported financial results or on the way we conduct business.

Our system of internal and disclosure controls and procedures were designed to provide reasonable assurance of achieving their objectives. However, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been or will be detected. As a result, there can be no assurance that our system of internal and disclosure controls and procedures will be successful in preventing all errors, theft and fraud, or in informing management of all material information in a timely manner.

Finally, corporate governance, public disclosure and compliance practices continue to evolve based upon continuing legislative action, SEC rulemaking and policy positions taken by large institutional stockholders and proxy advisors. As a result, the number of rules, regulations and standards applicable to us may become more burdensome to comply with, could increase scrutiny of our practices and policies by these or other groups and increase our legal and financial compliance costs and the amount of time management must devote to governance and compliance activities. For example, the SEC has recently proposed rules requiring that issuers provide significantly increased disclosures concerning cybersecurity matters and the impact of climate changes on their business. Increasing regulatory burdens and corporate governance requirements could also make it more difficult for us to attract and retain qualified members of our Board of Directors and qualified executive officers.

### **Liquidity and Credit Risks**

#### ***Our customers could experience credit problems, which could reduce our future revenues and net income.***

Certain of our customers have experienced significant financial difficulties in the past, with a few filing for bankruptcy. Financial difficulties experienced by one or more of our customers, could negatively affect our business by decreasing demand from such customers and through the potential inability of these companies to make full payment on amounts owed to us. Customer bankruptcies also entail the risk of potential recovery by the bankruptcy estate of amounts previously paid to us that are deemed a preference under bankruptcy laws. There can be no assurance that additional customers will not declare bankruptcy or suffer financial distress, in which case our future revenues, net income and cash flow could be reduced.

#### ***We may be unable to generate sufficient liquidity to maintain or expand our operations, which would reduce the amount of business our customers and vendors are able to do with us and impact our ability to continue operations at current levels without seeking additional funding; we could experience losses if one or more financial institutions holding our cash or other financial counterparties were to fail; repatriation of foreign cash could increase our taxes.***

Our liquidity is dependent on a number of factors, including profitability, business volume, inventory requirements, the extension of trade credit by our suppliers, the degree of alignment of payment terms from our suppliers with payment terms granted to our customers, the amount we invest in our facilities and equipment, the timing of acquisitions and divestitures, the schedule for repayment of our outstanding indebtedness, the timing of stock repurchases, availability under the Fifth Amended and Restated Credit Agreement, dated as of September 27, 2022, as amended (the “Amended Cash Flow Revolver”), and the amount of accounts receivable eligible for sale under our factoring programs. In the event we need or desire additional liquidity beyond the sources described above to maintain or expand our business levels, make acquisitions or repurchase stock, there can be no assurance that such additional liquidity will be available on acceptable terms or at all. Any failure to maintain adequate liquidity would prevent us from maintaining operations at current or desired levels, which in turn would reduce both our revenue and profitability.

Although we believe our existing cash resources and sources of liquidity, together with cash generated from operations, will be sufficient to meet our working capital requirements for at least the next 12 months, should demand for our services increase significantly over the next 12 months or should we experience significant increases in delinquent or uncollectible accounts receivable for any reason, including in particular worsening economic conditions caused by the COVID-19 pandemic or otherwise, our cash provided by operations could decrease significantly and we could be required to seek additional sources of liquidity to continue our operations at their current level. In such a case, there can be no assurance that such additional sources of financing would be available.

A principal source of our liquidity is our cash and cash equivalents, which are held with various financial institutions. Although we distribute such funds among a number of financial institutions that we believe to be of high quality, there can be no assurance that one or more of such institutions will not become insolvent in the future, in which case all or a portion of our uninsured funds on deposit with such institutions could be lost. Finally, if one or more counterparties to our interest rate or foreign currency hedging instruments were to fail, we could suffer losses and our hedging of risk could become less effective.

Approximately 50% of our cash is held in foreign jurisdictions. Some of these jurisdictions restrict the amount of cash that can be transferred to the U.S. or impose taxes and penalties on such transfers of cash. To the extent we have excess cash in foreign locations that could be used in, or is needed by, our U.S. operations, we may incur significant foreign taxes to repatriate these funds which would reduce the net amount ultimately available for such purposes.

#### ***Our Amended Cash Flow Revolver contains covenants that may adversely impact our business; the failure to comply with such covenants or the occurrence of an event of default could cause us to be unable to borrow additional funds and cause our outstanding debt to become immediately payable.***

Our Amended Cash Flow Revolver contains a maximum leverage and minimum interest coverage ratio, in both cases measured on the basis of a trailing 12-month look-back period, and a number of restrictive covenants, including restrictions on incurring additional debt, making investments and other restricted payments, selling assets and paying dividends, subject to certain exceptions, with which we must comply. Collectively, these covenants could constrain our ability to grow our business through acquisition or engage in other strategic transactions. Such facility also contains customary events of default, including that a material business interruption or cessation has not occurred. Finally, such facility includes covenants requiring, among other things, that we file quarterly and annual financial statements with the SEC, comply with all laws, pay all taxes and maintain casualty insurance. If we are not able to comply with these covenants or if an event of default were to occur and not be

cured, all of our outstanding debt would become immediately due and payable and the incurrence of additional debt under our Amended Cash Flow Revolver would not be allowed, either of which would have a material adverse effect on our liquidity and ability to continue to conduct our business.

#### **General Risk Factors**

##### ***We are subject to intense competition in the EMS industry, which could cause us to lose sales and, therefore, harm our financial performance.***

The EMS industry is highly competitive and the industry has experienced a surplus of manufacturing capacity. Our competitors include major global EMS providers, including Benchmark Electronics, Inc., Celestica, Inc., Flex Ltd., Hon Hai Precision Industry Co., Ltd. (Foxconn), Jabil Circuit, Inc. and Plexus Corp., as well as other companies that have a regional, product, service or industry-specific focus. We also face competition from current and potential OEM customers who may elect to manufacture their own products internally rather than outsourcing to EMS providers.

Competition is based on a number of factors, including end markets served, price and quality. We may not be able to offer prices as low as some of our competitors for any number of reasons, including the willingness of competitors to provide EMS services at prices we are unable or unwilling to offer. There can be no assurance that we will win new business or maintain existing business due to competitive factors, which could decrease our sales and net income. In addition, due to the extremely price sensitive nature of our industry, business that we do win or maintain may have lower margins than our historical or target margins. As a result, competition may cause our gross and operating margins to fall.

##### ***Consolidation in the electronics industry may adversely affect our business by increasing customer buying power and increasing prices we pay for components.***

Consolidation in the electronics industry among our customers, our suppliers and/or our competitors may increase, which could result in a small number of very large electronics companies offering products in multiple sectors of the electronics industry. If one of our customers is acquired by another company that does not rely on us to provide EMS services, we may lose that customer's business. Similarly, consolidation among our suppliers could result in a sole or limited source for certain components used in our customers' products. Any such consolidation could cause us to be required to pay increased prices for such components, which could reduce our gross margin and profitability if we are unable to pass on the corresponding cost to our customers.

##### ***Unanticipated changes in our income tax rates or exposure to additional tax liabilities could increase our taxes and decrease our net income; our projections of future taxable income that drove the release of our valuation allowance in prior years could prove to be incorrect, which could cause a charge to earnings.***

We are or may become subject to income, sales, value-added, goods and services, withholding and other taxes in the United States and various foreign jurisdictions. Significant judgment is required in determining our worldwide provision for taxes and, in the ordinary course of business, there are many transactions and calculations for which the ultimate tax determination is uncertain. Our effective income tax rates and liability for other taxes could increase as a result of changes in the mix of earnings in countries with differing statutory tax rates, changes in the valuation of deferred tax assets and liabilities, changes in enacted tax laws, the effectiveness of our cash and tax management strategies, our ability to negotiate advance pricing agreements with foreign tax authorities, compliance with local trade laws and other factors. International initiatives require multinational enterprises, like ours, to report profitability on a country-by-country basis, which could increase scrutiny by foreign tax authorities. In addition, our tax determinations are regularly subject to audit by tax authorities. For example, we are currently undergoing audits of our tax returns for certain recent tax years in a number of jurisdictions, including the United States. Developments in these or future audits could adversely affect our tax provisions, including through the disallowance or reduction of deferred tax assets or the assessment of back taxes, interest and penalties, any of which could result in an increase to income tax expense and therefore a decrease in our net income.

##### ***We can experience losses due to foreign exchange rate fluctuations and currency controls, which could reduce our net income and impact our ability to repatriate funds.***

Because we manufacture and sell the majority of our products abroad, our operating results can be negatively impacted due to fluctuations in foreign currency exchange rates, particularly in volatile currencies to which we are exposed, such as the Euro, Mexican peso, Malaysian ringgit and Chinese renminbi. We use financial instruments, primarily short-term foreign currency forward contracts, to hedge our exposure to exchange rate fluctuations. However, the success of our foreign currency hedging activities in preventing foreign exchange losses depends largely upon the accuracy of our forecasts of future sales,

expenses, capital expenditures and assets and liabilities. As such, our foreign currency hedging program may not fully cover all of our exposure to exchange rate fluctuations. If our hedging activities are not successful, our net income may be reduced. In addition, certain countries in which we operate have adopted currency controls requiring that local transactions be settled only in local currency rather than in our functional currency, which is generally different than the local currency. Such controls could require us to hedge larger amounts of local currency than we otherwise would and/or prevent us from repatriating cash generated by our operations in such countries.

***We may not have sufficient insurance coverage for potential claims and losses, which could leave us responsible for certain costs and damages.***

We carry various forms of business and liability insurance in types and amounts we believe are reasonable and customary for similarly situated companies in our industry. However, our insurance program does not generally cover losses due to failure to comply with typical customer warranties for workmanship, product and medical device liability, intellectual property infringement, product recall claims, or environmental contamination. In particular, our insurance coverage with respect to damages to or closure of our facilities, or damages to our customers' products caused by cyberattacks and certain natural disasters, such as earthquakes, epidemics and pandemics (such as the COVID-19 pandemic), is limited and is subject to policy deductibles, coverage limits, and exclusions, and as a result, may not be sufficient to cover all of our losses. For example, our policies have very limited coverage for damages due to earthquakes or losses caused by business disruptions. In addition, such coverage may not continue to be available at commercially reasonable rates and terms. Our policies generally have deductibles and/or limits or may be limited to certain lines or business or customer engagements that reduce the amount of our potential recoveries from insurance. As a result, not all of our potential business losses are covered under our insurance policies. Should we sustain a significant uncovered loss, our net income will be reduced. Additionally, if one or more counterparties to our insurance coverage were to fail, we would bear the entire amount of an otherwise insured loss.

***Recruiting and retaining our key personnel is critical to the continued growth of our business.***

Our success depends upon the continued service of our key personnel, particularly our highly skilled sales and operations executives, managers and engineers with many years of experience in the EMS industry. Such individuals can be difficult to identify, recruit and retain and are heavily recruited by our competitors. As our key employees choose to retire or terminate their employment with us, we will be required to replace them with new employees with the required experience. This has become more difficult in the U.S. recently due to the strong employment market. Should we be unable to recruit new employees to fill key positions with us, our operations and growth prospects could be negatively impacted.

***We may not be successful in implementing and integrating strategic transactions or in divesting assets or businesses, which could harm our operating results; we could become required to book a charge to earnings should we determine that goodwill and other acquired assets are impaired.***

From time to time, we may undertake strategic transactions that give us the opportunity to access new customers and new end markets, increase our proprietary product offerings, obtain new manufacturing and service capabilities and technologies, enter new geographic manufacturing locations, lower our manufacturing costs, increase our margins or further develop existing customer relationships. Strategic transactions involve a number of risks, uncertainties and costs, including integrating acquired operations and workforce, businesses and products, resolving quality issues involving acquired products, incurring severance and other restructuring costs, diverting management attention from their normal operational duties, maintaining customer, supplier or other favorable business relationships of acquired operations, terminating unfavorable commercial arrangements, losing key employees, integrating the systems of acquired operations into our management information systems and satisfying the liabilities of acquired businesses, including liability for past violations of law and material environmental liabilities. Any of these risks could cause our strategic transactions not to be ultimately profitable. We may also choose to divest plants, businesses or products lines in the future. Divestitures reduce revenue and, potentially, margins and can involve the risk of retained liabilities from the operations divested, including environmental liabilities.

In addition, we have in the past recorded, and may be required to record in the future, goodwill and other intangible assets in connection with our acquisitions. We evaluate, at least on an annual basis, whether events or circumstances have occurred that indicate all, or a portion, of the carrying amount of our goodwill and other intangible assets may no longer be recoverable. Should we determine in the future that our goodwill or other intangible assets have become impaired, an impairment charge to earnings would become necessary, which could be significant. For example, during our fiscal 2018 annual goodwill impairment analysis, we fully impaired goodwill of \$31 million associated with the acquisition of a storage software business we purchased in 2016.

***We are subject to risks associated with natural disasters and global events.***

Our activities, including manufacturing, administration and information technology management, can be adversely affected by natural disasters such as major earthquakes, hurricanes, floods, tsunamis, tornadoes, fires and epidemics or pandemics, such as the COVID-19 pandemic. Climate change may cause these events to become more severe and therefore more damaging. In the event of a major natural disaster affecting one or more of our facilities, our operations and management information systems, which control our worldwide procurement, inventory management, shipping and billing activities, could be significantly disrupted. Such events could delay or prevent product manufacturing for an extended period of time. Any extended inability to continue our operations at affected facilities following such an event could reduce our revenue.

***Risks of Investing in Our Stock***

***The market price of our common stock is volatile and is impacted by factors other than our financial performance.***

The stock market in recent years has experienced significant price and volume fluctuations that have affected our stock price. These fluctuations have often been unrelated to our operating performance. Factors that can cause such fluctuations include announcements by our customers, suppliers, competitors or other events affecting companies in the electronics industry, such as component shortages, currency fluctuations, the impact of natural disasters and global events, such as the COVID-19 pandemic, geopolitical tensions, such as the war in Ukraine, general market fluctuations and macroeconomic conditions, including concerns about inflation and recession, any of which may cause the market price of our common stock to fluctuate widely.

**Item 1B. *Unresolved Staff Comments***

None.

**Item 2. Properties**

*Facilities.* Our customers sell their products throughout the world and therefore need access to manufacturing services globally. For this reason, we maintain facilities both near our major customers and their end markets and also in lower cost locations, including Latin America, Eastern Europe, China, India and Southeast Asia. Many of our plants located near customers or their end markets are focused primarily on new product introduction and high-level assembly and test, and plants located in lower cost areas are engaged primarily in higher volume, less complex component and subsystem manufacturing and assembly.

We continually evaluate our global manufacturing operations and adjust our facilities and operations to keep our manufacturing capacity in line with demand and our manufacturing strategy and to provide cost efficient services to our customers. As a result, we have closed certain facilities not required to satisfy current demand levels in the past and may continue to do so in the future.

As of October 1, 2022, the approximate square footage of our active manufacturing facilities by region was as follows:

	Approximate Square Footage
Americas	5,717,385
APAC	3,938,308
EMEA	1,640,780
Total	<u><u>11,296,473</u></u>

As of October 1, 2022, our active manufacturing facilities consist of nine million square feet in facilities that we own and two million square feet in leased facilities with lease terms expiring between 2022 and 2042.

We regularly evaluate our expected future facilities requirements and believe our existing facilities are adequate to meet our requirements for the next 12 months.

*Certifications and Registrations.* Certifications and registrations under industry standards are important to our business because many customers rely on them to confirm our adherence to manufacturing process and quality standards. Certain markets, such as telecommunications, medical, defense, aerospace, automotive and oil and gas, require adherence to industry-specific standards. Substantially all of our manufacturing facilities are certified to ISO 9001:2015, a standard published by the International Organization for Standardization. As part of the ISO 9001:2015 certification process, we have a highly developed quality management system and continually improve its effectiveness in accordance with its requirements. We use this certification to demonstrate our ability to consistently provide product that meets customer and applicable regulatory requirements and enhance customer satisfaction through its effective application.

In addition to ISO 9001:2015, many of our facilities are TL 9000 6.3 certified. The TL 9000 quality system requirements and quality system metrics are designed specifically for the telecommunications industry to promote consistency and efficiency, reduce redundancy and improve customer satisfaction. Included in the TL 9000 system are performance-based metrics that quantify reliability and quality performance of the product. The majority of our facilities are also compliant with the standards set by Underwriters Laboratories (UL). These standards define requirements for quality, manufacturing process control and manufacturing documentation and are required by many OEMs in the communications sector of the electronics industry.

Our medical systems division has identified certain manufacturing facilities to be centers of excellence for medical products manufacturing. These facilities are ISO 13485:2016 certified and, where appropriate, FDA registered and MDSAP certified. All such facilities are fully compliant with the FDA's quality systems regulations.

Our defense and aerospace operations are headquartered in Huntsville, Alabama in a facility dedicated to meeting the specialized needs of our defense and aerospace customers. These defense and aerospace operations are AS9100 2016 certified and maintain other certifications in accordance with various U.S. military specifications, ANSI and other standards as appropriate for defense and aerospace suppliers. Other selected operations around the world are also AS9100 Rev. D certified.

Our automotive facilities are strategically located worldwide. Substantially all of our automotive facilities are certified to IATF16949:2016, the automotive industry standard.

Our oil and gas related manufacturing operations are, as applicable, certified to American Petroleum Institute (API) requirements.

**Item 3. Legal Proceedings**

In June 2008, we were named by the Orange County Water District in a suit alleging that a predecessor company's actions at a plant we sold in 1998 contributed to polluted groundwater managed by the plaintiff. The complaint seeks recovery of compensatory and other damages, as well as declaratory relief, for the payment of costs necessary to investigate, monitor, remediate, abate and contain contamination of groundwater. In April 2013, all claims against us were dismissed. The plaintiff appealed this dismissal and the Court of Appeal reversed the judgment in August 2017, remanding the case back to the Superior Court of California for trial. The first phase of a multi-phase trial commenced in April 2021 and the submission of evidence concluded in May 2022. On June 28, 2022, the Court issued a tentative ruling finding Sanmina and the other defendants liable for certain past investigation costs incurred by the plaintiff. A final statement of decision in this phase of the trial is expected on or about the middle of calendar year 2023. Based upon the Court's tentative ruling, we believe a loss in this matter is probable and have recorded an estimated loss. Subsequent trial phases to assess Sanmina's and certain other defendants' liability for the plaintiff's future remediation and other costs, and the allocation of damages among the liable defendants, are anticipated to occur in 2024 and beyond. It is probable that we will record additional losses in connection with this matter, and it is reasonably possible that the amount of such additional losses will be material. However, at the current time, we are unable to estimate the amount of such additional losses or a range of losses. We intend to continue defending the case vigorously and to seek appellate review of any adverse liability rulings or judgment at the appropriate time.

On December 20, 2019, we sued our former customer, Dialight plc ("Dialight"), in the United States District Court for the Southern District of New York to collect approximately \$10 million in unpaid accounts receivable and net obsolete inventory obligations. Later the same day, Dialight commenced its own action in the same court. Dialight's complaint, which asserts claims for fraudulent inducement, breach of contract and gross negligence/willful misconduct, alleges that we fraudulently misrepresented our capabilities to induce Dialight to enter into a Manufacturing Services Agreement ("Dialight MSA"), and then breached our obligations under the Dialight MSA relating to quality, on-time delivery and supply chain management. Dialight seeks compensatory and punitive damages that it contends exceed \$200 million, but which we believe are vastly overstated and subject to a contractual limitation of liability that limits any Dialight recovery to less than \$2 million. We continue to vigorously prosecute our claims against Dialight. Further, we strongly disagree with Dialight's allegations and are defending against them vigorously. No trial date has been set in this matter.

In addition, from time to time, we may become involved in routine legal proceedings, demands, claims, threatened litigation and regulatory inquiries and investigations that arise in the normal course of our business. We record liabilities for such matters when a loss becomes probable and the amount of loss can be reasonably estimated. The ultimate outcome of any litigation is uncertain and unfavorable outcomes could have a negative impact on our results of operations and financial condition. Regardless of outcome, litigation can have an adverse impact on us as a result of incurrence of litigation costs, diversion of management resources, and other factors.

See also Note 10 of Notes to Consolidated Financial Statements.

**Item 4. Mine Safety Disclosures.**

Not applicable.

## PART II

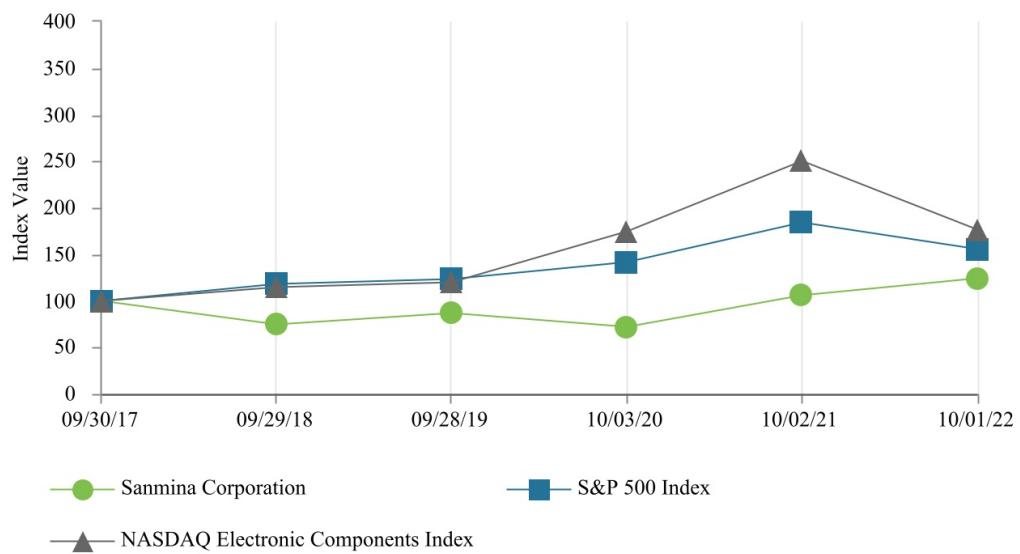
### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

#### Market Information

Our common stock is traded on the Nasdaq Global Select Market under the symbol SANM. As of November 3, 2022, we had approximately 789 holders of record of our common stock.

The following graph compares the cumulative 5-year total stockholder return on our common stock relative to the cumulative total returns of the S&P 500 index and the NASDAQ Electronic Components index. An investment of \$100 (with reinvestment of all dividends, if any) is assumed to have been made in our common stock on September 30, 2017 and in each of such indices at month end starting on September 30, 2017 and its relative performance is tracked through October 1, 2022.

**Comparison of 5 Year Cumulative Total Return \***



\* \$100 invested on 9/30/2017, including reinvestment of dividends, as applicable. Indexes calculated on a month-end basis.

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	9/30/2017	9/29/2018	9/28/2019	10/3/2020	10/2/2021	10/1/2022
Sanmina Corporation	100.00	74.29	86.46	71.47	105.46	124.04
S&P 500	100.00	117.91	122.93	141.55	184.02	155.55
NASDAQ Electronic Components	100.00	114.71	119.95	174.67	250.16	176.17

*Sanmina's stock price performance included in this graph is not necessarily indicative of future stock price performance.*

**Dividends**

We have never declared or paid cash dividends on our common stock. We currently expect to retain future earnings for use in our operations, for expansion of our business, and potentially for share repurchases and do not anticipate paying cash dividends in the foreseeable future. Additionally, our ability to pay dividends is limited pursuant to covenants contained in our various debt agreements. See also “Item 7-Management’s Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources.”

**Stock Repurchases**

The table below sets forth information regarding repurchases of our common stock during the fourth quarter of 2022.

Period (1)	TOTAL NUMBER OF SHARES PURCHASED	AVERAGE PRICE PAID PER SHARE (2)	TOTAL NUMBER OF SHARES PURCHASED AS PART OF PUBLICLY ANNOUNCED PROGRAMS (3)	MAXIMUM DOLLAR VALUE OF SHARES THAT MAY YET BE PURCHASED UNDER THE PROGRAMS (2)
Month #1 July 3, 2022 through July 30, 2022	131,756	\$ 39.79	131,756	\$ 182,312,678
Month #2 July 31, 2022 through August 27, 2022	—	\$ —	—	\$ 182,312,678
Month #3 August 28, 2022 through October 1, 2022	402,765	\$ 46.19	402,765	\$ 163,710,163
<b>Total</b>	<b>534,521</b>	<b>\$ 44.61</b>	<b>534,521</b>	

(1) All months shown are our fiscal months.

(2) Amounts do not include commissions payable on shares repurchased. The total average price paid per share is a weighted average based on the total number of shares repurchased during the period.

(3) During the third quarter of 2022, our Board of Directors authorized us to repurchase up to \$200 million of our common stock in the open market or in negotiated transactions off the market. This program has no expiration date.

**Item 6. [Reserved]**

**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations**

This report contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These statements relate to our expectations for future events and time periods. All statements other than statements of historical fact are statements that could be deemed to be forward-looking statements, including any statements regarding trends in future revenue or results of operations, gross margin, operating margin, expenses, earnings or losses from operations, or cash flow; any statements of the plans, strategies and objectives of management for future operations and the anticipated benefits of such plans, strategies and objectives; any statements regarding future economic conditions or performance; any statements regarding litigation or pending investigations, claims or disputes; any statements regarding the timing of closing of, future cash outlays for, and benefits of acquisitions and other strategic transactions; any statements regarding expected restructuring costs and benefits; any statements concerning the adequacy of our current liquidity and the availability of additional sources of liquidity; any statements regarding the potential impact of the COVID-19 pandemic on our business, results of operations and financial condition; any statements regarding the potential impact of supply chain shortages and inflation on our business; any statements regarding the future impact of tariffs and export controls on our business; any statements relating to the expected impact of accounting pronouncements not yet adopted; any statements regarding future repurchases of our common stock; any statements of expectation or belief; and any statements of assumptions underlying any of the foregoing. Generally, the words "anticipate," "believe," "plan," "expect," "future," "intend," "may," "will," "should," "estimate," "predict," "potential," "continue" and similar expressions identify forward-looking statements. Our forward-looking statements are based on current expectations, forecasts and assumptions and are subject to risks and uncertainties, including those contained in Part I, Item 1A of this report. As a result, actual results could vary materially from those suggested by the forward looking statements. We undertake no obligation to publicly disclose any revisions to these forward-looking statements to reflect events or circumstances occurring subsequent to filing this report with the Securities and Exchange Commission. Investors and others should note that Sanmina announces material financial information to our investors using our investor relations website (<http://ir.sanmina.com/investor-relations/overview/default.aspx>), SEC filings, press releases, public conference calls and webcasts. We use these channels to communicate with our investors and the public about Sanmina, its products and services and other issues. It is possible that the information we post on our investor relations website could be deemed to be material information. Therefore, we encourage investors, the media, and others interested in Sanmina to review the information we post on our investor relations website. The contents of our investor relations website are not incorporated by reference into this annual report on Form 10-K or in any other report or document we file with the SEC.

**Overview**

We are a leading global provider of integrated manufacturing solutions, components, products and repair, logistics and after-market services. Our revenue is generated from sales of our products and services primarily to original equipment manufacturers (OEMs) that serve the industrial, medical, defense and aerospace, automotive, communications networks and cloud solutions industries.

Our operations are managed as two businesses:

- 1) Integrated Manufacturing Solutions (IMS). Our IMS segment consists of printed circuit board assembly and test, high-level assembly and test and direct-order-fulfillment.
- 2) Components, Products and Services (CPS). Components include printed circuit boards, backplanes and backplane assemblies, cable assemblies, fabricated metal parts, precision machined parts, and plastic injected molded parts. Products include memory solutions from our Viking Technology division; high-performance storage platforms for hyperscale and enterprise solutions from our Viking Enterprise Solutions (VES) division; optical, radio frequency (RF) and microelectronic (microE) design and manufacturing services from Advanced Microsystems Technologies; defense and aerospace products from SCI Technology; and cloud-based manufacturing execution software from our 42Q division. Services include design, engineering and logistics and repair.

Our only reportable segment for financial reporting purposes is IMS, which represented approximately 80% of our total revenue in 2022. Our CPS business consists of multiple operating segments which do not individually meet the quantitative thresholds for being presented as reportable segments. Therefore, financial information for these operating segments is combined and presented in a single category entitled "Components, Products and Services".

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All references in this section to years refer to our fiscal years ending on the Saturday nearest to September 30. Fiscal 2022 and 2021 were each 52-weeks and fiscal 2020 was a 53-week year, with the extra week occurring during the fourth quarter of fiscal 2020. All references to years relate to fiscal years unless otherwise noted.

Our strategy is to leverage our comprehensive product and service offerings, advanced technologies and global capabilities to further penetrate diverse end markets that we believe offer significant growth opportunities and have complex products that require higher value-added services. We believe this strategy differentiates us from our competitors and will help drive more sustainable revenue growth and provide opportunities for us to ultimately achieve operating margins that exceed industry standards.

There are many challenges to successfully executing our strategy. For example, we compete with a number of companies in each of our key end markets. This includes companies that are much larger than we are and smaller companies that focus on a particular niche. Although we believe we are well-positioned in each of our key end markets and seek to differentiate ourselves from our competitors, competition remains intense and profitably growing our revenues has been challenging. Additionally, the COVID-19 pandemic created a unique and challenging environment in which our revenue and profitability in 2021 and 2020 were significantly and negatively impacted. These impacts arose from rapidly changing market and economic conditions caused by the pandemic, as well as by numerous measures imposed by government authorities to try to limit the spread of the virus. These conditions and measures disrupted our operations and those of our customers, interrupted the supply of components, reduced the capacity of our logistics providers to deliver the components we use and ship the products we manufacture and resulted in temporary closures of manufacturing sites and reduced staffing of our plants. Although conditions have improved in many of the regions in which we operate, we cannot predict when the COVID-19 pandemic will cease to present risks to our business due to a large number of uncertainties, including the duration of ongoing supply chain constraints directly and indirectly caused by the pandemic, the extent of the impact of the pandemic on our customers' businesses, the number of employees who may become infected or exposed to infected persons, the need for temporary plant closures caused by large scale employee infections, the duration of the outbreak, the continued efficacy and availability of COVID-19 vaccines, the geographic locations of any future outbreaks, including outbreaks caused by variants of COVID-19, such as the Omicron variant and its subvariants, and actions that government authorities may take in response. For example, China continues to maintain a "zero tolerance" policy towards COVID-19 infections, which has disrupted and could continue to disrupt our operations and our suppliers' operations there. Thus, we believe the pandemic and related supply chain disruptions could continue to have a negative impact on our business, results of operations and financial condition for the foreseeable future.

Separately, over the past three years, we incurred restructuring charges of \$31 million under our company-wide restructuring plan adopted in October 2019 ("Q1 FY20 Plan"). These charges consist primarily of severance. Substantially all cash payments have occurred.

Sales to our ten largest customers typically represent approximately 50% of our net sales in any given year. Sales to Nokia and Motorola each represented 10% or more of our net sales in 2022. Nokia represented 10% or more of our net sales in 2021 and 2020.

We typically generate about 80% of our net sales from products manufactured in our foreign operations. The concentration of foreign operations has resulted primarily from a desire on the part of many of our customers to manufacture in lower cost locations in regions such as Asia, Latin America and Eastern Europe.

Historically, we have had substantial recurring sales to existing customers. We typically enter into supply agreements with our major OEM customers. These agreements generally have terms ranging from three to five years and cover the manufacture of a range of products. Under these agreements, a customer typically purchases its requirements for specific products in particular geographic areas from us. However, these agreements generally do not obligate the customer to purchase minimum quantities of products, which can have the effect of reducing revenue and profitability. In addition, some customer contracts contain cost reduction objectives, which can also have the effect of reducing revenue from such customers.

The U.S., China, the E.U. and several other countries have imposed tariffs impacting certain imported products. Although our customers are generally liable to us for reimbursement of tariffs we pay on components imported for the manufacture of their products, there can be no assurance that we will be successful in recovering all of the tariffs that are owed to us. Unrecovered tariffs paid on behalf of our customers reduce our gross margins. Also, although we are required to pay tariffs upon importation of the components, we may not recover these amounts from customers until sometime later, which adversely impacts our operating cash flow in a given period. However the net impact of tariffs, after recovery from customers, has not been, and is not expected to be, material to us.

On October 3, 2022, subsequent to the end of the fourth quarter of 2022, we completed a joint venture transaction in which we entered into a Share Subscription and Purchase Agreement (the “SSPA”) and a Joint Venture and Shareholders’ Agreement (the “Shareholders’ Agreement”) with Reliance Strategic Business Ventures Limited (“RSBVL”), a wholly owned subsidiary of Reliance Industries Limited. Pursuant to the SSPA and the Shareholders’ Agreement, the parties established Sanmina SCI India Private Limited (“SIPL”), our existing Indian manufacturing entity, as a joint venture to engage in manufacturing in India of telecommunications equipment, data center and internet equipment, medical equipment, clean technology equipment and other high-tech equipment. As a result of the transaction, RSBVL acquired shares of SIPL for approximately \$215 million of cash such that immediately after the closing of the transaction, RSBVL holds 50.1% of the outstanding shares of SIPL and Sanmina holds the remaining 49.9% of the outstanding shares of SIPL. The amount received from RSBVL was based on preliminary calculations and is subject to adjustment based on final calculations. Given the terms of the agreements entered into by the parties concerning management of the joint venture, we expect to continue to consolidate SIPL in future periods.

## Critical Accounting Policies and Estimates

Management's discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements which have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP"). We review the accounting policies used in reporting our financial results on a regular basis. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, net sales and expenses and related disclosure of contingent liabilities. On an ongoing basis, we evaluate the process used to develop estimates related to accounts receivable, inventories, income taxes, environmental matters, litigation and other contingencies. We base our estimates on historical experience and on various other assumptions that we believe are reasonable for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Due to the COVID-19 pandemic, the global economy and financial markets were disrupted and there is a significant amount of uncertainty about the length and severity of the consequences caused by the pandemic. We have considered information available to us as of the date of issuance of these financial statements and, other than the impairments described in Note 5, are not aware of any specific events or circumstances that would require an update to our estimates or judgments, or a revision to the carrying value of our assets or liabilities. Our estimates may change as new events occur and additional information becomes available. Our actual results may differ materially from these estimates.

We believe the following critical accounting policies reflect the more significant judgments and estimates used by us in preparing our consolidated financial statements:

**Revenue Recognition.** We derive revenue principally from sales of integrated manufacturing solutions, components and Company-proprietary products. Other sources of revenue include logistic and repair services; design, development and engineering services; defense and aerospace programs; and sales of raw materials to customers whose requirements change after we have procured inventory to fulfill the customer's forecasted demand.

For purposes of determining when to recognize revenue, and in what amount, we apply a 5-step model: (1) identify the contract with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract; and (5) recognize revenue when (or as) we satisfy a performance obligation. Each of these steps may involve the use of significant judgments.

We recognize revenue for the majority of our contracts on an over time basis. This is due to the fact that 1) we do not have an alternative use for the end products we manufacture for our customers and have an enforceable right to payment, including a reasonable profit, for work-in-progress upon a customer's cancellation of a contract for convenience or 2) our customer simultaneously receives and consumes the benefits provided by our services. For these contracts, revenue is recognized on an over time basis using the cost-to-cost method (ratio of costs incurred to date to total estimated costs at completion) which we believe best depicts the transfer of control to the customer. Revenue streams for which revenue is recognized on an over time basis include sales of vertically integrated manufacturing solutions (integrated manufacturing solutions and components); logistics and repair services; design, development and engineering services; and defense and aerospace programs.

Application of the cost-to-cost method for government contracts in our Defense and Aerospace division requires the use of significant judgments with respect to estimated materials, labor and subcontractor costs. This division is an operating segment whose results are combined with eleven other operating segments and reported under CPS. In 2022, CPS revenue and gross profit were \$1.5 billion and \$194 million, respectively.

We update our estimates of materials, labor and subcontractor costs on a quarterly basis. These updated estimates are reviewed each quarter by a group of employees that includes representatives from numerous functions such as engineering, materials, contracts, manufacturing, program management, finance and senior management. If a change in estimate is deemed necessary, the impact of the change is recognized in the period of change.

For contracts for which revenue is required to be recognized at a point-in-time, we recognize revenue when we have transferred control of the related goods, which generally occurs upon shipment or delivery of the goods to the customer. Revenue streams for which revenue is recognized at a point-in-time include Company-proprietary products and sales of raw materials.

**Inventories**— We state inventories at the lower of cost (first-in, first-out method) and net realizable value. Cost includes raw materials, labor and manufacturing overhead. We regularly evaluate the carrying value of our inventories and make provisions to reduce excess and obsolete inventories to their estimated net realizable values. The ultimate realization of

inventory carrying amounts is affected by changes in customer demand for inventory that customers are not contractually obligated to purchase and inventory held for specific customers who are experiencing financial difficulties. Inventory write-downs are recorded based on forecasted demand, past experience with specific customers, the ability to redistribute inventory to other programs or return inventories to our suppliers, and whether customers are contractually obligated and have the ability to pay for the related inventory. Certain payments received from customers for inventories that have not been shipped to customers or otherwise disposed of are netted against inventory.

We generally procure inventory based on specific customer orders and forecasts. Customers generally have limited rights of modification (for example, rescheduling or cancellations) with respect to specific orders. Customer modifications of orders affecting inventory previously procured by us and our purchases of inventory beyond customer needs may result in excess and obsolete inventory. Although we may be able to use some excess inventory for other products we manufacture, a portion of this excess inventory may not be returnable to vendors or recoverable from customers. Write-offs or write-downs of inventory could be caused by:

- changes in customer demand for inventory, such as cancellation of orders, and our purchases of inventory beyond customer needs that result in excess quantities on hand that we are not able to return to the vendor, use to fulfill orders from other customers or charge back to the customer;
- financial difficulties experienced by specific customers for whom we hold inventory; and
- declines in the market value of inventory.

*Long-lived Assets*—We review property, plant and equipment for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable. An asset group is the unit of accounting that represents the lowest level for which identifiable cash flows are largely independent of the cash flows of other groups of assets. An asset or asset group is considered impaired if its carrying amount exceeds the undiscounted future net cash flows the asset or asset group is expected to generate. If an asset or asset group is considered impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset or asset group exceeds its fair value. For asset groups for which a building is the primary asset, we estimate fair value primarily based on data provided by commercial real estate brokers. For other assets, we estimate fair value based on projected discounted future net cash flows, which requires significant judgment.

*Income Taxes*— We estimate our income tax provision or benefit in each of the jurisdictions in which we operate, including estimating exposures related to examinations by taxing authorities. We believe our accruals for tax liabilities are adequate for all open years based on our assessment of many factors, including past experience and interpretations of tax law applied to the facts of each matter. Although we believe our accruals for tax liabilities are adequate, tax regulations are subject to interpretation and the tax controversy process is inherently lengthy and uncertain; therefore, our assessments can involve a series of complex judgments about future events and rely heavily on estimates and assumptions. To the extent the probable tax outcome of these matters changes, such changes in estimate will impact our income tax provision in the period in which such determination is made. We only recognize or continue to recognize tax positions that meet a “more likely than not” threshold of being upheld. Interest and penalties related to unrecognized tax benefits are recognized as a component of income tax expense.

We must also make judgments regarding the realizability of deferred tax assets. The carrying value of our net deferred tax assets is based on our belief that it is more likely than not that we will generate sufficient future taxable income in certain jurisdictions to realize these deferred tax assets. We evaluate positive and negative evidence each reporting period when assessing the need for a valuation allowance. A valuation allowance is established for deferred tax assets if we believe realization of such assets is not more likely than not. Our judgments regarding future taxable income may change due to changes in market conditions, new or modified tax laws, tax planning strategies or other factors. If our assumptions, and consequently our estimates, change in the future, the valuation allowances we have established may be increased or decreased, resulting in a respective increase or decrease in income tax expense.

Our effective tax rate is highly dependent upon the amount and geographic distribution of our worldwide income or losses, the tax regulations, rates and holidays in each geographic region, the utilization of net operating losses, the availability of tax credits and carryforwards, and the effectiveness of our tax planning strategies.

## Results of Operations

**Years Ended October 1, 2022, October 2, 2021 and October 3, 2020.**

The following table presents our key operating results.

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
(In thousands)			
Net sales	\$ 7,890,475	\$ 6,756,643	\$ 6,960,370
Gross profit	\$ 640,514	\$ 551,805	\$ 525,707
Gross margin	8.1 %	8.2 %	7.6 %
Operating expenses	\$ 272,727	\$ 270,505	\$ 298,020
Operating income	\$ 367,787	\$ 281,300	\$ 227,687
Operating margin	4.7 %	4.2 %	3.3 %
Net income	\$ 256,121	\$ 268,998	\$ 139,713

### Net Sales

Net sales increased from \$6.8 billion for 2021 to \$7.9 billion for 2022, an increase of 16.8%. Net sales decreased from \$7.0 billion for 2020 to \$6.8 billion for 2021, a decrease of 2.9%. Sales by end market were as follows:

	Year Ended			2022 vs. 2021		2021 vs. 2020	
	October 1, 2022	October 2, 2021	October 3, 2020	Increase/(Decrease)		Increase/(Decrease)	
	(Dollars in thousands)						
Industrial, Defense, Medical and Automotive	\$ 4,714,941	\$ 3,890,041	\$ 4,127,720	\$ 824,900	21.2 %	\$ (237,679)	(5.8)%
Communications Networks and Cloud Infrastructure	3,175,534	2,866,602	2,832,650	308,932	10.8 %	33,952	1.2 %
Total	<u>\$ 7,890,475</u>	<u>\$ 6,756,643</u>	<u>\$ 6,960,370</u>	<u>\$ 1,133,832</u>	<u>16.8 %</u>	<u>\$ (203,727)</u>	<u>(2.9)%</u>

### Comparison of 2022 to 2021 by End Market

The increase in sales was primarily due to three factors. First, there was stronger demand overall in each of our end markets, driven in part by the continued stabilization of lead times for supply constrained parts. Secondly, we were able to pass to our customers the vast majority of the increased cost of components caused by supply constraints. Lastly, we added several new programs that contributed to increased sales in 2022.

### Comparison of 2021 to 2020 by End Market

The decrease in sales in our industrial, defense, medical and automotive end market was caused primarily by the continuing negative impact of the COVID-19 pandemic in 2021, which resulted in supply shortages, restrictions on the types of products we could manufacture and disruptions to our operations and those of our customers. In particular, there was a shortage of components in our industrial segment starting in the second half of 2021 that prevented us from shipping all of the product for which we had demand. The slight increase in sales in our communications networks and cloud infrastructure end market was primarily due to a more significant impact from the COVID-19 pandemic in 2020 than in 2021.

### Gross Margin

Gross margin was 8.1%, 8.2% and 7.6% in 2022, 2021 and 2020, respectively. IMS gross margin increased to 7.2% in 2022 from 7.1% in 2021. Despite an increase in revenue, IMS gross margin increased only slightly because there was little to no markup on the increased cost of components that we were able to pass on to our customers. Despite higher revenues, CPS gross margin decreased to 11.9% in 2022 from 12.7% in 2021, primarily due to a less favorable mix of revenue between the individual businesses in CPS.

IMS gross margin increased to 7.1% in 2021 from 6.7% in 2020, primarily due to increased operational efficiencies and the benefit of cost reduction and containment efforts implemented in 2020, some of which were in response to the COVID-19 pandemic. CPS gross margin increased to 12.7% in 2021 from 11.5% in 2020, primarily due to increased volume, operational efficiencies, favorable product mix and the benefit of cost reduction and containment efforts described above.

We have experienced fluctuations in gross margin in the past and may continue to do so in the future. Fluctuations in our gross margin may be caused by a number of factors, including:

- the ongoing impacts of the COVID-19 pandemic and related supply chain constraints on our operations, the operations of our suppliers and on our customers' businesses;
- capacity utilization which, if lower, results in lower margins due to fixed costs being absorbed by lower volumes;
- changes in the mix of high and low margin products demanded by our customers;
- competition in the EMS industry and pricing pressures from OEMs due to greater focus on cost reduction;
- the amount of our provisions for excess and obsolete inventory, including those associated with distressed customers;
- levels of operational efficiency and production yields; and
- our ability to transition the location of and ramp manufacturing and assembly operations when requested by a customer in a timely and cost-effective manner.

#### **Selling, General and Administrative**

Selling, general and administrative expenses were \$244.6 million, \$234.5 million and \$240.9 million in 2022, 2021 and 2020, respectively. As a percentage of net sales, selling, general and administrative expenses were 3.1%, 3.5% and 3.5% for 2022, 2021 and 2020, respectively. The increase in absolute dollars in 2022 was primarily due to higher incentive compensation, partially offset by a decrease in our deferred compensation liability resulting from a decline in the market value of participant investment accounts in 2022. The decrease in absolute dollars in 2021 was primarily attributable to reduced headcount in 2021 resulting from continued actions under our Q1 FY20 Plan and reduced travel and certain other expenses in 2021 in continued response to the COVID-19 pandemic.

#### **Restructuring**

Restructuring costs were \$11 million, \$15 million, and \$27 million in 2022, 2021, and 2020, respectively.

The following table is a summary of restructuring costs:

	<b>Year Ended</b>		
	<b>October 1, 2022</b>	<b>October 2, 2021</b>	<b>October 3, 2020</b>
	(In thousands)		
Severance costs	\$ 319	\$ 9,405	\$ 17,919
Other exit costs (recognized as incurred)	1,500	1,834	71
Total - Q1 FY20 Plan	1,819	11,239	17,990
Costs incurred for other plans	9,606	3,818	8,793
Total - all plans	<u><u>\$ 11,425</u></u>	<u><u>\$ 15,057</u></u>	<u><u>\$ 26,783</u></u>

#### *Q1 FY20 Plan*

On October 28, 2019, we adopted a Company-wide restructuring plan ("Q1 FY20 Plan") under which we have incurred restructuring costs of approximately \$31 million through October 1, 2022. These charges consist primarily of severance. Substantially all cash payments have occurred and actions under this plan are complete.

#### *Other plans*

Other plans include a number of plans for which costs are not expected to be material individually or in the aggregate.

*All Plans*

Our Integrated Manufacturing Solutions (“IMS”) segment incurred costs of \$1 million and \$9 million for the year ended October 1, 2022 and October 2, 2021, respectively. Our CPS segment incurred costs of \$10 million and \$5 million for the years ended October 1, 2022 and October 2, 2021, respectively. In addition, we incurred costs of \$1 million for the year ended October 2, 2021 for corporate headcount reductions that were not allocated to our IMS and CPS segments. We had accrued liabilities of \$6 million as of October 1, 2022 and October 2, 2021 for restructuring costs (exclusive of long-term environmental remediation liabilities).

We expect to incur restructuring costs, which could be material, in future periods primarily relating to vacant facilities and former sites for which we are or may be responsible for environmental remediation.

**Goodwill And Other Impairments**

We recorded an impairment charge of \$2 million in 2022 and 2020 for certain long-lived assets.

During the second quarter of 2020, commodity prices in the oil and gas market experienced a sharp decline due to a combination of an oversaturated supply and a decrease in demand caused by the COVID-19 pandemic. This commodity price decline negatively impacted the projected cash flows of our oil and gas reporting unit, which is part of our CPS operating segment. Therefore, we performed a goodwill impairment test for this particular reporting unit and concluded that the fair value of the reporting unit was below its carrying value, resulting in an impairment charge of \$7 million. The fair value of the reporting unit was estimated based on the present value of future discounted cash flows. We had no such charge in 2022 and 2021.

**Gain on Sale of Long-lived Assets**

During the first quarter of 2022, we recognized a gain of \$4.6 million primarily from the sale of a certain real property.

**Interest Expense**

Interest expense was \$22.5 million, \$19.6 million and \$28.9 million in 2022, 2021 and 2020, respectively. Interest expense increased \$3 million in 2022 primarily due to higher daily average borrowings under our revolving credit facility. Interest expense decreased \$9 million in 2021 compared to 2020 due primarily to lower daily average borrowings under our revolving credit facility in 2021.

**Other Income (Expense), net**

Other income (expense), net was \$(26.3) million in 2022, \$44.3 million in 2021 and a \$(0.3) million in 2020.

Other income (expense), net of \$(26.3) million in 2022 consists primarily of a \$7 million allowance that was provided for a note receivable from the 2021 sale of certain intellectual property assets based on our expectation that we will incur credit losses with the counterparty, a \$6 million decline in the market value of participant investment accounts in our deferred compensation plan in 2022, \$5 million in fees for sales of accounts receivable, a pension settlement charge of \$2 million for the termination of our frozen U.S. defined benefit plan and a loss on extinguishment of debt of \$1 million consisting of a write-off of unamortized debt issuance costs.

Other income (expense), net of \$44.3 million in 2021 consists primarily of receipt of payments of \$16 million in connection with settlements of certain anti-trust class action matters, a \$15 million gain from the sale of certain intellectual property assets and an \$8 million gain on liquidation of a foreign entity.

**Provision for Income Taxes**

We recorded income tax expense of \$64.5 million, \$38.0 million and \$61.0 million in 2022, 2021 and 2020, respectively. Our effective tax rate was 20.1%, 12.4% and 30.4% for 2022, 2021 and 2020, respectively.

Our effective tax rates for 2022 and 2021 were lower than the expected U.S. statutory rate of 21.0% primarily due to a \$16 million and \$43 million tax benefit, respectively, resulting from the release of foreign tax reserves due to lapse of time and expiration of statutes of limitations.

## Liquidity and Capital Resources

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
<b>Net cash provided by (used in):</b>			
Operating activities	\$ 330,854	\$ 338,342	\$ 300,555
Investing activities	(132,214)	(91,325)	(64,409)
Financing activities	(314,299)	(77,318)	(210,280)
Effect of exchange rate changes	(4,510)	(199)	(81)
Increase (decrease) in cash and cash equivalents	<u>\$ (120,169)</u>	<u>\$ 169,500</u>	<u>\$ 25,785</u>

### Key Working Capital Management Measures

	As of	
	October 1, 2022	October 2, 2021
Days sales outstanding (1)	48	64
Contract asset days (2)	20	19
Inventory turns (3)	4.9	6.3
Days inventory on hand (4)	74	58
Accounts payable days (5)	90	83
Cash cycle days (6)	52	58

- (1) Days sales outstanding (a measure of how quickly we collect our accounts receivable), or “DSO”, is calculated as the ratio of average accounts receivable, net, to average daily net sales for the quarter.
- (2) Contract asset days (a measure of how quickly we transfer contract assets to accounts receivable) are calculated as the ratio of average contract assets to average daily net sales for the quarter.
- (3) Inventory turns (annualized) (a measure of how quickly we sell inventory) are calculated as the ratio of four times our cost of sales for the quarter to average inventory.
- (4) Days inventory on hand (a measure of how quickly we turn inventory into sales) is calculated as the ratio of average inventory for the quarter to average daily cost of sales for the quarter.
- (5) Accounts payable days (a measure of how quickly we pay our suppliers), or “DPO”, is calculated as the ratio of 365 days to accounts payable turns, in which accounts payable turns is calculated as the ratio of four times our cost of sales for the quarter to average accounts payable.
- (6) Cash cycle days (a measure of how quickly we convert investments in inventory to cash) is calculated as days inventory on hand plus days sales outstanding minus accounts payable days.

Cash and cash equivalents were \$530 million at October 1, 2022 and \$650 million at October 2, 2021. Our cash levels vary during any given period depending on the timing of collections from customers and payments to suppliers, borrowings under credit facilities, sales of accounts receivable under numerous programs we utilize, repurchases of capital stock and other factors. Our working capital was approximately \$1.5 billion as of October 1, 2022 and October 2, 2021.

Net cash provided by operating activities was \$331 million, \$338 million and \$301 million for 2022, 2021 and 2020, respectively. Cash flows from operating activities consists of: (1) net income adjusted to exclude non-cash items such as depreciation and amortization, deferred income taxes and stock-based compensation expense and (2) changes in net operating assets, which are comprised of accounts receivable, contract assets, inventories, prepaid expenses and other assets, accounts payable, accrued liabilities and other long-term liabilities. Our working capital metrics tend to fluctuate from quarter-to-quarter based on factors such as the linearity of our shipments to customers and purchases from suppliers, customer and supplier mix, and payment terms with customers and suppliers. These fluctuations can significantly affect our cash flows from operating activities.

During 2022, we generated \$446 million of cash from earnings, excluding non-cash items, and used \$115 million of cash because of an increase in our net operating assets and liabilities, resulting primarily from increases in inventories and contract assets of \$663 million and \$155 million, respectively, partially offset by increases in accounts payable and accrued liabilities of \$554 million and \$134 million, respectively. The increase in inventories is primarily due to shortages of certain components that prevented us from shipping all products for which we had both demand and the other components necessary to build such products. The increase in contract assets is primarily due to an increase in overall demand in 2022, which resulted in a higher level of services performed for which revenue has been recognized, but products had not been delivered to the customer. The increase in accounts payable is primarily attributable to an increase in inventory. The increase in accrued liabilities is primarily due to an increase in advance payments from customers and an increase in amounts collected under our accounts receivable sales program that had not been remitted as of the end of the quarter to the financial institutions that purchased the receivables. DSO decreased from 64 days as of 2021 to 48 days as of 2022 due primarily to an increase in accounts receivable factoring.

Net cash used in investing activities was \$132 million, \$91 million and \$64 million for 2022, 2021 and 2020, respectively. In 2022, we used \$139 million of cash for capital expenditures, purchased \$2 million of long-term investments and received \$8 million primarily from the sale of a certain property. In 2021, we used \$73 million of cash for capital expenditures, paid \$21 million in connection with a business combination, purchased \$3 million of long-term investments and received \$5 million from the sale of certain intellectual property assets.

Net cash used in financing activities was \$314 million, \$77 million and \$210 million for 2022, 2021 and 2020, respectively. In 2022, we repurchased \$331 million of common stock (including \$14 million in settlement of employee tax withholding obligations), repaid an aggregate of \$333 million of long-term debt using \$350 million of proceed from the issuance of a term loan, incurred \$3 million of costs in connection with the amendment of the Fourth Amended and Restated Loan Agreement, dated as of November 30, 2018 (the “Existing Credit Agreement”) and received \$2 million of proceeds from issuances of common stock pursuant to stock option exercises. In 2021, we repurchased \$64 million of common stock (including \$10 million in settlement of employee tax withholding obligations), repaid an aggregate of \$19 million of long-term debt, received \$3 million of proceeds from issuances of common stock pursuant to stock option exercises and received \$3 million of installment payments from the sale of certain intellectual property assets.

*Revolving Credit Facility.* During the fourth quarter of 2022, we entered into a Fifth Amended and Restated Credit Agreement (“Credit Agreement”) that amended and restated the Existing Credit Agreement. The Credit Agreement provides for an \$800 million revolving credit facility and a \$350 million secured term loan (“Term Loan Due 2027”), together with an accordion feature by which we can obtain, subject to the satisfaction of specified conditions and commitment of the lenders, additional revolving commitments in an aggregate amount of up to \$200 million.

Costs incurred in connection with the Credit Agreement of \$3 million are classified as long-term debt and are being amortized to interest expense over the life of the Term Loan Due 2027 using the effective interest method.

The Term Loan Due 2027 was fully drawn on the Closing Date and proceeds were used to repay the term loan outstanding under the Existing Credit Agreement. Upon repayment, we recorded a loss on extinguishment of debt of \$1 million consisting of a write-off of unamortized debt issuance costs for the Existing Credit Agreement.

Loans under the Credit Agreement bear interest, at our option, at either the Secured Overnight Financing Rate benchmark interest rate (“SOFR”) or a base rate, in each case plus a spread determined based on our credit rating. Interest on the loans is payable quarterly in arrears with respect to base rate loans and at the end of an interest period (and at three-month intervals if the interest period exceeds three months) in the case of SOFR loans. The outstanding principal amount of all loans under the Credit Agreement, including the Term Loan Due 2027, together with accrued and unpaid interest, is due on September 27, 2027. We are required to repay a portion of the principal amount of the Term Loan Due 2027 equal to 1.25% of the principal in quarterly installments.

Our and our subsidiary guarantors’ obligations under the Credit Agreement are secured by substantially all of the assets (excluding real property) of Sanmina and its subsidiary guarantors, including cash, accounts receivable, inventory and the shares of certain of our subsidiaries, subject to certain exceptions.

As of October 1, 2022, no borrowings and \$9 million of letters of credit were outstanding under the Credit Agreement, under which \$791 million was available to borrow. There were no borrowings outstanding under the Credit Agreement as of October 2, 2021.

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*Short-term Borrowing Facilities.* As of October 1, 2022, certain of our foreign subsidiaries had a total of \$70 million of short-term borrowing facilities available, under which no borrowings were outstanding. These facilities expire at various dates through the second quarter of 2024.

### *Debt Covenants*

The Credit Agreement requires us to comply with a minimum consolidated interest coverage ratio, measured at the end of each fiscal quarter, and at all times a maximum consolidated leverage ratio. The Credit Agreement contains customary affirmative covenants, including covenants regarding the payment of taxes and other obligations, maintenance of insurance, reporting requirements and compliance with applicable laws and regulations. Further, the Credit Agreement contains customary negative covenants limiting our ability and that of our subsidiaries to, among other things, incur debt, grant liens, make investments, make acquisitions, make certain restricted payments and sell assets, subject to certain exceptions.

As of October 1, 2022, we were in compliance with these covenants.

### *Other Liquidity Matters*

During 2022 and 2021 we repurchased 8.0 million shares and 1.5 million shares of our common stock for \$317 million and \$54 million (including commissions), respectively, under stock repurchase programs authorized by the Board of Directors. These programs have no expiration dates and the timing of repurchases will depend upon capital needs to support the growth of our business, market conditions and other factors. Although stock repurchases are intended to increase stockholder value, purchases of shares reduce our liquidity. As a result, the timing of future repurchases depends upon our future capital needs, market conditions and other factors. As of October 1, 2022, an aggregate of \$164 million remains available under these programs.

We are party to a Receivables Purchase Agreement (the “RPA”) with certain third-party banking institutions for the sale of trade receivables generated from sales to certain customers, subject to acceptance by, and a funding commitment from, the banks that are party to the RPA. As of October 1, 2022, a maximum of \$539 million of sold receivables can be outstanding at any point in time under this program, as amended, subject to limitations under our Existing Credit Agreement. Additionally, the amount available under the RPA is uncommitted and, as such, is available at the discretion of our third-party banking institutions. Under the Credit Agreement, the percentage of our total accounts receivable that can be sold and outstanding at any time is 50%. Trade receivables sold pursuant to the RPA are serviced by us.

In addition to the RPA, we have the option to participate in trade receivables sales programs that have been implemented by certain of our customers, as in effect from time to time. We do not service trade receivables sold under these other programs.

The sale of receivables under all of these programs is subject to the approval of the banks or customers involved and there can be no assurance that we will be able to sell the maximum amount of receivables permitted by these programs when desired.

Under each of the programs noted above, we sell our entire interest in a trade receivable for 100% of face value, less a discount. For the years ended October 1, 2022 and October 2, 2021, we sold \$1.9 billion and \$0.5 billion, respectively, of accounts receivable under these programs. Upon sale, these receivables are removed from the consolidated balance sheets and cash received is presented as cash provided by operating activities in the consolidated statements of cash flows. Discounts on sold receivables were not material for any period presented. As of October 1, 2022 and October 2, 2021, \$194 million and \$7 million, respectively, of accounts receivable sold under the RPA and subject to servicing by us remained outstanding and had not yet been collected. Our sole risk with respect to receivables we service is with respect to commercial disputes regarding such receivables. Commercial disputes include billing errors, returns and similar matters. To date, we have not been required to repurchase any receivable we have sold due to a commercial dispute. Additionally, we are required to remit amounts collected by us as servicer on a weekly basis to the financial institutions that purchased the receivables. As of October 1, 2022 and October 2, 2021, \$49 million and \$18 million, respectively, had been collected but not yet remitted. This amount is classified in accrued liabilities on the consolidated balance sheets.

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We enter into forward interest rate swap agreements with independent counterparties to partially hedge the variability in cash flows due to changes in the benchmark interest rate (Term SOFR) associated with anticipated variable rate borrowings. These interest rate swaps have a maturity date of December 1, 2023, and effectively converts a portion of our variable interest rate obligations under our Amended Cash Flow Revolver to fixed interest rate obligations. These swaps are accounted for as cash flow hedges under ASC Topic 815, Derivatives and Hedging. Interest rate swaps with an aggregate notional amount of \$350 million were outstanding as of October 1, 2022 and October 2, 2021. The aggregate effective interest rate of these swaps as of October 1, 2022 was approximately 4.1%. Given the recent rise in interest rates and the continued likelihood of additional rate increases, these interest rate swaps had a positive value of \$6 million as of October 1, 2022, of which the majority is included in prepaid expenses and other current assets and the remaining amount is included in other assets on the consolidated balance sheets.

In the ordinary course of business, we are or may become party to legal proceedings, claims and other contingencies, including environmental, warranty and employee matters and examinations by government agencies. As of October 1, 2022, we had accrued liabilities of \$38 million related to such matters. We cannot accurately predict the outcome of these matters or the amount or timing of cash flows that may be required to defend ourselves or to settle such matters or that these reserves will be sufficient to fully satisfy our contingent liabilities.

As of October 1, 2022, we had a liability of \$65 million for uncertain tax positions. Our estimate of liabilities for uncertain tax positions is based on a number of subjective assessments, including the likelihood of a tax obligation being assessed, the amount of taxes (including interest and penalties) that would ultimately be payable, and our ability to settle any such obligations on favorable terms. Therefore, the amount of future cash flows associated with uncertain tax positions may be significantly higher or lower than our recorded liability and we are unable to reliably estimate when cash settlement may occur.

Our liquidity is largely dependent on changes in our working capital, including sales of accounts receivable under our receivables sales programs and the extension of trade credit by our suppliers, investments in manufacturing inventory, facilities and equipment, repayments of obligations under outstanding indebtedness and repurchases of common stock. In 2022, we generated \$331 million of cash from operations. Our primary sources of liquidity as of October 1, 2022 consisted of (1) cash and cash equivalents of \$530 million; (2) our Credit Agreement, under which \$791 million, net of outstanding borrowings and letters of credit, was available; (3) our foreign short-term borrowing facilities of \$70 million, all of which was available; (4) proceeds from the sale of accounts receivable under our receivables sales programs and (5) cash generated from operations. Subject to satisfaction of certain conditions, including obtaining additional commitments from existing and/or new lenders, we may increase the revolver commitments under the Credit Agreement by an additional \$200 million.

We believe our existing cash resources and other sources of liquidity, together with cash generated from operations, will be sufficient to meet our working capital requirements through at least the next 12 months. However, should demand for our services decrease significantly over the next 12 months, should we be unable to recover on inventory obligations owed to us by our customers or should we experience significant increases in delinquent or uncollectible accounts receivable for any reason, our cash provided by operations could decrease significantly and we could be required to seek additional sources of liquidity to continue our operations at their current level.

We distribute our cash among a number of financial institutions that we believe to be of high quality. However, there can be no assurance that one or more of such institutions will not become insolvent in the future, in which case all or a portion of our uninsured funds on deposit with such institutions could be lost.

As of October 1, 2022, approximately 50% of our cash balance was held in the United States. Should we choose or need to remit cash to the United States from our foreign locations, we may incur tax obligations which would reduce the amount of cash ultimately available to the United States. We believe that cash held in the United States, together with liquidity available under our Amended Cash Flow Revolver and cash from foreign subsidiaries that could be remitted to the United States without tax consequences, will be sufficient to meet our United States liquidity needs for at least the next twelve months.

### *Contractual Obligations*

As part of our ongoing operations, we enter into contractual arrangements that obligate us to make future cash payments. These obligations impact our liquidity and capital resource needs. Our estimated future obligations consist of leases, the Term Loan, pension plan funding obligations and unrecognized tax benefits as of October 1, 2022.

A summary of our operating lease obligations as of October 1, 2022 can be found in Note 8, "Leases", to the Consolidated Financial Statements contained in this report.

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A summary of our long-term debt obligations as of October 1, 2022 can be found in Note 7, “Debt”, to the Consolidated Financial Statements contained in this report.

We have defined benefit pension plans with an underfunded amount of \$34 million as of October 1, 2022. We will be required to provide additional funding to these plans in the future if our returns on plan assets are not sufficient to meet our funding obligations. Additionally, as of October 1, 2022, we were unable to reliably estimate when cash settlements or closure of audits with taxing authorities may occur with respect to our long-term liabilities arising from unrecognized tax benefits of \$65 million. The statutes of limitations for these matters range up to 10 years, and unsettled liabilities are released upon expiration of the statutes.

We also have outstanding firm purchase orders with certain suppliers for the purchase of inventory, which are not included in the table above. These purchase orders are generally short-term in nature. Orders for standard, or catalog, items can typically be canceled with little or no financial penalty. Our policy regarding non-standard or customized items dictates that such items are only ordered specifically for customers who have contractually assumed liability for the inventory, although exceptions are made to this policy in certain situations. Accordingly, our liability from purchase obligations under these purchase orders is not expected to be significant. Lastly, pursuant to arrangements under which vendors consign inventory to us, we may be required to purchase such inventory after a certain period of time. To date, we have not been required to purchase a significant amount of inventory pursuant to these time limitations.

*Off-Balance Sheet Arrangements*

As of October 1, 2022, we did not have any off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of Regulation S-K promulgated by the SEC, that have or are reasonably likely to have a current or future effect on our financial condition, changes in our financial condition, revenues, or expenses, results of operations, liquidity, capital expenditures, or capital resources that is material to investors.

**Item 7A. Quantitative and Qualitative Disclosures about Market Risk**

**Interest Rate Risk**

Our primary exposure to market risk for changes in interest rates relates to our Term Loan of \$350 million under our Credit Agreement for which the interest rate we pay is determined at the time of borrowing based on a floating index. As of October 1, 2022, we had interest rate swaps with an aggregate notional amount of \$350 million that effectively convert \$350 million of our outstanding floating rate debt to fixed rate debt. An immediate 10 percent change in interest rates would not have a significant impact on our results of operations.

**Foreign Currency Exchange Risk**

We transact business in foreign currencies. Our foreign exchange policy requires that we take certain steps to limit our foreign exchange exposures resulting from certain assets and liabilities and forecasted cash flows. However, our policy does not require us to hedge all foreign exchange exposures. Furthermore, our foreign currency hedges are based on forecasted transactions and estimated balances, the amount of which may differ from that actually incurred. As a result, we can experience foreign exchange gains and losses in our results of operations.

Our primary foreign currency cash flows are in certain Asian and European countries, Israel, Brazil and Mexico. We enter into short-term foreign currency forward contracts to hedge currency exposures associated with certain monetary assets and liabilities denominated in non-functional currencies. These contracts generally have maturities of up to two months. Accordingly, these forward contracts are not designated as part of a hedging relationship for accounting purposes. All outstanding foreign currency forward contracts are marked-to-market at the end of the period with unrealized gains and losses included in other income (expense), net, in the consolidated statements of income. As of October 1, 2022, we had outstanding foreign currency forward contracts to exchange various foreign currencies for U.S. dollars in an aggregate notional amount of \$532 million.

We also utilize foreign currency forward contracts to hedge certain operational (“cash flow”) exposures resulting from changes in foreign currency exchange rates. Such exposures result from (1) forecasted non-functional currency sales and (2) forecasted non-functional currency materials, labor, overhead and other expenses. These contracts may be up to twelve months in duration and are designated as cash flow hedges for accounting purposes. The effective portion of changes in the fair value of the contracts is recorded in stockholders' equity as a separate component of accumulated other comprehensive income and recognized in earnings when the hedged item affects earnings. We had forward contracts related to cash flow hedges in various foreign currencies in an aggregate notional amount of \$123 million as of October 1, 2022.

The net impact of an immediate 10 percent change in exchange rates would not be material to our consolidated financial statements, provided we accurately forecast and estimate our foreign currency exposure. If such forecasts are materially inaccurate, we could incur significant gains or losses.

**Item 8. Financial Statements and Supplementary Data**

The information required by this item is included below and incorporated by reference from the financial statement schedule included in “Part IV-Item 15(a)(2)”.

## **Report of Independent Registered Public Accounting Firm**

To the Board of Directors and Stockholders of Sanmina Corporation

### ***Opinions on the Financial Statements and Internal Control over Financial Reporting***

We have audited the accompanying consolidated balance sheets of Sanmina Corporation and its subsidiaries (the “Company”) as of October 1, 2022 and October 2, 2021, and the related consolidated statements of income, comprehensive income, stockholders’ equity, and cash flows for each of the three years in the period ended October 1, 2022, including the related notes and financial statement schedule listed in the index appearing under Item 15(a)(2) (collectively referred to as the “consolidated financial statements”). We also have audited the Company’s internal control over financial reporting as of October 1, 2022, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of October 1, 2022 and October 2, 2021, and the results of its operations and its cash flows for each of the three years in the period ended October 1, 2022 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of October 1, 2022, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the COSO.

### ***Basis for Opinions***

The Company’s management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management’s Report on Internal Control Over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on the Company’s consolidated financial statements and on the Company’s internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

### ***Definition and Limitations of Internal Control over Financial Reporting***

A company’s internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company’s internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

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Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

### **Critical Audit Matters**

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that (i) relates to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

#### *Revenue Recognition - Cost-to-cost method for government contracts in the Defense and Aerospace division*

As described in Notes 2 and 4 to the consolidated financial statements, revenues for the CPS segment were \$1.5 billion for the year ended October 1, 2022, of which the defense and aerospace division represents a portion of the segment. The Company recognizes revenue for defense and aerospace government contracts on an over time basis using the cost-to-cost method (ratio of costs incurred to date to total estimated costs at completion), which management believes best depicts the transfer of control to the customer. Recognition of revenue on government contracts requires the use of significant judgment with respect to estimated materials, labor, and subcontractor costs.

The principal considerations for our determination that performing procedures relating to revenue recognition - cost-to-cost method for government contracts in the defense and aerospace division is a critical audit matter are the significant judgment by management when determining the estimated costs for such contracts, which in turn led to a high degree of auditor judgment, subjectivity, and effort in performing procedures and in evaluating the audit evidence related to management's determination of estimated materials, labor, and subcontractor costs.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to the revenue recognition process, including controls over the cost-to-cost method for government contracts in the defense and aerospace division. These procedures also included, among others, (i) testing management's process for determining the estimation of costs for a sample of defense and aerospace government contracts, (ii) testing the completeness and accuracy of underlying data used in the estimate, and (iii) evaluating the reasonableness of management's determination of estimated materials, labor, and subcontractor costs. Evaluating the reasonableness of the estimated materials, labor and subcontractor costs used involved assessing management's ability to reasonably estimate costs for government contracts by assessing the nature and status of government contracts, performing retrospective reviews of government contract estimates and changes in estimates over time, and obtaining evidence to support estimated costs.

/s/ PricewaterhouseCoopers LLP

San Jose, California  
November 10, 2022

We have served as the Company's auditor since 2016.

**SANMINA CORPORATION**  
**CONSOLIDATED BALANCE SHEETS**

	As of	
	October 1, 2022	October 2, 2021
(In thousands, except par value)		
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 529,857	\$ 650,026
Accounts receivable, net of allowances of approximately \$8 million and \$7 million as of October 1, 2022 and October 2, 2021, respectively	1,138,894	1,192,434
Contract assets	503,674	348,741
Inventories	1,691,081	1,036,511
Prepaid expenses and other current assets	62,044	53,952
Total current assets	<u>3,925,550</u>	<u>3,281,664</u>
Property, plant and equipment, net	575,170	532,985
Deferred income tax assets, net	198,588	235,117
Other	160,192	156,953
Total assets	<u>\$ 4,859,500</u>	<u>\$ 4,206,719</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 2,029,534	\$ 1,464,693
Accrued liabilities	275,735	161,896
Accrued payroll and related benefits	130,892	117,648
Short-term debt, including current portion of long-term debt	17,500	18,750
Total current liabilities	<u>2,453,661</u>	<u>1,762,987</u>
Long-term liabilities:		
Long-term debt	329,237	311,572
Other	215,333	253,532
Total long-term liabilities	<u>544,570</u>	<u>565,104</u>
Commitments and Contingencies (Note 10)		
Stockholders' equity:		
Preferred stock, \$0.01 par value, authorized 5,000 shares, none issued and outstanding	—	—
Common stock, \$0.01 par value, authorized 166,667 shares; 110,160 and 108,734 shares issued and 57,394 and 64,307 shares outstanding as of October 1, 2022 and October 2, 2021, respectively	574	643
Treasury stock, 52,766 and 44,427 shares as of October 1, 2022 and October 2, 2021, respectively, at cost	(1,378,159)	(1,047,202)
Additional paid-in capital	6,380,774	6,338,863
Accumulated other comprehensive income	56,325	40,690
Accumulated deficit	(3,198,245)	(3,454,366)
Total stockholders' equity	<u>1,861,269</u>	<u>1,878,628</u>
Total liabilities and stockholders' equity	<u>\$ 4,859,500</u>	<u>\$ 4,206,719</u>

See accompanying notes to the consolidated financial statements.

**SANMINA CORPORATION**  
**CONSOLIDATED STATEMENTS OF INCOME**

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands, except per share amounts)		
Net sales	\$ 7,890,475	\$ 6,756,643	\$ 6,960,370
Cost of sales	<u>7,249,961</u>	<u>6,204,838</u>	<u>6,434,663</u>
Gross profit	<u>640,514</u>	<u>551,805</u>	<u>525,707</u>
Operating expenses:			
Selling, general and administrative	244,569	234,537	240,931
Research and development	21,343	20,911	22,564
Restructuring and other	11,425	15,057	27,916
Goodwill impairment	—	—	6,609
Gain on sale of long-lived assets	<u>(4,610)</u>	<u>—</u>	<u>—</u>
Total operating expenses	<u>272,727</u>	<u>270,505</u>	<u>298,020</u>
Operating income	367,787	281,300	227,687
Interest income	1,628	925	2,322
Interest expense	<u>(22,473)</u>	<u>(19,551)</u>	<u>(28,903)</u>
Other income (expense), net	<u>(26,314)</u>	<u>44,331</u>	<u>(348)</u>
Interest and other, net	<u>(47,159)</u>	<u>25,705</u>	<u>(26,929)</u>
Income before income taxes	320,628	307,005	200,758
Provision for income taxes	<u>64,507</u>	<u>38,007</u>	<u>61,045</u>
Net income	<u>\$ 256,121</u>	<u>\$ 268,998</u>	<u>\$ 139,713</u>
Net income per share:			
Basic	\$ 4.18	\$ 4.12	\$ 2.02
Diluted	\$ 4.06	\$ 4.01	\$ 1.97
Weighted-average shares used in computing per share amounts:			
Basic	61,310	65,318	69,041
Diluted	63,117	67,084	70,793

See accompanying notes to the consolidated financial statements.

**SANMINA CORPORATION**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME**

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
Net income	\$ 256,121	\$ 268,998	\$ 139,713
Other comprehensive income (loss), net of tax:			
Foreign currency translation adjustments	(12,191)	(9,223)	(925)
Derivative financial instruments:			
Change in net unrealized amount	8,414	3,034	(3,646)
Amount reclassified into net income	10,003	4,863	1,332
Defined benefit plans:			
Changes in unrecognized net actuarial losses and unrecognized transition cost	5,884	4,713	(6,240)
Amortization of actuarial losses and transition cost	3,525	2,417	2,106
Total other comprehensive income (loss)	\$ 15,635	\$ 5,804	\$ (7,373)
Comprehensive income	<u>\$ 271,756</u>	<u>\$ 274,802</u>	<u>\$ 132,340</u>

See accompanying notes to the consolidated financial statements.

**SANMINA CORPORATION**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**

	Common Stock and Additional Paid-in Capital		Treasury Stock		Accumulated Other Comprehensive Income	Accumulated Deficit	Total
	Number of Shares	Amount	Number of Shares	Amount			
(In thousands)							
BALANCE AT SEPTEMBER 28, 2019	105,551	\$ 6,267,509	(35,831)	\$ (804,118)	42,259	\$ (3,863,077)	\$ 1,642,573
Issuances under stock plans	2,078	7,793	—	—	—	—	7,793
Stock-based compensation	—	26,235	—	—	—	—	26,235
Repurchases of treasury stock	—	—	(6,799)	(179,025)	—	—	(179,025)
Other comprehensive loss	—	—	—	—	(7,373)	—	(7,373)
Net income	—	—	—	—	—	139,713	139,713
BALANCE AT OCTOBER 3, 2020	107,629	\$ 6,301,537	(42,630)	\$ (983,143)	34,886	\$ (3,723,364)	\$ 1,629,916
Issuances under stock plans	1,105	2,993	—	—	—	—	2,993
Stock-based compensation	—	34,976	—	—	—	—	34,976
Repurchases of treasury stock	—	—	(1,797)	(64,059)	—	—	(64,059)
Other comprehensive loss	—	—	—	—	5,804	—	5,804
Net income	—	—	—	—	—	268,998	268,998
BALANCE AT OCTOBER 2, 2021	108,734	\$ 6,339,506	(44,427)	\$ (1,047,202)	40,690	\$ (3,454,366)	\$ 1,878,628
Issuances under stock plans	1,426	2,378	—	—	—	—	2,378
Stock-based compensation	—	39,608	—	—	—	—	39,608
Repurchases of treasury stock	—	(144)	(8,339)	(330,957)	—	—	(331,101)
Other comprehensive income	—	—	—	—	15,635	—	15,635
Net income	—	—	—	—	—	256,121	256,121
BALANCE AT OCTOBER 1, 2022	110,160	\$ 6,381,348	(52,766)	\$ (1,378,159)	56,325	\$ (3,198,245)	\$ 1,861,269

See accompanying notes to the consolidated financial statements.

SANMINA CORPORATION

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
<b>CASH FLOWS PROVIDED BY (USED IN) OPERATING ACTIVITIES:</b>			
Net income	\$ 256,121	\$ 268,998	\$ 139,713
Adjustments to reconcile net income to cash provided by operating activities:			
Depreciation and amortization	108,783	109,656	114,218
Stock-based compensation expense	39,608	34,976	26,235
Deferred income taxes	31,733	33,724	13,567
Impairment of goodwill and other assets	1,848	—	8,409
Loss (Gain) on sale of intellectual property	7,000	(15,000)	—
Gain on liquidation of foreign entity	—	(8,263)	—
Other, net	1,260	(1,371)	(239)
Changes in operating assets and liabilities, net of amounts acquired:			
Accounts receivable	46,480	(146,516)	83,623
Contract assets	(154,933)	47,842	(283)
Inventories	(663,379)	(167,186)	39,564
Prepaid expenses and other assets	(31,700)	(6,486)	17,798
Accounts payable	554,492	236,270	(106,640)
Accrued liabilities	133,541	(48,302)	(35,410)
<b>Cash provided by operating activities</b>	<b>330,854</b>	<b>338,342</b>	<b>300,555</b>
<b>CASH FLOWS PROVIDED BY (USED IN) INVESTING ACTIVITIES:</b>			
Purchases of property, plant and equipment	(138,639)	(73,296)	(65,982)
Proceeds from sales of property, plant and equipment	8,425	1,084	1,573
Purchases of investments	(2,000)	(2,705)	(30,000)
Sale of investments	—	—	30,000
Cash paid for business acquisition, net of cash acquired	—	(21,408)	—
Proceeds from sale of intellectual property	—	5,000	—
<b>Cash used in investing activities</b>	<b>(132,214)</b>	<b>(91,325)</b>	<b>(64,409)</b>
<b>CASH FLOWS PROVIDED BY (USED IN) FINANCING ACTIVITIES:</b>			
Proceeds from revolving credit facility borrowings	1,874,000	399,600	1,909,000
Repayments of revolving credit facility borrowings	(1,874,000)	(399,600)	(1,909,000)
Repayments of long-term debt	(332,814)	(18,752)	(39,048)
Proceeds from issuance of long-term debt	350,000	—	—
Debt issuance costs	(3,263)	—	—
Net proceeds from stock issuances	2,379	2,993	7,793
Repurchases of common stock	(331,101)	(64,059)	(179,025)
Proceeds from collection of notes receivable	500	2,500	—
<b>Cash used in financing activities</b>	<b>(314,299)</b>	<b>(77,318)</b>	<b>(210,280)</b>
Effect of exchange rate changes	(4,510)	(199)	(81)
Increase (decrease) in cash and cash equivalents	(120,169)	169,500	25,785
Cash and cash equivalents at beginning of year	650,026	480,526	454,741
<b>Cash and cash equivalents at end of year</b>	<b>\$ 529,857</b>	<b>\$ 650,026</b>	<b>\$ 480,526</b>
Cash paid during the year:			
Interest, net of capitalized interest	\$ 18,243	\$ 15,264	\$ 20,477
Income taxes, net of refunds	\$ 48,131	\$ 33,358	\$ 30,700
Unpaid purchases of property, plant and equipment at end of period	\$ 38,570	\$ 20,929	\$ 12,371

See accompanying notes to the consolidated financial statements.

## SANMINA CORPORATION

### NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

#### Note 1. Organization of Sanmina

Sanmina Corporation (“Sanmina,” or the “Company”) was incorporated in Delaware in 1989. The Company is a leading global provider of integrated manufacturing solutions, components, products and repair, logistics and after-market services. The Company provides these comprehensive solutions primarily to original equipment manufacturers (OEMs) that serve the industrial, medical, defense and aerospace, automotive, communications networks and cloud infrastructure industries.

The Company's operations are managed as two businesses:

- 1) Integrated Manufacturing Solutions (IMS). IMS is a single operating segment consisting of printed circuit board assembly and test, high-level assembly and test and direct-order-fulfillment.
- 2) Components, Products and Services (CPS). Components include printed circuit boards, backplanes and backplane assemblies, cable assemblies, fabricated metal parts, precision machined parts, and plastic injected molded parts. Products include memory solutions from our Viking Technology division; high-performance storage platforms for hyperscale and enterprise solutions from our Viking Enterprise Solutions (VES) division; optical, radio frequency (RF) and microelectronic (microE) design and manufacturing services from Advanced Microsystems Technologies; defense and aerospace products from SCI Technology; and cloud-based manufacturing execution software from the Company's 42Q division. Services include design, engineering and logistics and repair.

The Company's only reportable segment is IMS, which represented approximately 80% of total revenue in 2022. CPS consists of multiple operating segments which do not individually meet the quantitative thresholds for being presented as reportable segments. Therefore, financial information for these operating segments is combined and presented in a single category entitled “Components, Products and Services”.

#### Basis of Presentation

*Fiscal Year.* The Company operates on a 52 or 53 week year ending on the Saturday nearest September 30. Fiscal 2022 and 2021 were each 52 weeks and fiscal 2020 was a 53-week year, with the extra week occurring during the fourth quarter of fiscal 2020. All references to years relate to fiscal years unless otherwise noted.

*Principles of Consolidation.* The consolidated financial statements include the Company's accounts and those of its subsidiaries. All intercompany balances and transactions have been eliminated.

#### Note 2. Summary of Significant Accounting Policies

*Management Estimates and Uncertainties.* The preparation of consolidated financial statements in conformity with generally accepted accounting principles in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Due to the COVID-19 pandemic, the global economy and financial markets were disrupted and there is a significant amount of uncertainty about the length and severity of the consequences caused by the pandemic. The Company has considered information available to it as of the date of issuance of these financial statements and is not aware of any specific events or circumstances that would require an update to its estimates or judgments, or a revision to the carrying value of its assets or liabilities. Significant estimates made in preparing the consolidated financial statements relate to allowances for accounts receivable; provisions for excess and obsolete inventories, environmental matters, and legal exposures; determining liabilities for uncertain tax positions; determining the realizability of deferred tax assets; and determining fair values of tangible and intangible assets for purposes of impairment tests. These estimates may change as new events occur and additional information becomes available. Actual results could differ materially from these estimates.

*Financial Instruments and Concentration of Credit Risk.* Financial instruments consist primarily of cash and cash equivalents, accounts receivable, foreign currency forward contracts, interest rate swap agreements, accounts payable and debt obligations. The fair value of these financial instruments approximates their carrying amount as of October 1, 2022 and

October 2, 2021 due to the nature or short maturity of these instruments, or because, in some cases, the instruments are recorded at fair value on the consolidated balance sheets.

*Cash and Cash Equivalents.* Cash and cash equivalents include cash on hand and on deposit and investments in highly liquid debt instruments with maturities of three months or less.

*Accounts Receivable and Other Related Allowances.* The Company had allowances of approximately \$8 million and \$7 million as of October 1, 2022 and October 2, 2021, respectively, for uncollectible accounts, product returns and other net sales adjustments. To establish the allowance for doubtful accounts, the Company estimates credit risk associated with accounts receivable by considering the creditworthiness of its customers, past experience, specific facts and circumstances, and the overall economic climate in industries that it serves. To establish the allowance for product returns and other adjustments, the Company primarily utilizes historical data.

*Accounts Receivable Sales.* The Company is a party to a Receivables Purchase Agreement (the “RPA”) with certain third-party banking institutions for the sale of trade receivables generated from sales to certain customers, subject to acceptance by, and a funding commitment from, the banks that are party to the RPA. Trade receivables sold pursuant to the RPA are serviced by the Company.

In addition to the RPA, the Company has the option to participate in trade receivables sales programs that have been implemented by certain of the Company's customers, as in effect from time to time. The Company does not service trade receivables sold under these other programs. Under each of the programs noted above, the Company sells its entire interest in a trade receivable for 100% of face value, less a discount. Accounts receivable balances sold are removed from the consolidated balance sheets and the related proceeds are reported as cash provided by operating activities in the consolidated statements of cash flows.

*Inventories.* Inventories are stated at the lower of cost (first-in, first-out method) and net realizable value. Cost includes labor, materials and manufacturing overhead.

Provisions are made to reduce excess and obsolete inventories to their estimated net realizable values. The ultimate realization of inventory carrying amounts is primarily affected by changes in customer demand. Inventory provisions are established based on forecasted demand, past experience with specific customers, the age and nature of the inventory, the ability to redistribute inventory to other programs or back to suppliers, and whether customers are contractually obligated and have the ability to pay for the related inventory. Certain payments received from customers for inventory held by the Company are recorded as a reduction of inventory.

*Long-lived Assets.* Property, plant and equipment are stated at cost or, in the case of property and equipment acquired through business combinations, at fair value as of the acquisition date. Depreciation is provided on a straight-line basis over 20 to 40 years for buildings and 3 to 15 years for machinery, equipment, furniture and fixtures. Leasehold improvements are amortized on a straight-line basis over the shorter of the lease term or useful life of the asset.

The Company reviews property, plant and equipment for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be recoverable. An asset group is the unit of accounting which represents the lowest level for which identifiable cash flows are largely independent of the cash flows of other groups of assets. An asset or asset group is considered impaired if its carrying amount exceeds the undiscounted future net cash flows the asset or asset group is expected to generate. If an asset or asset group is considered to be impaired, the impairment to be recognized is measured as the amount by which the carrying amount of the asset or asset group exceeds its fair value. For asset groups for which the primary asset is a building, the Company estimates fair value based on data provided by commercial real estate brokers. For other asset groups, the Company estimates fair value based on projected discounted future net cash flows.

*Foreign Currency Translation.* For foreign subsidiaries using the local currency as their functional currency, assets and liabilities are translated to U.S. dollars at exchange rates in effect at the balance sheet date and income and expenses are translated at average exchange rates. The effects of these translation adjustments are reported in stockholders' equity as a component of accumulated other comprehensive income (“AOCI”). For all entities, remeasurement adjustments for non-functional currency monetary assets and liabilities are included in other income (expense), net in the accompanying consolidated statements of income. Remeasurement gains and losses arising from long-term intercompany loans denominated in a currency other than an entity's functional currency are recorded in AOCI if repayment of the loan is not anticipated in the foreseeable future.

*Derivative Instruments and Hedging Activities.* The Company conducts business on a global basis in numerous currencies and certain of the Company's outstanding debt has a variable interest rate. Therefore, the Company is exposed to movements in foreign currency exchange rates and interest rates. The Company uses derivatives, such as foreign currency forward contracts and interest rate swaps, to minimize the volatility of earnings and cash flows associated with changes in foreign currency exchange rates and interest rates.

The Company accounts for derivative instruments and hedging activities in accordance with ASC Topic 815, Derivatives and Hedging, which requires each derivative instrument to be recorded on the consolidated balance sheets at its fair value as either an asset or a liability. If a derivative is designated as a cash flow hedge, the Company excludes time value from its assessment of hedge effectiveness and recognizes the amount of time value in earnings over the life of the derivative. Gains or losses on the derivative not caused by changes in time value are recorded in Accumulated Other Comprehensive Income ("AOCI"), a component of equity, and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. If a derivative is designated as a fair value hedge, changes in the fair value of the derivative and of the item being hedged are recognized in earnings in the current period.

Derivative instruments are entered into for periods of time consistent with the related underlying exposures and are not entered into for speculative purposes. At the inception of a hedge, the Company documents all relationships between derivative instruments and related hedged items, as well as its risk-management objectives and strategies for the hedging transaction.

The Company's foreign currency forward contracts and interest rate swaps potentially expose the Company to credit risk to the extent the counterparties may be unable to meet the terms of the agreement. The Company minimizes such risk by seeking high quality counterparties.

*Leases.* The Company's leases consist primarily of operating leases for buildings and land and have initial lease terms of up to 44 years. Certain of these leases contain an option to extend the lease term for additional periods or to terminate the lease after an initial non-cancelable term. Renewal options are considered in the measurement of the Company's initial lease liability and corresponding right-of-use ("ROU") asset only if it is reasonably certain that the Company will exercise such options. Leases with lease terms of twelve months or less are not recorded on the Company's balance sheet.

The Company's lease liability and ROU assets represent the present value of future lease payments which are a combination of lease components and non-lease components such as maintenance and utilities. Operating lease expense is recognized on a straight line basis over the term of the lease. Certain of the Company's lease payments are variable because such payments adjust periodically based on changes in consumer price and other indexes. Variable payments are expensed as incurred and not included in the measurement of lease liabilities and ROU assets. Since the Company's leases generally do not provide an implicit rate, the Company uses an incremental borrowing rate based on information available at the lease commencement date for purposes of determining the present value of lease payments. The Company's incremental borrowing rate is based on the term of the lease, the economic environment of the lease and the effect of collateralization, if any.

*Revenue Recognition.* The Company derives revenue principally from sales of integrated manufacturing solutions, components and Company-proprietary products. Other sources of revenue include logistics and repair services; design, development and engineering services; defense and aerospace programs; and sales of raw materials to customers whose requirements change after the Company has procured inventory to fulfill the customer's forecasted demand.

For purposes of determining when to recognize revenue, and in what amount, the Company applies a 5-step model: (1) identify the contract with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract; and (5) recognize revenue when (or as) the Company satisfies a performance obligation. Each of these steps may involve the use of significant judgments.

The Company recognizes revenue for the majority of its contracts on an over time basis. This is due to the fact that 1) the Company does not have an alternative use for the end products it manufactures for its customers and has an enforceable right to payment, including a reasonable profit, for work-in-progress upon a customer's cancellation of a contract for convenience or 2) the Company's customer simultaneously receives and consumes the benefits provided by the Company's services. For these contracts, revenue is recognized on an over time basis using the cost-to-cost method (ratio of costs incurred to date to total estimated costs at completion) which the Company believes best depicts the transfer of control to the customer. Revenue streams for which revenue is recognized on an over time basis include sales of vertically integrated manufacturing solutions (integrated manufacturing solutions and components); global services (logistics and repair); design, development and engineering services; and defense and aerospace programs.

Application of the cost-to-cost method for government contracts in the Company's Defense and Aerospace division requires the use of significant judgments with respect to estimated materials, labor and subcontractor costs. This division is an operating segment whose results are combined with eleven other operating segments and reported under Components, Products and Services ("CPS") for segment reporting purposes. In 2022, CPS revenue and gross profit were \$1.5 billion and \$194 million, respectively.

The Company updates its estimates of materials, labor and subcontractor costs on a quarterly basis. These updated estimates are reviewed each quarter by a group of employees that includes representatives from numerous functions such as engineering, materials, contracts, manufacturing, program management, finance and senior management. If a change in estimate is deemed necessary, the impact of the change is recognized in the period of change.

For contracts for which revenue is required to be recognized at a point-in-time, the Company recognizes revenue when it has transferred control of the related goods, which generally occurs upon shipment or delivery of the goods to the customer. Revenue streams for which revenue is recognized at a point-in-time include Company-proprietary products and sales of raw materials.

Refer to Note 4 for further discussion.

*Income taxes.* The Company estimates its income tax provision or benefit in each of the jurisdictions in which it operates, including estimating exposures and making judgments regarding the realizability of deferred tax assets. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The carrying value of the Company's net deferred tax assets is based on the Company's belief that it is more likely than not that the Company will generate sufficient future taxable income in certain jurisdictions to realize these deferred tax assets. A valuation allowance has been established for deferred tax assets which do not meet the "more likely than not" criteria discussed above.

The Company's tax rate is dependent upon the geographic distribution of its worldwide income or losses, the tax regulations and tax holidays in each geographic region, the availability of tax credits and carryforwards, including net operating losses, and the effectiveness of its tax planning strategies.

The Company makes an assessment of whether each income tax position is "more likely than not" of being sustained on audit, including resolution of related appeals or litigation, if any. For each income tax position that meets the "more likely than not" recognition threshold, the Company then assesses the largest amount of tax benefit that is greater than 50% likely of being realized upon effective settlement with the tax authority. Interest and penalties related to unrecognized tax benefits are recognized as a component of income tax expense.

*Recent Accounting Pronouncement Adopted*

In March 2020, the FASB issued ASU 2020-04, "Reference Rate Reform (Topic 848)", which provides optional expedients and exceptions for applying U.S. GAAP to contracts, hedging relationships and other transactions affected by reference rate reform. The amendments are effective for all entities as of March 12, 2020 through December 31, 2022. The Company adopted this ASU during the fourth quarter of 2022. The impact of adoption was not material.

**Note 3. Balance Sheet and Income Statement Details***Property, Plant and Equipment, net*

Property, plant and equipment consisted of the following:

	As of	
	October 1, 2022	October 2, 2021
	(In thousands)	
Machinery and equipment	\$ 1,523,598	\$ 1,491,156
Land and buildings	656,839	645,639
Leasehold improvements	42,793	44,899
Furniture and fixtures	24,805	25,394
Construction in progress	91,928	40,524
	2,339,963	2,247,612
Less: Accumulated depreciation and amortization	(1,764,793)	(1,714,627)
Property, plant and equipment, net	<u>\$ 575,170</u>	<u>\$ 532,985</u>

Depreciation expense was \$108 million, \$109 million and \$113 million for 2022, 2021 and 2020, respectively.

*Other Income (Expense), net*

The Company terminated its frozen U.S. defined benefit plan (the “Plan”) effective July 3, 2022 and recorded a pension settlement charge of \$2 million during the fourth quarter of 2022 which includes the reclassification of unrecognized pension losses from accumulated other comprehensive income to other income (expense), net on the consolidated statements of income. Refer to Note 17 for discussion.

The Company recorded a loss on extinguishment of debt of \$1 million during the fourth quarter of 2022, consisting of a write-off of unamortized debt issuance costs arising from the amendment and restatement of the Fourth Amended and Restated Loan Agreement, dated as of November 30, 2018. Refer to Note 7 for discussion.

In 2021, the Company sold intellectual property for \$15 million, of which \$8 million has been received in cash. The sale of intellectual property was included in other income (expense), net on the consolidated statements of income. During the fourth quarter of 2022, the Company concluded it expected to incur credit losses with the counterparty for the remaining \$7 million due under the arrangement. Accordingly, the Company recorded a charge of \$7 million in other income (expense), net on the consolidated statements of income to establish an allowance for the expected credit loss.

A foreign entity of the Company was substantially liquidated in 2021 and the Company reclassified \$8 million of cumulative translation adjustments associated with this entity from accumulated other comprehensive income to other income (expense), net on the consolidated statements of income in 2021.

The Company received \$16 million of cash in 2021 in connection with settlements of certain anti-trust class action matters.

**Note 4. Revenue Recognition**

The Company is a leading global provider of integrated manufacturing solutions, components, products and repair, logistics and after-market services. For purposes of determining when to recognize revenue, and in what amount, the Company applies a 5-step model: (1) identify the contract with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations in the contract; and (5) recognize revenue when (or as) the Company satisfies a performance obligation. Each of these steps may involve the use of significant judgments, as discussed below.

*Step 1 - Identify the contract with a customer*

A contract is defined as an agreement between two parties that creates enforceable rights and obligations. The Company generally enters into a master supply agreement (“MSA”) with its customers that provides the framework under which business will be conducted, and pursuant to which a customer will issue purchase orders or other binding documents to

specify the quantity, price and delivery requirements for products or services the customer wishes to purchase. The Company generally considers its contract with a customer to be a firm commitment, consisting of the combination of an MSA and a purchase order or any other similar binding document.

*Step 2 - Identify the performance obligations in the contract*

A performance obligation is a promised good or service that is material in the context of the contract and is both capable of being distinct (customer can benefit from the good or service on its own or together with other readily available resources) and distinct within the context of the contract (separately identifiable from other promises). The Company reviews its contracts to identify promised goods or services and then evaluates such items to determine which of those items are performance obligations. The majority of the Company's contracts have a single performance obligation since the promise to transfer an individual good or service is not separately identifiable from other promises in the contract. The Company's performance obligations generally have an expected duration of one year or less.

*Step 3 - Determine the transaction price*

The Company's contracts with its customers may include certain forms of variable consideration such as early payment discounts, volume discounts and shared cost savings. The Company includes an estimate of variable consideration when determining the transaction price and the appropriate amount of revenue to be recognized. This estimate is limited to an amount which will not result in a significant reversal of revenue in a future period. Factors considered in the Company's estimate of variable consideration are the potential amount subject to these contract provisions, historical experience and other relevant facts and circumstances.

*Step 4 - Allocate the transaction price to the performance obligations in the contract*

A contract's transaction price is allocated to each distinct performance obligation and recognized as revenue when, or as, the performance obligation is satisfied. In the event that more than one performance obligation is identified in a contract, the Company is required to allocate a portion of the transaction price to each performance obligation. This allocation would generally be based on the relative standalone price of each performance obligation, which most often would represent the price at which the Company would sell similar goods or services separately.

*Step 5 - Recognize revenue when (or as) a performance obligation is satisfied*

The Company is required to assess whether control of a product or services promised under a contract is transferred to the customer at a point-in-time or over time as the product is being manufactured or the services are being provided. If the criteria in ASC 606 for recognizing revenue on an over time basis are not met, revenue must be recognized at the point-in-time determined by the Company at which its customer obtains control of a product or service.

The Company has determined that revenue for the majority of its contracts is required to be recognized on an over time basis. This determination is based on the fact that 1) the Company does not have an alternative use for the end products it manufactures for its customers and has an enforceable right to payment, including a reasonable profit, for work-in-progress upon a customer's cancellation of a contract for convenience or 2) the Company's customer simultaneously receives and consumes the benefits provided by the Company's services. For these contracts, revenue is recognized on an over time basis using the cost-to-cost method (ratio of costs incurred to date to total estimated costs at completion) which the Company believes best depicts the transfer of control to the customer. At least 95% of the Company's revenue is recognized on an over time basis, which is as products are manufactured or services are performed. Because of this, and the fact that there is no work-in-process or finished goods inventory associated with contracts for which revenue is recognized on an over-time basis, 99% or more of the Company's inventory at the end of a given period is in the form of raw materials. For contracts for which revenue is required to be recognized at a point-in-time, the Company recognizes revenue when it has transferred control of the related goods, which generally occurs upon shipment or delivery of the goods to the customer.

Application of the cost-to-cost method for government contracts in the Company's Defense and Aerospace division requires the use of significant judgments with respect to estimated materials, labor and subcontractor costs. This division is an operating segment whose results are combined with eleven other operating segments and reported under Components, Products and Services ("CPS") for segment reporting purposes. In 2022, CPS revenue and gross profit were \$1.5 billion and \$194 million, respectively.

The Company updates its estimates of materials, labor and subcontractor costs on a quarterly basis. These updated estimates are reviewed each quarter by a group of employees that includes representatives from numerous functions such as engineering, materials, contracts, manufacturing, program management, finance and senior management. If a change in estimate is deemed necessary, the impact of the change is recognized in the period of change.

## Contract Assets

A contract asset is recognized when the Company has recognized revenue, but has not issued an invoice to its customer for payment. Contract assets are classified separately on the consolidated balance sheets and transferred to accounts receivable when rights to payment become unconditional. Because of the Company's short manufacturing cycle times, the transfer from contract assets to accounts receivable generally occurs within the next fiscal quarter.

## Other

Taxes assessed by governmental authorities that are both imposed on and concurrent with a specific revenue-producing transaction, and are collected by the Company from a customer, are excluded from revenue.

Shipping and handling costs associated with outbound freight after control of a product has transferred to a customer are accounted for as fulfillment costs and are included in cost of sales.

The Company applies the following practical expedients or policy elections under ASC 606:

- The promised amount of consideration under a contract is not adjusted for the effects of a significant financing component because, at inception of a contract, the Company expects the period between when a good or service is transferred to a customer and when the customer pays for that good or service will generally be one year or less.
- The Company has elected to not disclose information about remaining performance obligations that have original expected durations of one year or less, which is substantially all of the Company's remaining performance obligations.
- Incremental costs of obtaining a contract are not capitalized if the period over which such costs would be amortized to expense is less than one year.

## Disaggregation of revenue

In the following table, revenue is disaggregated by segment, market sector and geography.

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
<b>Segments:</b>			
IMS	\$ 6,372,442	\$ 5,454,269	\$ 5,699,751
CPS	1,518,033	1,302,374	1,260,619
<b>Total</b>	<b>\$ 7,890,475</b>	<b>\$ 6,756,643</b>	<b>\$ 6,960,370</b>
<b>End Markets:</b>			
Communications Networks and Cloud Infrastructure	\$ 3,175,534	\$ 2,866,602	\$ 2,832,650
Industrial, Defense, Medical and Automotive	4,714,941	3,890,041	4,127,720
<b>Total</b>	<b>\$ 7,890,475</b>	<b>\$ 6,756,643</b>	<b>\$ 6,960,370</b>
<b>Geography:</b>			
Americas (1)	\$ 3,719,496	\$ 3,182,849	\$ 3,450,527
APAC	3,007,904	2,517,963	2,514,005
EMEA	1,163,075	1,055,831	995,838
<b>Total</b>	<b>\$ 7,890,475</b>	<b>\$ 6,756,643</b>	<b>\$ 6,960,370</b>

(1) Mexico represents approximately 60% of the Americas revenue and the U.S. represents approximately 35%.

## Note 5. Financial Instruments

### Fair Value Measurements

#### *Fair Value of Financial Instruments*

The fair values of cash equivalents (generally 10% or less of cash and cash equivalents), accounts receivable, accounts payable and short-term debt approximate carrying value due to the short-term duration of these instruments. Additionally, the fair value of variable rate long-term debt approximates carrying value as of October 1, 2022.

#### *Assets and Liabilities Measured at Fair Value on a Recurring Basis*

The Company's primary financial assets and financial liabilities measured at fair value on a recurring basis are deferred compensation plan assets and defined benefit plan assets, which are both measured using Level 1 inputs. Deferred compensation plan assets were \$37 million and \$46 million as of October 1, 2022 and October 2, 2021, respectively. Defined benefit plan assets were \$17 million and \$40 million as of October 1, 2022 and October 2, 2021, respectively. Other financial assets and financial liabilities measured at fair value on a recurring basis include foreign exchange contracts and interest rate swaps, which are both measured using Level 2 inputs. Foreign exchange contracts were not material as of October 1, 2022 or October 2, 2021. Interest rate swaps had a positive value of \$6 million and a negative value of \$19 million, as of October 1, 2022 and October 2, 2021, respectively.

#### *Offsetting Derivative Assets and Liabilities*

The Company has entered into master netting arrangements with each of its derivative counterparties that allows net settlement of derivative assets and liabilities under certain conditions, such as multiple transactions with the same currency maturing on the same date. The Company presents its derivative assets and derivative liabilities on a gross basis on the consolidated balance sheets. The amount that the Company had the right to offset under these netting arrangements was not material as of October 1, 2022 or October 2, 2021.

#### *Non-Financial Assets Measured at Fair Value on a Nonrecurring Basis*

Other non-financial assets, such as intangible assets, goodwill and other long-lived assets, are measured at fair value as of the date such assets are acquired or in the period an impairment is recorded. During 2020, commodity prices in the oil and gas market experienced a sharp decline due to a combination of an oversaturated supply and a decrease in demand caused by the COVID-19 pandemic. This commodity price decline resulted in a negative impact to the projected cash flows of the Company's oil and gas reporting unit that is part of the Company's Components, Products and Services ("CPS") operating segment and, therefore, the Company performed a goodwill impairment test for this particular reporting unit. The Company concluded that the fair value of the reporting unit was below its carrying value, resulting in a goodwill impairment charge of \$7 million. The fair value of the reporting unit was estimated based on the present value of future discounted cash flows. The Company also recorded an impairment charge of \$2 million in 2022 and 2020 for certain long-lived assets.

### Derivative Instruments

#### *Foreign Exchange Rate Risk*

The Company is exposed to certain risks related to its ongoing business operations. The primary risk managed by using derivative instruments is foreign currency exchange risk.

Forward contracts on various foreign currencies are used to manage foreign currency risk associated with forecasted foreign currency transactions and certain monetary assets and liabilities denominated in non-functional currencies. The Company's primary foreign currency cash flows are in certain Asian and European countries, Brazil, Israel and Mexico.

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The Company had the following outstanding foreign currency forward contracts that were entered into to hedge foreign currency exposures:

	As of	
	October 1, 2022	October 2, 2021
Derivatives Designated as Accounting Hedges:		
Notional amount (in thousands)	\$ 123,172	\$ 110,098
Number of contracts	50	48
Derivatives Not Designated as Accounting Hedges:		
Notional amount (in thousands)	\$ 531,558	\$ 353,108
Number of contracts	43	46

The Company utilizes foreign currency forward contracts to hedge certain operational (“cash flow”) exposures resulting from changes in foreign currency exchange rates. Such exposures generally result from (1) forecasted non-functional currency sales and (2) forecasted non-functional currency materials, labor, overhead and other expenses. These contracts are designated as cash flow hedges for accounting purposes and are generally one to two months in duration but, by policy, may be up to twelve months in duration.

For derivative instruments that are designated and qualify as cash flow hedges, the Company excludes time value from its assessment of hedge effectiveness and recognizes the amount of time value in earnings over the life of the derivative instrument. Gains or losses on the derivative not caused by changes in time value are recorded in Accumulated Other Comprehensive Income (“AOCI”), a component of equity, and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. The amount of gain or loss recognized in Other Comprehensive Income on derivative instruments and the amount of gain or loss reclassified from AOCI into income were not material for any period presented herein.

The Company enters into short-term foreign currency forward contracts to hedge currency exposures associated with certain monetary assets and liabilities denominated in non-functional currencies. These contracts have maturities of up to two months and are not designated as accounting hedges. Accordingly, these contracts are marked-to-market at the end of each period with unrealized gains and losses recorded in other income (expense), net, in the consolidated statements of income. The amount of gains or losses associated with these forward contracts was not material for any period presented herein. From an economic perspective, the objective of the Company's hedging program is for gains and losses on forward contracts to substantially offset gains and losses on the underlying hedged items. In addition to the contracts disclosed in the table above, the Company has numerous contracts that have been closed from an economic and financial accounting perspective and will settle early in the first month of the following quarter. Since these offsetting contracts do not expose the Company to risk of fluctuations in exchange rates, these contracts have been excluded from the above table.

*Interest Rate Risk*

The Company enters into forward interest rate swap agreements with independent counterparties to partially hedge the variability in cash flows due to changes in Secured Overnight Financing Rate benchmark interest rate (“SOFR”) associated with anticipated variable rate borrowings. These interest rate swaps have a maturity date of December 1, 2023, and effectively convert the Company's variable interest rate obligations to fixed interest rate obligations. These swaps are accounted for as cash flow hedges under ASC Topic 815, Derivatives and Hedging. Interest rate swaps with an aggregate notional amount of \$350 million were outstanding as of October 1, 2022 and October 2, 2021. The aggregate effective interest rate of these swaps as of October 1, 2022 was approximately 4.1%. Given the recent rise in interest rates and the likelihood of additional rate increases, these interest rate swaps had a positive value of \$6 million as of October 1, 2022, of which the majority is included in prepaid expenses and other current assets and the remaining amount is included in other assets on the consolidated balance sheets.

**Note 6. Financial Instruments and Concentration of Credit Risk**

Financial instruments that potentially subject the Company to credit risk consist primarily of cash, cash equivalents, trade accounts receivable, foreign currency forward contracts and interest rate swap agreements. The carrying value of assets such as cash, cash equivalents and accounts receivable is expected to approximate fair value due to the short duration of the assets. The Company maintains its cash and cash equivalents with recognized financial institutions that management believes to be of high credit quality. One of the Company's most significant credit risks is the ultimate realization of accounts receivable. This risk is mitigated by ongoing credit evaluations of, and frequent contact with, the Company's customers, especially its most

significant customers, thus enabling it to monitor changes in business operations and respond accordingly. The Company generally does not require collateral for sales on credit. The Company considers these concentrations of credit risks when estimating its allowance for doubtful accounts. Foreign currency forward contracts and interest rate swaps are maintained with high quality counterparties to reduce the Company's credit risk and are recorded on the Company's balance sheets at fair value.

Nokia and Motorola each represented more than 10% of the Company's net sales in 2022. Nokia represented more than 10% of the Company's net sales in 2021 and 2020. Motorola represented 10% or more of the Company's gross accounts receivable as of October 1, 2022 and Nokia represented 10% or more of the Company's gross accounts receivable as of October 2, 2021.

#### Note 7. Debt

Long-term debt consisted of the following:

	As of	
	October 1, 2022	October 2, 2021
	(In thousands)	
Term loan due 2023, net of issuance costs	\$ —	\$ 330,322
Term loan due 2027, net of issuance costs	346,737	—
Less: Current portion of long-term debt	17,500	18,750
Long-term debt	\$ 329,237	\$ 311,572

#### *Revolving Credit Facility.*

On September 27, 2022 (the "Closing Date"), the Company entered into a Fifth Amended and Restated Credit Agreement (the "Credit Agreement") that amended and restated the Company's existing Fourth Amended and Restated Loan Agreement, dated as of November 30, 2018 (the "Existing Credit Agreement") by, among other things: (i) increasing the revolving commitments amount, (ii) providing for a term loan facility and (iii) replacing LIBOR with SOFR for purposes of determining the interest rate payable for borrowings under the Credit Agreement.

The Credit Agreement provides for an \$800 million revolving credit facility and a \$350 million secured term loan ("Term Loan Due 2027"). Subject to the satisfaction of certain conditions, including obtaining additional commitments from existing and/or new lenders, the Company may increase the revolving commitment up to an additional \$200 million. Costs incurred in connection with the amendment of the Existing Credit Agreement of \$3 million are classified as long-term debt and are being amortized to interest expense over the life of the Term Loan Due 2027 using the effective interest method.

The Term Loan Due 2027 was fully drawn on the Closing Date and the proceeds were used to repay the term loan outstanding under the Existing Credit Agreement. Upon repayment, the Company recorded a loss on extinguishment of debt of \$1 million consisting of a write-off of unamortized debt issuance costs of the Existing Credit Agreement.

Loans under the Credit Agreement bear interest, at the Company's option, at either the SOFR or a base rate, in each case plus a spread determined based on the Company's credit rating. Interest on the loans is payable quarterly in arrears with respect to base rate loans and at the end of an interest period (and at three month intervals if the interest period exceeds three months) in the case of SOFR loans. The outstanding principal amount of all loans under the Credit Agreement, including, the Term Loan Due 2027, together with accrued and unpaid interest, is due on September 27, 2027. The Company is required to repay a portion of the principal amount of the Term Loan Due 2027 equal to 1.25% of the principal in quarterly installments.

Maturities of the Term Loan Due 2027 as of October 1, 2022 by fiscal year are as follows:

	(In Thousands)
2023	\$ 17,500
2024	13,125
2025	17,500
2026	21,875
2027	280,000
	<u><u>\$ 350,000</u></u>

Certain of the Company's domestic subsidiaries are guarantors in respect of the Credit Agreement. The Company and the subsidiary guarantors' obligations under the Credit Agreement are secured by a lien on substantially all of their respective assets (excluding real property), including cash, accounts receivable and the shares of certain Company subsidiaries, subject to certain exceptions.

As of October 1, 2022, no borrowings and \$9 million of letters of credit were outstanding under the Credit Agreement, under which \$791 million was available to borrow. There were no borrowings outstanding under the Credit Agreement as of October 2, 2021.

*Foreign Short-term Borrowing Facilities.* As of October 1, 2022, certain foreign subsidiaries of the Company had a total of \$70 million of short-term borrowing facilities available, under which no borrowings were outstanding. These facilities expire at various dates through the second quarter of 2024.

#### *Debt Covenants*

The Company's Credit Agreement requires the Company to comply with certain financial covenants, namely a maximum consolidated leverage ratio and a minimum interest coverage ratio, in both cases measured on the basis of a trailing 12 month look-back period. In addition, the Company's debt agreements contain a number of restrictive covenants, including restrictions on incurring additional debt, making investments and other restricted payments, selling assets and paying dividends, subject to certain exceptions. The Company was in compliance with these covenants as of October 1, 2022.

#### **Note 8. Leases**

ROU assets and lease liabilities recorded in the consolidated balance sheet are as follows:

	As of	
	October 1, 2022	October 2, 2021
	(In thousands)	
Other assets	\$ 79,495	\$ 68,012
Accrued liabilities	\$ 16,695	\$ 17,219
Other long-term liabilities	48,566	38,587
<b>Total lease liabilities</b>	<b>\$ 65,261</b>	<b>\$ 55,806</b>
Weighted average remaining lease term (in years)	15.74	14.46
Weighted average discount rate	2.4 %	2.72 %

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Lease expense and supplemental cash flow information related to operating leases are as follows:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
Operating lease expense (1)	\$ 23,978	\$ 21,455	\$ 20,670
<b>As of</b>			
	<b>October 1, 2022</b>	<b>October 2, 2021</b>	
Cash paid for operating lease liabilities	\$ 19,249	\$ 19,531	
	(In thousands)		

(1) Includes immaterial amounts of short term leases, variable lease costs and sublease income.

Future lease payments under non-cancelable operating leases as of October 1, 2022, by fiscal year, are as follows:

	Operating Leases	
	(In thousands)	
2023	\$ 18,109	
2024	15,350	
2025	12,450	
2026	8,907	
2027	5,724	
Thereafter	10,412	
Total lease payments	70,952	
Less: imputed interest	5,691	
<b>Total</b>	<b>\$ 65,261</b>	

#### Note 9. Accounts Receivable Sale Program

The Company is a party to a Receivable Purchase Agreement (the “RPA”) with certain third-party banking institutions for the sale of trade receivables generated from sales to certain customers, subject to acceptance by, and a funding commitment from, the banks that are party to the RPA. Trade receivables sold pursuant to the RPA are serviced by the Company.

In addition to the RPA, the Company has the option to participate in trade receivables sales programs that have been implemented by certain of the Company's customers, as in effect from time to time. The Company does not service trade receivables sold under these other programs.

Under each of the programs noted above, the Company sells its entire interest in a trade receivable for 100% of face value, less a discount. For the years ended October 1, 2022 and October 2, 2021, the Company sold approximately \$1.9 billion and approximately \$0.5 billion, respectively, of accounts receivable under these programs. Upon sale, these receivables are removed from the consolidated balance sheets and cash received is presented as cash provided by operating activities in the consolidated statements of cash flows. Discounts on sold receivables were not material for any period presented. As of October 1, 2022 and October 2, 2021, \$194 million and \$7 million, respectively, of accounts receivable sold under the RPA and subject to servicing by the Company remained outstanding and had not yet been collected. The Company's sole risk with respect to receivables it services is with respect to commercial disputes regarding such receivables. Commercial disputes include billing errors, returns and similar matters. To date, the Company has not been required to repurchase any receivable it has sold due to a commercial dispute. Additionally, the Company is required to remit amounts collected as servicer under the RPA on a weekly basis to the financial institutions that purchased the receivables. As of October 1, 2022 and October 2, 2021, \$49 million and \$18 million, respectively, had been collected but not yet remitted. This amount is classified in accrued liabilities on the consolidated balance sheets.

#### Note 10. Contingencies

From time to time, the Company is a party to litigation, claims and other contingencies, including environmental, regulatory and employee matters and examinations and investigations by governmental agencies, which arise in the ordinary course of business. The Company records a contingent liability when it is probable that a loss has been incurred and the amount of loss is reasonably estimable in accordance with ASC Topic 450, *Contingencies*, or other applicable accounting standards. As of October 1, 2022 and October 2, 2021, the Company had reserves of \$38 million and \$37 million, respectively for environmental matters, warranty, litigation and other contingencies (excluding reserves for uncertain tax positions), which the Company believes are adequate. However, there can be no assurance that the Company's reserves will be sufficient to settle these contingencies. Such reserves are included in accrued liabilities and other long-term liabilities on the consolidated balance sheets.

#### Legal Proceedings

##### *Environmental Matters*

The Company is subject to various federal, state, local and foreign laws and regulations and administrative orders concerning environmental protection, including those addressing the discharge of pollutants into the environment, the management and disposal of hazardous substances, the cleanup of contaminated sites, the materials used in products, and the recycling, treatment and disposal of hazardous waste. As of October 1, 2022, the Company had been named in a lawsuit and several administrative orders alleging certain of its current and former sites contributed to groundwater contamination. One such order demands that the Company and other alleged defendants remediate groundwater contamination at four landfills located in Northern California to which the Company may have sent wastewater in the past. The Company is participating in a working group of other alleged defendants to better understand its potential exposure in this action and has reserved its estimated exposure for this matter as of October 1, 2022. However, there can be no assurance that the Company's reserve will ultimately be sufficient.

In June 2008, the Company was named by the Orange County Water District in a suit alleging that a predecessor company's actions at a plant the Company sold in 1998 contributed to polluted groundwater managed by the plaintiff. The complaint seeks recovery of compensatory and other damages, as well as declaratory relief, for the payment of costs necessary to investigate, monitor, remediate, abate and contain contamination of groundwater. In April 2013, all claims against the Company were dismissed. The plaintiff appealed this dismissal and the Court of Appeal reversed the judgment in August 2017, remanding the case back to the Superior Court of California for trial. The first phase of a multi-phase trial against the Company and several other defendants commenced in April 2021 and the submission of evidence concluded in May 2022. On June 28, 2022, the Court issued a tentative ruling finding Sammina and the other defendants liable for certain past investigation costs incurred by the plaintiff. A final statement of decision in this phase of the trial is expected on or about the middle of calendar year 2023. Based upon the Court's tentative ruling, the Company believes a loss in this matter is probable and has recorded an estimated loss. Subsequent trial phases to assess the Company's and certain other defendants' liability for the plaintiff's future remediation and other costs, and the allocation of damages among the liable defendants, are anticipated to occur in 2024 and beyond. It is probable that the Company will record additional losses in connection with this matter, and it is reasonably possible that the amount of such additional losses will be material. However, at the current time, the Company is unable to estimate the amount of such additional losses or a range of losses. The Company intends to continue defending the case vigorously and to seek appellate review of any adverse liability rulings or judgment at the appropriate time.

##### *Other Matters*

In October 2018, a contractor who had been retained by the Company through a third party temporary staffing agency filed a lawsuit against the Company in the Santa Clara County Superior Court on behalf of himself and all other similarly situated Company contractors and employees in California, alleging violations of California Labor Code provisions governing overtime, meal and rest periods, wages, wage statements and reimbursement of business expenses. The complaint sought certification of a class of all non-exempt employees. Although the Company continued to deny any wrongdoing, on November 19, 2020, the Company reached an agreement to resolve all claims, including claims under California's Private Attorneys General Act of 2004 (the "Settlement"), which also resulted in the dismissal of a suit alleging substantially similar claims filed in the Santa Clara County Superior Court in June 2021. The final amount of the judicially approved Settlement was approximately \$4 million, and was paid during the first quarter of fiscal 2022.

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In December 2019, the Company sued a former customer, Dialight plc (“Dialight”), in the United States District Court for the Southern District of New York to collect approximately \$10 million in unpaid accounts receivable and net obsolete inventory obligations. Later the same day, Dialight commenced its own action in the same court. Dialight’s complaint, which asserts claims for fraudulent inducement, breach of contract, and gross negligence/willful misconduct, alleges that the Company fraudulently misrepresented its capabilities to induce Dialight to enter into a Manufacturing Services Agreement (the “Dialight MSA”), and then breached its obligations contained in the Dialight MSA relating to quality, on-time delivery and supply chain management. Dialight seeks compensatory and punitive damages that it contends exceed \$200 million, but which the Company believes are vastly overstated and are subject to a contractual limitation of liability that limits any Dialight recovery to less than \$2 million. The Company continues to vigorously prosecute its claims against Dialight. Further, the Company strongly disagrees with Dialight’s allegations and is defending against them vigorously. No trial date has been set in this matter.

For each of the pending matters noted above, the Company is unable to reasonably estimate a range of possible loss at this time.

### **Note 11. Restructuring**

Restructuring costs were \$11 million, \$15 million, and \$27 million in 2022, 2021, and 2020, respectively.

The following table is a summary of restructuring costs:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
Severance costs	\$ 319	\$ 9,405	\$ 17,919
Other exit costs (recognized as incurred)	1,500	1,834	71
Total - Q1 FY20 Plan	1,819	11,239	17,990
Costs incurred for other plans	9,606	3,818	8,793
Total - all plans	<u>\$ 11,425</u>	<u>\$ 15,057</u>	<u>\$ 26,783</u>

#### *Q1 FY20 Plan*

On October 28, 2019, the Company adopted a Company-wide restructuring plan (“Q1 FY20 Plan”) under which the Company has incurred restructuring costs of approximately \$31 million as of October 1, 2022. These charges consist primarily of severance. Substantially all cash payments have occurred and actions under this plan are complete.

#### *Other plans*

Other plans include a number of plans for which costs are not expected to be material individually or in the aggregate.

#### *All Plans*

The Company’s Integrated Manufacturing Solutions (“IMS”) segment incurred costs of \$1 million and \$9 million for the years ended October 1, 2022 and October 2, 2021, respectively. The Company’s CPS segment incurred costs of \$10 million and \$5 million for the years ended October 1, 2022 and October 2, 2021, respectively. In addition, the Company incurred costs of \$1 million for the year ended October 2, 2021 for Corporate headcount reductions that were not allocated to the Company’s IMS and CPS segments. The Company had accrued liabilities of \$6 million as of October 1, 2022 and October 2, 2021, for restructuring costs (exclusive of long-term environmental remediation liabilities).

The Company expects to incur restructuring costs, which could be material, in future periods primarily relating to vacant facilities and former sites for which the Company is or may be responsible for environmental remediation.

**Note 12. Income Taxes**

Domestic and foreign components of income before income taxes were as follows:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
Domestic	\$ 163,979	\$ 200,300	\$ 96,993
Foreign	156,649	106,705	103,765
Total	<u>\$ 320,628</u>	<u>\$ 307,005</u>	<u>\$ 200,758</u>

The provision for income taxes consists of the following:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
Federal:			
Current	\$ 1,070	\$ 705	\$ (917)
Deferred	29,222	34,157	9,460
State:			
Current	2,060	4,241	1,705
Deferred	3,081	(302)	2,579
Foreign:			
Current	29,640	(906)	46,376
Deferred	(566)	112	1,842
Total provision for income taxes	<u>\$ 64,507</u>	<u>\$ 38,007</u>	<u>\$ 61,045</u>

The Company's provision for income taxes for 2022, 2021 and 2020 was \$65 million (20% of income before taxes), \$38 million (12% of income before taxes) and \$61 million (30% of income before taxes), respectively.

The effective tax rates for 2022 and 2021 were lower than the expected U.S. statutory rate of 21% primarily due to a \$16 million and \$43 million tax benefit, respectively, resulting from the release of a foreign tax reserves due to lapse of time and expiration of statutes of limitations. The effective tax rate for 2020 is higher than the expected U.S. statutory rate of 21% primarily due to foreign operations that are taxed at rates higher than the U.S. statutory rate.

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The tax effects of temporary differences that give rise to significant portions of deferred tax assets and liabilities are as follows:

	As of	
	October 1, 2022	October 2, 2021
	(In thousands)	
Deferred tax assets:		
U.S. net operating loss carryforwards	\$ 81,917	\$ 127,243
Foreign net operating loss carryforwards	109,416	112,516
Intangibles	25,099	24,219
Accruals not currently deductible	44,963	43,932
Property, plant and equipment	27,514	25,494
Tax credit carryforwards	18,465	17,250
Reserves not currently deductible	14,939	11,534
Stock compensation expense	6,365	7,677
Federal benefit of foreign operations	21,312	18,336
Derivatives and other impacts of OCI	838	7,637
Lease deferred tax asset	15,018	11,563
Other	1,915	—
Valuation allowance	<u>(118,210)</u>	<u>(115,258)</u>
Total deferred tax assets	<u>249,551</u>	<u>292,143</u>
Deferred tax liabilities on undistributed earnings	(14,775)	(14,775)
Deferred tax liabilities on branch operations	(24,182)	(30,000)
Revenue recognition	(1,572)	(1,702)
Lease deferred tax liability	(14,808)	(11,349)
Other	—	(2,495)
Net deferred tax assets	<u>\$ 194,214</u>	<u>\$ 231,822</u>
Recorded as:		
Deferred tax assets	\$ 198,588	\$ 235,117
Deferred tax liabilities	<u>(4,374)</u>	<u>(3,295)</u>
Net deferred tax assets	<u>\$ 194,214</u>	<u>\$ 231,822</u>

A valuation allowance is established or maintained when, based on currently available information and other factors, it is more likely than not that all or a portion of the deferred tax assets will not be realized. The Company regularly assesses its valuation allowance against deferred tax assets on a jurisdiction by jurisdiction basis. The Company considers all available positive and negative evidence, including future reversals of temporary differences, projected future taxable income, tax planning strategies and recent financial results. Significant judgment is required in assessing the Company's ability to generate revenue, gross profit, operating income and jurisdictional taxable income in future periods. The Company's valuation allowance as of October 1, 2022 relates primarily to foreign net operating losses, with the exception of \$14 million related to U.S. state net operating losses.

The Company provides deferred tax liabilities for the tax consequences associated with the undistributed earnings that are expected to be repatriated to subsidiaries' parent unless the subsidiaries' earnings are considered indefinitely reinvested. As of October 1, 2022, income taxes and foreign withholding taxes have not been provided for approximately \$439 million of cumulative undistributed earnings of several non-U.S. subsidiaries. The Company intends to reinvest these earnings indefinitely in operations outside of the U.S. Determination of the amount of unrecognized deferred tax liabilities on these undistributed earnings is not practicable.

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As of October 1, 2022, the Company has cumulative net operating loss carryforwards for federal, state and foreign tax purposes of \$292 million, \$357 million and \$465 million, respectively. The federal and state net operating loss carryforwards begin expiring in fiscal years 2028 and 2023, respectively, and expire at various dates through September 29, 2035. Certain foreign net operating losses start expiring in 2023. However, the majority of foreign net operating losses carryforward indefinitely. As of October 1, 2022, the Company has federal tax credits of \$21 million that expire between 2031 and 2042. There are certain restrictions on the utilization of net operating loss and tax credit carryforwards in the event of an “ownership change” as defined in the Internal Revenue Code. The utilization of certain net operating losses may be restricted due to changes in ownership and business operations.

Following is a reconciliation of the statutory federal tax rate to the Company's effective tax rate:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
Federal tax at statutory tax rate	21.00 %	21.00 %	21.00 %
Effect of foreign operations	2.63	7.33	13.02
Permanent items	0.07	(1.86)	(0.59)
Federal credits	(0.65)	(0.50)	(1.31)
Other	0.28	(0.17)	(0.06)
State income taxes, net of federal benefit	1.74	1.01	1.96
Release of foreign tax reserves	(4.96)	(14.43)	(3.61)
Effective tax rate	<u>20.11 %</u>	<u>12.38 %</u>	<u>30.41 %</u>

A reconciliation of the beginning and ending amount of total liabilities for unrecognized tax benefits, excluding accrued penalties and interest, is as follows:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
Balance, beginning of year	\$ 67,781	\$ 74,612	\$ 66,677
Increase (decrease) related to prior year tax positions	(4,456)	6,063	1,327
Increase related to current year tax positions	7,154	7,349	9,907
Settlements	(7,596)	—	—
Decrease related to lapse of time and expiration of statutes of limitations	(9,331)	(20,243)	(3,299)
Balance, end of year	<u>\$ 53,552</u>	<u>\$ 67,781</u>	<u>\$ 74,612</u>

The Company had reserves of \$11 million and \$17 million as of October 1, 2022 and October 2, 2021, respectively, for the payment of interest and penalties relating to unrecognized tax benefits. During 2022, the Company recognized an income tax benefit for interest and penalties of \$3 million due to lapse of time and expiration of statutes of limitations compared to an income tax benefit of \$23 million in 2021. The Company recognizes interest and penalties related to liabilities for unrecognized tax benefits as a component of income tax expense. Should the Company be able to ultimately recognize all of these uncertain tax positions, it would result in a benefit to net income of \$44 million in 2022.

The Company conducts business globally and, as a result, files income tax returns in the United States federal jurisdiction and various state and foreign jurisdictions. In the normal course of business, the Company is subject to examination by taxing authorities throughout the world. The Company is currently being audited by the Internal Revenue Service for tax years 2008 through 2010. To the extent the final tax liabilities are different from the amounts accrued, this would result in an increase or decrease in net operating loss carryforwards which could materially impact tax expense. Additionally, the Company is being audited by various state tax agencies and certain foreign countries. To the extent the final tax liabilities are different from the amounts accrued, the increases or decreases would be recorded as income tax expense or benefit in the consolidated statements of income. Although the Company believes that the resolution of these audits will not have a material adverse impact on the Company's results of operations, the outcome is subject to uncertainty.

In general, the Company is no longer subject to United States federal or state income tax examinations for years before 2003, and to foreign examinations for years prior to 2006 in its major foreign jurisdictions. It is reasonably possible that the

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balance of gross unrecognized tax benefits could decrease in the next 12 months by approximately \$9 million related to payments, the resolution of audits and expiration of statutes of limitations. In addition, there could be a corresponding decrease in accrued interest and penalties of approximately \$4 million.

### **Note 13. Earnings Per Share**

Basic and diluted earnings per share amounts are calculated by dividing net income by the weighted average number of shares of common stock outstanding during the period, as follows:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
(In thousands, except per share amounts)			
<b>Numerator:</b>			
Net income	\$ 256,121	\$ 268,998	\$ 139,713
<b>Denominator:</b>			
Weighted average common shares outstanding	61,310	65,318	69,041
Effect of dilutive stock options and restricted stock units	1,807	1,766	1,752
<b>Denominator for diluted earnings per share</b>	<b>63,117</b>	<b>67,084</b>	<b>70,793</b>
<b>Net income per share:</b>			
Basic	\$ 4.18	\$ 4.12	\$ 2.02
Diluted	\$ 4.06	\$ 4.01	\$ 1.97

Weighted-average dilutive securities that were excluded from the above calculation because their inclusion would have had an anti-dilutive effect under ASC Topic 260, *Earnings per Share*, due to application of the treasury stock method were not material for any period presented.

### **Note 14. Stockholders' Equity**

The Company's 2009 Stock Plan ("2009 Plan") expired as to future grants on January 26, 2019. Although the 2009 Plan expired, it will continue to govern all awards granted under it prior to its expiration date. On March 11, 2019, the Company's stockholders approved the Company's 2019 Equity Incentive Plan ("2019 Plan") and the reservation of 4 million shares of common stock for issuance thereunder, plus any shares subject to stock options or similar awards granted under the 2009 Plan that expire or otherwise terminate without having been exercised in full and shares issued pursuant to awards granted that are forfeited by the Company.

As of October 1, 2022, an aggregate of 7 million shares were authorized for future issuance under the Company's stock plans, of which 4 million of such shares were issuable upon exercise of outstanding options and delivery of shares upon vesting of restricted stock units and 3 million shares of common stock were available for future grant. Awards other than stock options reduce common stock available for grant by 1.36 shares for every share of common stock subject to such an award. Awards under the 2019 Plan and 2009 Plan that expire or are cancelled without delivery of shares generally become available for issuance under the 2019 Plan. The 2019 Plan will expire as to future grants in December 2028.

#### *Stock Repurchase Program*

During 2022, 2021 and 2020, the Company repurchased 8.0 million shares, 1.5 million shares and 6.4 million shares of its common stock for \$317 million, \$54 million and \$166 million (including commissions), respectively, under stock repurchase programs authorized by the Board of Directors. These programs have no expiration dates and the timing of repurchases will depend upon capital needs to support the growth of the Company's business, market conditions and other factors. Although stock repurchases are intended to increase stockholder value, purchases of shares reduce the Company's liquidity. As of October 1, 2022, an aggregate of \$164 million remains available under these programs.

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In addition to the repurchases discussed above, the Company repurchased 369,000, 286,000 and 398,000 shares of its common stock during 2022, 2021, and 2020, respectively, in settlement of employee tax withholding obligations due upon the vesting of restricted stock units. The Company paid \$14 million, \$10 million and \$13 million, respectively, to applicable tax authorities in connection with these repurchases.

*Accumulated Other Comprehensive Income*

Accumulated other comprehensive income, net of tax as applicable, consisted of the following:

	As of	
	October 1, 2022	October 2, 2021
	(In thousands)	
Foreign currency translation adjustments	\$ 63,929	\$ 76,120
Unrealized holding gain (loss) on derivative financial instruments	4,112	(14,305)
Unrecognized net actuarial loss and unrecognized transition cost for benefit plans	(11,716)	(21,125)
Total	\$ 56,325	\$ 40,690

During the third quarter of 2021, a foreign entity of the Company was substantially liquidated and the Company reclassified \$8 million of cumulative translation adjustments associated with this entity from accumulated other comprehensive income to other income (expense), net in the consolidated statements of income. During the fourth quarter of 2022, the Company reclassified \$2 million of unrecognized pension losses from accumulated other comprehensive income to other income (expense), net in the consolidated statements of income. There were no other significant reclassifications from accumulated other comprehensive income to the consolidated statements of income for any period presented.

Unrealized holding gain (loss) on derivative financial instruments includes losses from interest rate swap agreements with independent counterparties to partially hedge the variability in cash flows due to changes in the benchmark interest rate (SOFR) associated with anticipated variable rate borrowings. These swaps are accounted for as cash flow hedges under ASC Topic 815, Derivatives and Hedging. Interest rate swaps with an aggregate notional amount of \$350 million were outstanding as of October 1, 2022 and October 2, 2021. The aggregate effective interest rate of these swaps as of October 1, 2022 was approximately 4.1% and was approximately 4.3% as of October 2, 2021. These interest rate swaps had a negative value of \$19 million as of October 2, 2021, of which \$9 million is included in accrued liabilities and the remaining amount is included in other long-term liabilities on the consolidated balance sheets. Given the recent rise in interest rates and the likelihood of additional rate increases, these interest rate swaps had a positive value of \$6 million as of October 1, 2022, of which the majority is included in prepaid expenses and other current assets and the remaining amount is included in other assets on the consolidated balance sheets.

**Note 15. Business Segment, Geographic and Customer Information**

ASC Topic 280, *Segment Reporting*, establishes standards for reporting information about operating segments, products and services, geographic areas of operations and major customers. Operating segments are defined as components of an enterprise for which separate financial information is available and evaluated regularly by the chief operating decision maker or decision making group in deciding how to allocate resources and in assessing performance.

The Company's operations are managed as two businesses:

- 1) Integrated Manufacturing Solutions (IMS). IMS is a reportable segment consisting of printed circuit board assembly and test, high-level assembly and test and direct order fulfillment.
- 2) Components, Products and Services (CPS). Components include printed circuit boards, backplanes and backplane assemblies, cable assemblies fabricated metal parts, precision machined parts, and plastic injected molded parts. Products include memory solutions from our Viking Technology division; high-performance storage platforms for hyperscale and enterprise solutions from our Viking Enterprise Solutions (VES) division; optical, radio frequency (RF) and microelectronics (microE) design and manufacturing services from Advanced Microsystems Technologies; defense and aerospace products from SCI Technology; and cloud-based manufacturing execution software from the Company's 42Q division. Services include design, engineering and logistics and repair.

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The Company determined that it has only one reportable segment - IMS, which generated approximately 80% of the Company's total revenue in 2022. CPS consists of multiple operating segments which do not meet the quantitative threshold for being presented individually as reportable segments. Therefore, financial information for these operating segments is combined and presented in a single category entitled "Components, Products and Services".

The accounting policies for each segment are the same as those disclosed by the Company for its consolidated financial statements. Intersegment sales consist primarily of sales of components from CPS to IMS.

The Company's chief operating decision making group is the Chief Executive Officer who allocates resources and assesses performance of operating segments based on a measure of revenue and gross profit that excludes items not directly related to the Company's ongoing business operations. These items are typically either non-recurring or non-cash in nature.

Segment information is as follows:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
	(In thousands)		
Gross sales:			
IMS	\$ 6,407,724	\$ 5,485,612	\$ 5,733,180
CPS	1,631,918	1,397,742	1,365,712
Intersegment revenue	(149,167)	(126,711)	(138,522)
Net Sales	<u>\$ 7,890,475</u>	<u>\$ 6,756,643</u>	<u>\$ 6,960,370</u>
Gross Profit:			
IMS	\$ 462,606	\$ 391,339	\$ 381,638
CPS	193,817	177,248	156,844
Total	<u>656,423</u>	<u>568,587</u>	<u>538,482</u>
Unallocated items (1)	(15,909)	(16,782)	(12,775)
Total	<u>\$ 640,514</u>	<u>\$ 551,805</u>	<u>\$ 525,707</u>
Depreciation and amortization:			
IMS	\$ 73,914	\$ 77,076	\$ 81,169
CPS	30,061	27,770	26,718
Total	<u>103,975</u>	<u>104,846</u>	<u>107,887</u>
Unallocated corporate items (2)	4,808	4,810	6,331
Total	<u>\$ 108,783</u>	<u>\$ 109,656</u>	<u>\$ 114,218</u>
Capital expenditures (receipt basis):			
IMS	\$ 94,636	\$ 44,672	\$ 23,933
CPS	55,993	33,839	23,915
Total	<u>150,629</u>	<u>78,511</u>	<u>47,848</u>
Unallocated corporate items (2)	5,650	3,343	3,227
Total	<u>\$ 156,279</u>	<u>\$ 81,854</u>	<u>\$ 51,075</u>

(1) For purposes of evaluating segment performance, management excludes certain items from its measures of gross profit. These items consist of stock-based compensation expense, amortization of intangible assets, charges or credits resulting from distressed customers and litigation settlements.

(2) Primarily related to selling, general and administration functions.

Segment assets, consisting of accounts receivable, inventories and fixed assets, are substantially proportional to segment sales.

Net sales by geographic segment, determined based on the country in which a product is manufactured were as follows:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
(In thousands)			
Net sales:			
Americas (1)	\$ 3,719,496	\$ 3,182,849	\$ 3,450,527
APAC	3,007,904	2,517,963	2,514,005
EMEA	1,163,075	1,055,831	995,838
Total	<u>\$ 7,890,475</u>	<u>\$ 6,756,643</u>	<u>\$ 6,960,370</u>
(1) Mexico represents approximately 60% of the Americas revenue and the U.S. represents approximately 35%.			
Percentage of net sales represented by ten largest customers	48.7 %	52.7 %	55.5 %
Number of customers representing 10% or more of net sales	2	1	1

	As of	
	October 1, 2022	October 2, 2021
(In thousands)		
Property, plant and equipment, net:		
Americas	\$ 367,172	\$ 322,545
APAC	151,254	143,111
EMEA	56,744	67,329
Total	<u>\$ 575,170</u>	<u>\$ 532,985</u>

#### Note 16. Stock-Based Compensation

Stock-based compensation expense was recognized as follows:

	Year Ended		
	October 1, 2022	October 2, 2021	October 3, 2020
(In thousands)			
Cost of sales	\$ 14,065	\$ 14,472	\$ 10,099
Selling, general and administrative	25,037	20,118	15,897
Research and development	506	386	239
Total	<u>\$ 39,608</u>	<u>\$ 34,976</u>	<u>\$ 26,235</u>

The Company grants restricted stock units and restricted stock units with performance conditions ("PSUs") to executive officers, directors and certain other employees. These units vest over periods ranging from one year to four years and/or upon achievement of specified performance criteria, with associated compensation expense recognized ratably over the vesting period.

The Company grants shares for which vesting is contingent on cumulative non-GAAP earnings per share measured over three fiscal years. If a minimum threshold is not achieved during the measurement period, the shares will be cancelled. If a minimum threshold is achieved or exceeded, the number of shares of common stock that will be issued will range from 80% to 120% of the number of PSUs granted, depending on the extent of performance. Additionally, the number of shares that vest may be adjusted up or down by up to 15% based on the Company's total shareholder return relative to that of its peer group over this same period.

Activity with respect to the Company's restricted stock units and PSUs was as follows:

	Number of Shares (In thousands)	Weighted Average Grant-Date Fair Value (\$)	Weighted-Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value (\$) (In thousands)
Outstanding as of September 28, 2019	3,153	27.82	1.30	102,720
Granted	1,340	32.51		
Vested/Forfeited/Cancelled	<u>(1,925)</u>	<u>28.62</u>		
Outstanding as of October 3, 2020	2,568	29.67	1.23	71,571
Granted	1,529	34.26		
Vested/Forfeited/Cancelled	<u>(1,143)</u>	<u>29.27</u>		
Outstanding as of October 2, 2021	2,954	32.21	1.23	113,591
Granted	1,644	40.54		
Vested/Forfeited/Cancelled	<u>(1,318)</u>	<u>30.42</u>		
Outstanding as of October 1, 2022	<u>3,280</u>	<u>37.11</u>	1.35	155,049
Expected to vest as of October 1, 2022	2,909	36.93	1.28	137,524

The fair value of restricted stock units that vested during the year was \$44 million for 2022, \$32 million for 2021 and \$43 million for 2020. As of October 1, 2022, unrecognized compensation expense of \$68 million is expected to be recognized over a weighted average period of 1.3 years.

#### Note 17. Employee Benefit Plans

The Company has various defined contribution retirement plans that cover the majority of its domestic employees. These retirement plans permit participants to elect to have contributions made to the retirement plans in the form of salary deferrals. Under these retirement plans, the Company may match a portion of employee contributions. Amounts contributed by the Company were not material for any period presented herein.

The Company sponsors a deferred compensation plan for eligible employees that allows participants to defer payment of all or part of their compensation. Deferrals under this plan were immaterial. Assets associated with these plans were \$37 million and \$46 million as of October 1, 2022 and October 2, 2021, respectively. Liabilities associated with these plans were \$37 million and \$46 million as of October 1, 2022 and October 2, 2021, respectively. These amounts are recorded in other non-current assets and other long-term liabilities on the consolidated balance sheets.

Defined benefit plans covering certain employees in the United States and Canada were frozen in 2001. Employees who had not yet vested will continue to be credited with service until vesting occurs, but no additional benefits will accrue. During the third quarter of 2022, the Board of Directors approved the termination of the Company's frozen U.S. defined benefit plan (the "Plan") effective July 3, 2022. In connection with this termination, the Company purchased a group annuity contract for \$6 million during the fourth quarter of 2022 that provides for the administration of future payments to eligible plan participants. In addition, the Company recorded a pension settlement charge of \$2 million during the fourth quarter of 2022, which includes the reclassification of unrecognized pension losses from accumulated other comprehensive income to other income (expense), net on the consolidated statements of income.

The Company also provides defined benefit pension plans in certain other countries. The assumptions used for calculating the pension benefit obligations for non-U.S. plans depend on the local economic environment and regulations. The measurement date for the Company's defined benefit plans is October 1, 2022.

The funded status and plan assets for the defined benefit plans and amount reported on the consolidated balance sheets were as follows:

	As of				
	October 1, 2022		October 2, 2021		October 3, 2020
	Non-U.S.	U.S.	Non-U.S.	U.S.	Non-U.S.
(In thousands)					
Plan Assets	\$ 17,290	\$ 16,435	\$ 23,575	\$ 15,430	\$ 23,575
Projected Benefit Obligation	50,871	22,943	63,217	25,704	64,453
Underfunded Status	<u><u>\$ 33,581</u></u>	<u><u>\$ 6,508</u></u>	<u><u>\$ 39,642</u></u>	<u><u>\$ 10,274</u></u>	<u><u>\$ 40,878</u></u>
Current Liabilities	\$ 3,038	\$ —	\$ 2,674	\$ —	\$ 2,054
Non-current liabilities	30,543	6,508	36,968	10,274	38,824
Total liabilities	<u><u>\$ 33,581</u></u>	<u><u>\$ 6,508</u></u>	<u><u>\$ 39,642</u></u>	<u><u>\$ 10,274</u></u>	<u><u>\$ 40,878</u></u>

The Company's investment strategy is designed to help ensure that sufficient pension assets are available to pay benefits as they become due. Plan assets are invested in mutual funds that are valued using the NAV that is quoted in active markets (Level 1 input). These plans are managed consistent with regulations or market practices of the country in which the assets are invested. As of October 1, 2022 there were no significant concentrations of credit risk related to pension plan assets. All other amounts and assumptions were not material for any period presented herein.

#### Note 18. Strategic Transactions

##### *India Joint Venture*

On October 3, 2022, subsequent to the end of the fourth quarter of 2022, the Company completed a joint venture transaction in which the Company entered into a Share Subscription and Purchase Agreement (the "SSPA") and a Joint Venture and Shareholders' Agreement (the "Shareholders' Agreement") with Reliance Strategic Business Ventures Limited ("RSBVL"), a wholly owned subsidiary of Reliance Industries Limited. Pursuant to the SSPA and the Shareholder' Agreement, the parties established Sanmina SCI India Private Limited ("SIPL"), the Company's existing Indian manufacturing entity, as a joint venture to engage in manufacturing in India of telecommunications equipment, data center and internet equipment, medical equipment, clean technology equipment and other high-tech equipment. As a result of the transaction, RSBVL acquired shares of SIPL for approximately \$215 million of cash such that immediately after the closing of the transaction, RSBVL holds 50.1% of the outstanding shares of SIPL and Sanmina holds the remaining 49.9% of the outstanding shares of SIPL. The amount received from RSBVL was based on preliminary calculations and is subject to adjustment based on final calculations. Given the terms of the agreements entered into by the parties concerning management of the joint venture, the Company expects to continue to consolidate SIPL in future periods.

##### *Acquisition*

On April 6, 2021, the Company purchased all of the outstanding stock of a European subsidiary of a multinational company in the industrial end market. This acquisition increased the Company's IMS capabilities in Europe. The Company also entered into a master supply agreement with the seller in connection with this acquisition. Total consideration paid in this acquisition was \$38 million of cash, of which \$29 million was paid upon closing and \$9 million is due in April 2023. The acquiree had \$8 million of cash as of the acquisition date, resulting in a net cash outlay upon closing of \$21 million. The pro-forma effect of the acquisition, as if it had occurred at the beginning of the year, was not material to the consolidated financial statements. The acquisition is reported in the Company's IMS reportable segment.

The Company's allocation of the purchase price was based on management's estimate of the acquisition-date fair values of the tangible and identifiable intangible assets acquired and liabilities assumed.

The following represents the allocation of the purchase price to the acquired assets and liabilities assumed.

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	(In thousands)
Current assets, including cash acquired of \$8.1 million	\$ 18,696
Noncurrent assets, including identifiable intangible assets of \$4.4 million and goodwill of \$8.5 million	30,711
Current liabilities	(10,671)
Noncurrent liabilities	(152)
<b>Total net assets acquired</b>	<b>\$ 38,584</b>

Goodwill reflects the expectation that the acquisition enables the Company to increase its IMS capabilities in Europe. Goodwill and identifiable intangible assets are recorded in other non-current assets on the consolidated balance sheets. Identifiable intangible assets are being amortized over four years.

**Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure**

None.

**Item 9A. Controls and Procedures**

**(a) Evaluation of Disclosure Controls and Procedures**

Our management is responsible for establishing and maintaining our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures will prevent all error and all fraud. Disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that their objectives are met. Further, the design of disclosure controls and procedures must reflect the fact that there are resource constraints, and the benefits of disclosure controls and procedures must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of disclosure controls and procedures can provide absolute assurance that all disclosure control issues and instances of fraud, if any, have been detected. Nonetheless, our Chief Executive Officer and Chief Financial Officer have concluded that, as of October 1, 2022, (1) our disclosure controls and procedures were designed to provide reasonable assurance of achieving their objectives, and (2) our disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed in the reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified by the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, to allow timely decisions regarding required disclosure.

**(b) Management's Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act). Our management, including our Chief Executive Officer and Chief Financial Officer, conducted an evaluation of the effectiveness of our internal control over financial reporting as of October 1, 2022. In making this assessment, our management used the criteria established in *Internal Control-Integrated Framework (2013)*, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Our management has concluded that, as of October 1, 2022, our internal control over financial reporting was effective based on the COSO criteria.

The effectiveness of our internal control over financial reporting as of October 1, 2022 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report which appears under Item 8.

**(c) Changes in Internal Control Over Financial Reporting**

There were no changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the quarter ended October 1, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**Item 9B. Other Information**

None.

**Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections**

Not applicable.

### **PART III**

The information called for by Items 10, 11, 12, 13 and 14 of Part III are incorporated by reference from our definitive Proxy Statement to be filed in connection with our 2023 Annual Meeting of Stockholders pursuant to Regulation 14A, except that the information regarding our executive officers called for by Item 401(b) of Regulation S-K has been included in Part I of this report.

## PART IV

### Item 15. Exhibits and Financial Statement Schedules

- (a) (1) **Financial Statements.** The following financial statements are filed under Item 8 hereof as part of this report:

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Report of Independent Registered Public Accounting Firm (PCAOB ID 238)	<u>47</u>
Financial Statements:	
Consolidated Balance Sheets, As of October 1, 2022 and October 2, 2021	<u>49</u>
Consolidated Statements of Income, Years Ended October 1, 2022, October 2, 2021 and October 3, 2020	<u>50</u>
Consolidated Statements of Comprehensive Income, Years Ended October 1, 2022, October 2, 2021 and October 3, 2020	<u>51</u>
Consolidated Statements of Stockholders' Equity, Years Ended October 1, 2022, October 2, 2021 and October 3, 2020	<u>52</u>
Consolidated Statements of Cash Flows, Years Ended October 1, 2022, October 2, 2021 and October 3, 2020	<u>53</u>
Notes to Consolidated Financial Statements	<u>54</u>

- (2) **Financial Statement Schedules.** The following financial statement schedule of Sanmina Corporation is filed as part of this report on Form 10-K immediately after the signature pages hereto and should be read in conjunction with our Financial Statements included in this Item 15:

Schedule II-Valuation and Qualifying Accounts, Years Ended October 1, 2022, October 2, 2021 and October 3, 2020

All other schedules are omitted because they are not applicable or the required information is shown in the Financial Statements or the notes thereto.

- (3) **Exhibits.** Refer to Item 15(b) immediately below.

**(b) Exhibits**

Exhibit Number	Description
3.1(1)	<a href="#">Restated Certificate of Incorporation of the Registrant, dated January 31, 1996.</a>
3.2(2)	<a href="#">Certificate of Amendment of the Restated Certificate of Incorporation of the Registrant, dated March 9, 2001.</a>
3.3(3)	<a href="#">Certificate of Designation of Rights, Preferences and Privileges of Series A Participating Preferred Stock of the Registrant, dated May 31, 2001.</a>
3.4(4)	<a href="#">Certificate of Amendment of the Restated Certificate of Incorporation of the Registrant, dated December 7, 2001.</a>
3.5(5)	<a href="#">Amended and Restated Bylaws of the Registrant dated December 1, 2008.</a>
3.6(6)	<a href="#">Certificate of Amendment of the Restated Certificate of Incorporation of the Registrant, as amended, dated July 27, 2009.</a>
3.7(7)	<a href="#">Certificate of Ownership and Merger as filed with the Secretary of State of the State of Delaware and effective November 15, 2012.</a>
3.8(8)	<a href="#">Certificate of Amendment of Amended and Restated Bylaws dated December 7, 2015</a>
4.1(9)	<a href="#">Indenture, dated as of June 4, 2014, among Sanmina Corporation, certain subsidiaries of Sanmina Corporation as guarantors and U.S. Bank National Association as trustee.</a>
4.5(10)	<a href="#">Description of the Registrant's Securities</a>
10.1(11)*	Intentionally omitted
10.2(12)*	<a href="#">Amended and Restated Sanmina-SCI Corporation Deferred Compensation Plan dated June 9, 2008.</a>
10.3(13)*	<a href="#">Revised form of Officer and Director Indemnification Agreement.</a>
10.4(14)*	<a href="#">2009 Incentive Plan, as amended on March 5, 2018.</a>
10.5(15)*	Intentionally omitted
10.6(16)*	<a href="#">Form of Stock Option Agreement for use under the 2009 Incentive Plan.</a>
10.7(17)*	<a href="#">Form of Restricted Stock Unit Agreement for use under the 2009 Incentive Plan.</a>
10.8(18)*	<a href="#">Form of Restricted Stock Agreement for use under the 2009 Incentive Plan.</a>
10.9(19)*	<a href="#">Form of Change of Control Severance Benefit Agreement.</a>
10.10(20)	<a href="#">Amendment to employment offer letter between Sanmina Corporation and Alan Reid dated March 12, 2010.</a>
10.11(21)*	<a href="#">Form of Restricted Stock Unit Agreement under 2009 Incentive Plan for director grants.</a>
10.12(22)	<a href="#">Purchase Agreement, dated as of May 20, 2014, by and among Sanmina Corporation, certain subsidiaries of Sanmina Corporation, as guarantors, and Merrill Lynch, Pierce, Fenner &amp; Smith Incorporated, as representative of the initial purchasers.</a>
10.13(23)	<a href="#">Second Amendment to the Sanmina Corporation Deferred Compensation Plan adopted as of May 12, 2015.</a>
10.14(24)	Intentionally omitted
10.15(25)*	<a href="#">First Amendment to the Sanmina-SCI Corporation Deferred Compensation Plan.</a>
10.16(26)*	<a href="#">Amendment No. 3 to Sanmina-SCI Corporation Deferred Compensation Plan.</a>
10.17(27)*	Intentionally omitted
10.18(28)*	Intentionally omitted
10.19(29)*	<a href="#">Fourth Amendment to the Sanmina Corporation Deferred Compensation Plan.</a>
10.20(30)‡	<a href="#">Receivables Purchase Agreement, dated March 26, 2018, among Sanmina Corporation, the sellers and buyers from time to time party thereto and the Bank of Tokyo-Mitsubishi UFG, Ltd., as administrative agent.</a>
10.21(31)‡	<a href="#">Joinder and Amendment No. 1 to the Receivables Purchase Agreement dated June 25, 2018 among Sanmina Corporation, MUFG Bank Ltd. (formerly known as The Bank of Tokyo-Mitsubishi UFG, Ltd.), Wells Fargo Bank N.A., Bank of the West and MUFG Bank Ltd., as administrative agent.</a>
10.22(14)*	<a href="#">Fifth Amendment to Sanmina Corporation Deferred Compensation Plan.</a>
10.23(14)*	<a href="#">Sixth Amendment to Sanmina Corporation Deferred Compensation Plan.</a>

10.24	Intentionally omitted
10.25	Intentionally omitted
10.26(14)±	<a href="#">Joinder Agreement and Amendment No. 2 to the Receivables Purchase Agreement, dated September 17, 2018, among Sanmina Corporation, Sanmina-SCI Systems Pte. Ltd., MUFG Bank Ltd., Wells Fargo Bank N.A., Bank of the West and MUFG Bank Ltd., as administrative agent.</a>
10.27(24)‡	<a href="#">Amendment No. 3 to the Receivables Purchase Agreement, dated December 21, 2018, among Sanmina Corporation, Sanmina-SCI Systems Pte. Ltd., MUFG Bank Ltd., Wells Fargo Bank N.A., Bank of the West and MUFG Bank Ltd., as administrative agent.</a>
10.28	Intentionally omitted
10.29(33)*	<a href="#">2019 Equity Incentive Plan, as amended</a>
10.30(32)*	<a href="#">Form of Restricted Stock Unit Award Agreement for use under 2019 Equity Incentive Plan</a>
10.31(32)*	<a href="#">Form of Stock Option Award Agreement for use under 2019 Equity Incentive Plan</a>
10.32	Intentionally omitted
10.33(34) ±	<a href="#">Amendment No. 4 to the Receivables Purchase Agreement, dated April 3, 2019, among Sanmina Corporation, Sanmina-SCI Systems Pte. Ltd., MUFG Bank Ltd., Wells Fargo Bank N.A., Bank of the West and MUFG Bank Ltd., as administrative agent.</a>
10.34	Intentionally omitted
10.35(35)	<a href="#">Separation and Release Agreement dated January 10, 2020 between Sanmina Corporation and Michael Clarke</a>
10.36(36)	<a href="#">Separation and Release Agreement dated August 14, 2020 between Sanmina Corporation and Hartmut Liebel</a>
10.37(37) ±	<a href="#">Amendment No. 5 to the Receivables Purchase Agreement, dated December 17, 2020, among Sanmina Corporation, Sanmina-SCI Systems Pte. Ltd., MUFG Bank Ltd., Wells Fargo Bank N.A., Bank of the West</a>
10.38(38) ±	<a href="#">Amendment No. 6 to the Receivables Purchase Agreement, dated November 24, 2021, among Sanmina Corporation, Sanmina-SCI Systems Pte. Ltd., MUFG Bank Ltd., Wells Fargo Bank N.A. and Bank of the West</a>
10.39(33) ±	<a href="#">Share Subscription and Purchase Agreement dated as of March 3, 2022 by and among Reliance Strategic Business Ventures Limited, Sanmina Corporation, Sanmina-SCI Systems Singapore Pte Ltd, AET Holdings Limited and Sanmina-SCI India Private Limited.</a>
10.39.1(33) ±	<a href="#">Joint Venture and Shareholders' Agreement dated as of March 3, 2022 by and among Reliance Strategic Business Ventures Limited, Sanmina Corporation, Sanmina-SCI Systems Singapore Pte Ltd and Sanmina-SCI India Private Limited.</a>
10.39.2(33) ±	<a href="#">Form of Management Services Agreement by and among Reliance Strategic Business Ventures Limited, Sanmina Corporation, Sanmina-SCI Systems Singapore Pte Ltd and Sanmina-SCI India Private Limited.</a>
10.39.3(33) ±	<a href="#">Form of Business Transfer Agreement by and between Sanmina-SCI Technology India Private Limited and a wholly-owned subsidiary of Sanmina Corporation to be incorporated under the laws of India.</a>
10.39.4(33) ±	<a href="#">Form of Services Agreement by and between Sanmina Corporation and Sanmina-SCI India Private Limited.</a>
10.40	<a href="#">Fifth Amended and Restated Credit Agreement dated as of September 27, 2022 by and among Sanmina Corporation, the lenders from time to time party thereto and Bank of America, N.A., as Administrative Agent (filed herewith).</a>
10.41	<a href="#">Second Amended and Restated Security Agreement dated as of September 27, 2022 by and among Sanmina Corporation, certain subsidiaries of Sanmina Corporation parties thereto and Bank of America, N.A., as Administrative Agent (filed herewith).</a>
10.42 ±	<a href="#">Joinder Agreement and Amendment No. 7 to the Receivables Purchase Agreement, dated as of July 28, 2022, among Sanmina Corporation, Sanmina-SCI Systems Singapore Pte. Ltd., Sanmina-SCI Systems Malaysia Sdn. Bhd., MUFG Bank Ltd., Wells Fargo Bank, N.A. and Bank of the West (filed herewith).</a>
14.1(39)	<a href="#">Code of Business Conduct and Ethics of the Registrant</a>
21.1	<a href="#">Subsidiaries of the Registrant (filed herewith)</a>
23.1	<a href="#">Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm (filed herewith).</a>
31.1	<a href="#">Certification of the Principal Executive Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).</a>
31.2	<a href="#">Certification of the Principal Financial Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (filed herewith).</a>
32.1(40)	<a href="#">Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).</a>

32.2(40)	<a href="#">Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith).</a>
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

\* Compensatory plan in which an executive officer or director participates.

‡ Portions of this exhibit have been omitted pursuant to an order granting confidential treatment and this exhibit has been filed separately with the SEC.

± Portions of this exhibit have been omitted in accordance with Item 601(b)(10)(iv) of Regulation S-K under the Securities Act of 1933.

- (1) Incorporated by reference to Exhibit 3.2 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 1996, SEC File No. 000-21272, filed with the Securities and Exchange Commission ("SEC") on December 24, 1996.
- (2) Incorporated by reference to Exhibit 3.1(a) to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2001, filed with the SEC on May 11, 2001.
- (3) Incorporated by reference to Exhibit 3.1.2 to the Registrant's Registration Statement on Form S-4, filed with the SEC on August 10, 2001.
- (4) Incorporated by reference to Exhibit 3.1.3 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2001, filed with the SEC on December 21, 2001.
- (5) Incorporated by reference to Exhibit 3.2 to Registrant's Current Report on Form 8-K, filed with the SEC on December 5, 2008.
- (6) Incorporated by reference to Exhibit 3.6 to Registrant's Current Report on Form 8-K, filed with the SEC on August 19, 2009.
- (7) Incorporated by reference to Exhibit 3.7 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2012, filed with the SEC on November 21, 2012
- (8) Incorporated by reference to Exhibit 3.8 to the Registrant's Current Report on Form 8-K filed with the SEC on December 11, 2015.
- (9) Incorporated by reference to Exhibit 4.1 to Registrant's Current Report on Form 8-K filed with the SEC on June 5, 2014.
- (10) Incorporated by reference to same numbered exhibit to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 28, 2019, filed with the SEC on November 8, 2019.
- (11) Intentionally omitted
- (12) Incorporated by reference to Exhibit 10.74 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed with the SEC on August 4, 2008.
- (13) Incorporated by reference to Exhibit 10.42 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 28, 2008, filed with the SEC on August 4, 2008.
- (14) Incorporated by reference to the same numbered exhibit to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 29, 2018 filed with the SEC on November 15, 2018.
- (15) Intentionally omitted
- (16) Incorporated by reference to Exhibit 10.43 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 28, 2009, filed with the SEC on May 5, 2009
- (17) Incorporated by reference to Exhibit 10.44 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 28, 2009, filed with the SEC on May 5, 2009
- (18) Incorporated by reference to Exhibit 10.45 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 28, 2009, filed with the SEC on May 5, 2009
- (19) Incorporated by reference to Exhibit 10.48 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended January 2, 2010, filed with the SEC on February 5, 2010.

- (20) Incorporated by reference to Exhibit 10.48 to Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended December 28, 2013, filed with the SEC on January 31, 2014.
- (21) Incorporated by reference to Exhibit 10.49 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 29, 2014 filed with the SEC on April 28, 2014.
- (22) Incorporated by reference to Current Report on Form 8-K filed by the Registrant with the SEC on May 21, 2014.
- (23) Incorporated by reference to Exhibit 10.30 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 27, 2015 filed with the SEC on July 24, 2015.
- (24) Incorporated by reference to same numbered exhibit to the Registrant's Quarterly Report on Form 10-Q for the first fiscal quarter ended December 29, 2018 filed with the SEC on February 7, 2019.
- (25) Incorporated by reference to Exhibit 10.28 to Registrant's Annual Report on Form 10-K for the fiscal year ended October 3, 2015, filed with the SEC on November 19, 2015.
- (26) Incorporated by reference to Exhibit 10.29 to Registrant's Annual Report on Form 10-K for the fiscal year ended October 3, 2015, filed with the SEC on November 19, 2015.
- (27) Intentionally omitted
- (28) Intentionally omitted
- (29) Incorporated by reference to Exhibit 10.32 to Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2017, filed with the SEC on November 13, 2017.
- (30) Incorporated by reference to Exhibit 10.33 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2018 filed with the SEC on May 2, 2018.
- (31) Incorporated by reference to Exhibit 10.34 to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2018 filed with the SEC on August 3, 2018.
- (32) Incorporated by reference to same number exhibit to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 30, 2019 filed with the SEC on May 2, 2019.
- (33) Incorporated by reference to same number exhibit to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended April 2, 2022 filed with the SEC on May 4, 2022.
- (34) Incorporated by reference to same number exhibit to the Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 29, 2019 filed with the SEC on August 1, 2019.
- (35) Incorporated by reference from Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended December 28, 2019 filed with the SEC on January 30, 2020.
- (36) Incorporated by reference to same numbered exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended October 3, 2020, filed with the SEC on November 13, 2020.
- (37) Incorporated by reference to same number exhibit to Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended January 2, 2021 filed with the SEC on February 4, 2021.
- (38) Incorporated by reference to same number exhibit to Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended January 1, 2022 filed with the SEC on February 2, 2022.
- (39) Incorporated by reference to same numbered exhibit to Registrant's Annual Report on Form 10-K for the fiscal year ended October 2, 2021, filed with the SEC on November 12, 2021.
- (40) This exhibit shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that Section, nor shall it be deemed incorporated by reference in any filings under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any filings.

(c) **Financial Statement Schedules.** See Item 15(a)(2) above.

#### SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Sanmina Corporation  
(Registrant)

By:

/s/ JURE SOLA

Jure Sola  
*Chief Executive Officer*

Date: November 10, 2022

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Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Jure Sola and Kurt Adzema and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
/s/ JURE SOLA _____ Jure Sola	Chairman and Chief Executive Officer and Director (Principal Executive Officer)	November 10, 2022
/s/ KURT ADZEMA _____ Kurt Adzema	Chief Financial Officer (Principal Financial Officer)	November 10, 2022
/s/ BRENT BILLINGER _____ Brent Billinger	Controller (Principal Accounting Officer)	November 10, 2022
/s/ EUGENE A. DELANEY _____ Eugene A. Delaney	Director	November 10, 2022
/s/ JOHN P. GOLDSBERRY _____ John P. Goldsberry	Director	November 10, 2022
/s/ SUSAN JOHNSON _____ Susan Johnson	Director	November 10, 2022
/s/ RITA S. LANE _____ Rita S. Lane	Director	November 10, 2022
/s/ JOSEPH LICATA _____ Joseph Licata	Director	November 10, 2022
/s/ KRISH PRABHU _____ Krish Prabhu	Director	November 10, 2022
/s/ MARIO M. ROSATI _____ Mario M. Rosati	Director	November 10, 2022

**FINANCIAL STATEMENT SCHEDULE**

The financial statement Schedule II-VALUATION AND QUALIFYING ACCOUNTS is filed as part of this Form 10-K.

**SANMINA CORPORATION**  
**SCHEDULE II-VALUATION AND QUALIFYING ACCOUNTS**

Allowances for Doubtful Accounts, Product Returns and Other Net Sales Adjustments	Balance at Beginning of Period	Charged to Operations	Charges Utilized	Balance at End of Period
				(In thousands)
Fiscal year ended October 3, 2020	\$ 12,481	\$ (3,911)	\$ —	\$ 8,570
Fiscal year ended October 2, 2021	\$ 8,570	\$ (1,635)	\$ —	\$ 6,935
Fiscal year ended October 1, 2022	\$ 6,935	\$ 7,978	\$ —	\$ 14,913

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Published Deal CUSIP Number: 80105GAH3  
Published Revolving Credit Facility CUSIP Number: 80105GAJ9  
Published Term Loan Facility CUSIP Number: 80105GAK6

**FIFTH AMENDED AND RESTATED CREDIT AGREEMENT**

Dated as of September 27, 2022

among



**SANMINA CORPORATION,**

as the Borrower,

**BANK OF AMERICA, N.A.,**  
as Administrative Agent, Swing Line Lender and  
an Issuing Lender,

**BANK OF THE WEST and**  
**TRUIST BANK,**  
as Co-Syndication Agents,

**DBS BANK LTD.,**  
**INDUSTRIAL AND COMMERCIAL BANK OF CHINA LTD., NEW YORK BRANCH,**  
**PNC BANK, NATIONAL ASSOCIATION** and  
**U.S. BANK NATIONAL ASSOCIATION,**  
as Co-Documentation Agents

and

The Other Lenders Party Hereto

**BOFA SECURITIES, INC.,**  
**BANK OF THE WEST and**  
**TRUIST SECURITIES, INC.,**  
as Joint Lead Arrangers and Joint Bookrunners

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**SCHEDULES**

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**EXHIBITS*****Form of***

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C-2	Form of Note (Term)
D	Compliance Certificate
E	Assignment and Assumption
F	Letter of Credit Report
G	United States Tax Compliance Certificate
H	[Reserved]
I	Security Agreement
J	Pledge Agreement
K	Guaranty
L	Interco Subordination Agreement

## FIFTH AMENDED AND RESTATED CREDIT AGREEMENT

**THIS FIFTH AMENDED AND RESTATED CREDIT AGREEMENT** (this “Agreement”) is entered into as of September 27, 2022, among **SANMINA CORPORATION**, a Delaware corporation (the “Borrower”), each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”), and **BANK OF AMERICA, N.A.**, as Administrative Agent, Swing Line Lender and an Issuing Lender.

### RECITALS:

**WHEREAS**, the Borrower, the Administrative Agent and the lenders party thereto (the “Existing Lenders”) have entered into that certain Fourth Amended and Restated Credit Agreement dated as of November 30, 2018 (as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the “Existing Agreement”); and

**WHEREAS**, the Borrower has requested that the Existing Agreement be amended and restated to, among other things, increase the Revolving Credit Commitments and provide for a term loan facility and make certain other changes as set forth herein, and the Administrative Agent, the Swing Line Lender, the Issuing Lenders and the Lenders are willing to so amend and restate the Existing Agreement on the terms and conditions set forth herein.

### AGREEMENT:

**NOW, THEREFORE**, for valuable consideration hereby acknowledged, the parties agree as follows:

## ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

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

“Act” has the meaning specified in Section 10.18.

“Additional Lender” has the meaning specified in Section 2.14(c).

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

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02 or such other address or account as the Administrative Agent hereafter may designate by written notice to the Borrower and the Lenders.

“Administrative Questionnaire” means an Administrative Questionnaire in substantially the form provided by the Administrative Agent to the Lenders 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” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

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

**“Aggregate Credit Exposures”** means, at any time, (a) in respect of the Term Facility, the aggregate Outstanding Amount of the Term Loans at such time and (b) in respect of the Revolving Credit Facility, the sum of (i) the unused portion of the Revolving Credit Facility at such time and (ii) the Total Revolving Credit Outstandings at such time.

**“Agreement”** means this Fifth Amended and Restated Credit Agreement.

**“Anti-Terrorism Laws”** means any laws relating to terrorism or money laundering, including the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

**“Applicable Law”** means all laws, rules, regulations and binding governmental guidelines applicable to the Person, conduct, transaction, agreement or matter in question, including all applicable statutory law, common law and equitable principles, and all provisions of constitutions, treaties, statutes, rules, regulations, orders, rulings and decrees of Governmental Authorities having jurisdiction over such Person.

**“Applicable Percentage”** means (a) in respect of the Term Facility, with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal place) of the Term Facility represented by (i) on or prior to the Closing Date, the aggregate amount of such Lender’s Term Commitment at such time, subject to adjustment as provided in Section 2.16, and (ii) thereafter, the Outstanding Amount of such Term Lender’s Term Loans at such time, and (b) in respect of the Revolving Credit Facility, with respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender’s Revolving Credit Commitment at such time, subject to adjustment as provided in Section 2.16. If the commitment of each Lender to make Loans and the obligation of each Issuing Lender to make L/C Credit Extensions have been terminated pursuant to Section 8.02 or if the Commitments have expired, then the Applicable Percentage of each Lender in respect of the applicable Facility shall be determined based on the Applicable Percentage of such Lender in respect of such Facility most recently in effect, giving effect to any subsequent assignments and to any Lender’s status as a Defaulting Lender at the time of determination. The initial Applicable Percentage of each Lender in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable.

**“Applicable Rate”** means, in respect of the Term Facility and the Revolving Credit Facility, as of any date, a percentage per annum determined by reference to the Debt Rating in effect on such date as set forth below:

Applicable Rate				
Pricing Level	Debt Rating	Term SOFR Loans, Letter of Credit Fees and Swing Line Loans	Base Rate Loans	Commitment Fees
1	Baa3 / BBB- or higher	1.250%	0.250%	0.175%
2	Ba1 / BB+	1.375%	0.375%	0.200%
3	Ba2 / BB or lower or unrated	1.500%	0.500%	0.225%

Initially, the Applicable Rate shall be determined based upon Pricing Level 2. Thereafter, each change in the Applicable Rate resulting from a publicly announced change in the Debt Rating shall be

effective, during the period commencing on the date of the public announcement thereof and ending on the date immediately preceding the effective date of the next such change.

“Applicable Revolving Credit Percentage” means with respect to any Revolving Credit Lender at any time, such Revolving Credit Lender’s Applicable Percentage in respect of the Revolving Credit Facility at such time.

“Appropriate Lender” means, at any time, (a) with respect to the Term Facility or the Revolving Credit Facility, a Lender that has a Commitment with respect to such Facility or holds a Term Loan or a Revolving Credit Loan, respectively, at such time, (b) with respect to the Letter of Credit Sublimit, (i) the applicable Issuing Lender and (ii) if any Letters of Credit have been issued pursuant to Section 2.03(a), the Revolving Credit Lenders and (c) with respect to the Swing Line Sublimit, (i) the Swing Line Lender and (ii) if any Swing Line Loans are outstanding pursuant to Section 2.04(a), the Revolving Credit Lenders.

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

“Arrangers” means, collectively, BofA Securities, Inc., Bank of the West and Truist Securities, Inc. in their capacities as joint lead arrangers and joint bookrunners.

“Asset Disposition” means a sale, lease, license, consignment, transfer or other disposition of Property of any Loan Party or any Subsidiary, including (a) a disposition of Property in connection with a sale-leaseback transaction or synthetic lease, (b) any involuntary loss resulting from a casualty event or condemnation and (c) any disposition of property pursuant to a Division.

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

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

“Audited Financial Statements” means the audited consolidated balance sheet of the Borrower and its Subsidiaries for the Fiscal Year ended October 2, 2021, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such Fiscal Year of the Borrower and its Subsidiaries, including the notes thereto.

“Auto-Extension Letter of Credit” has the meaning specified in Section 2.03(b).

“Availability Period” means in respect of the Revolving Credit Facility, the period from and including the Closing Date to the earliest of (a) the Maturity Date, (b) the date of termination of the Revolving Credit Commitments pursuant to Section 2.06, and (c) the date of termination of the commitment of each Revolving Credit Lender to make Revolving Credit Loans and of the obligation of each Issuing Lender to make L/C Credit Extensions pursuant to Section 8.02.

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

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

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

**"Bank Product"** means any Secured Hedge Agreement or any Secured Cash Management Agreement.

**"Bankruptcy Code"** means Title 11 of the United States Code.

**"Base Rate"** means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1% (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate”, (c) Term SOFR plus 1.00%, and (d) 1.00%. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.03 hereof, then the Base Rate shall be the greater of clauses (a), (b) and (d) above and shall be determined without reference to clause (c) above.

**"Base Rate Loan"** means a Revolving Credit Loan or a Term Loan that bears interest based on the Base Rate.

**"Beneficial Ownership Certification"** means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

**"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”.

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

**"Borrower Materials"** has the meaning specified in Section 6.02.

**"Borrowing"** means a Revolving Credit Borrowing, a Swing Line Borrowing or a Term Borrowing, as the context may require.

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

“Capital Lease” means any lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the Issuing Lenders or Swing Line Lender (as applicable) and the Lenders, as collateral for L/C Obligations, Obligations in respect of Swing Line Loans, or obligations of Lenders to fund participations in respect of either thereof (as the context may require), cash or deposit account balances or, if the Administrative Agent, the applicable Issuing Lender or Swing Line Lender shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to (a) the Administrative Agent and (b) the Issuing Lenders or the Swing Line Lender (as applicable). “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means (a) securities issued or directly and fully guaranteed or insured by (i) the United States government or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof), or (ii) any member of the European Economic Area or Switzerland, or any agency or instrumentality thereof (provided that such country, agency or instrumentality has a credit rating at least equal to that of the United States and the full faith and credit of such country is pledged in support thereof), in each case, with such securities having maturities of not more than thirteen months from the date of acquisition; (b) marketable general obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within thirteen months from the date of acquisition thereof (provided that the full faith and credit of such state is pledged in support thereof) and, at the time of acquisition thereof, having credit ratings of at least AA- (or the equivalent) by S&P and at least Aa3 (or the equivalent) by Moody’s; (c) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits or bankers’ acceptances having maturities of not more than thirteen months from the date of acquisition thereof issued by any commercial bank organized in the United States of America, Canada, Japan or Switzerland or any member of the European Economic Area, in each case, of recognized standing and having combined capital and surplus in excess of \$500,000,000 (or the foreign currency equivalent thereof); (d) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clauses (a), (b) and (c) entered into with any bank meeting the qualifications specified in clause (e) above; (e) commercial paper having a rating at the time of acquisition thereof of at least A-1 from S&P or at least P-1 from 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 investments, and in any case maturing within thirteen months after the date of acquisition thereof; (f) interests in any investment company or money market fund substantially all of the assets of which are of the type specified in clauses (a) through (e) above; (g) corporate obligations with long term ratings of A or better from S&P or Moody’s, with such obligations having maturities of not more than thirteen months from the date of acquisition; (h) asset-backed securities rated AAA or better by S&P or Moody’s, with such securities having maturities of not more than thirteen months from the date of acquisition; and (i) in the case of any Foreign Subsidiary, high quality short term investments which are customarily used for cash management purposes in any country in which such Foreign Subsidiary operates.

“Cash Management Agreement” means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card, electronic funds transfer and other cash management arrangements.

**Cash Management Bank** means any Person in its capacity as a party to a Cash Management Agreement that, (a) at the time it enters into a Cash Management Agreement with the Borrower or any Subsidiary, is a Lender or an Affiliate of a Lender, or (b) at the time it (or its Affiliate) becomes a Lender, is a party to a Cash Management Agreement with the Borrower or any Subsidiary, in each case in its capacity as a party to such Cash Management Agreement, in each case so long as such Person or its Affiliate continues to be a Lender.

**CERCLA** means the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

**Change in Law** means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith or in the implementation thereof and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, issued or implemented.

**Change of Control** means, at any time, (a) any Person or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended, but excluding any employee benefit plan of such Person or its Subsidiaries, and any Person or entity acting in its capacity as a trustee, agent or other fiduciary or administrator of such plan) becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, as amended) of 35% or more on a fully diluted basis of the voting and/or economic interest in the Equity Interests of the Borrower entitled to vote for members of the board of directors of the Borrower; or (b) any “change of control” or similar event under and as defined in any documentation relating to any Material Indebtedness.

**Class**, when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Credit Loans or Term Loans and, when used in reference to any Commitment, refers to whether such Commitment is a Revolving Credit Commitment or Term Commitment.

**Closing Date** means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

**CME** means CME Group Benchmark Administration Limited.

**Code** means the Internal Revenue Code of 1986.

**Collateral** means all of the “Collateral” or other similar term referred to in the Security Documents and all of the other property that is or is intended under the terms of the Security Documents to be subject to Liens in favor of the Administrative Agent for the benefit of the Secured Parties.

**Collateral Period** means (a) the period commencing with the Closing Date and ending with the occurrence of a Collateral Release Event and (b) any period commencing with a Collateral Trigger Event and ending with the occurrence of a Collateral Release Event. For the avoidance of doubt, any subsequent

occurrence of a Collateral Trigger Event after a Collateral Release Event shall initiate a new Collateral Period.

“Collateral Release Event” means any time that (a) no Default or Event of Default has occurred and is continuing, and (b) the satisfaction of one or both of the following conditions:

- (i) the Moody’s Rating is Baa3 (with a stable or better outlook) or a higher rating (regardless of outlook); or
- (ii) the S&P Rating is BBB- (with a stable or better outlook) or a higher rating (regardless of outlook).

“Collateral Release Period” means the period of time commencing on the occurrence of a Collateral Release Event and continuing until the reinstatement of a Collateral Period pursuant to Section 10.21(b) upon the occurrence of a Collateral Trigger Event.

“Collateral Trigger Event” means the occurrence of any of the following events after a Collateral Release Event:

- (a) the Borrower or any Subsidiary provides collateral security for any Debt permitted to be incurred under Section 7.01(v);
- (b) both (i) the Moody’s Rating ceases to be Baa3 (with a stable or better outlook) or a higher rating (regardless of outlook) and (ii) the S&P Rating ceases to be BBB- (with a stable or better outlook) or a higher rating (regardless of outlook); or
- (c) one or both of the Moody’s Rating and the S&P Rating is unavailable.

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

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

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

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

“Compliance Certificate” means a certificate substantially in the form of Exhibit D.

“Conforming Changes” means, with respect to the use, administration of or any conventions associated with SOFR or any proposed Successor Rate, Daily Simple SOFR or Term SOFR, as applicable, any conforming changes to the definition of “Base Rate”, the definition of “SOFR”, the definition of “Daily Simple SOFR”, the definition of “Term SOFR”, the definition of “Interest Period”, timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definitions of “Business

Day" and "U.S. Government Securities Business Day", timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption and implementation of such applicable rate(s), and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such rate exists, in such other manner of administration as the Administrative Agent determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

"Connection Income Taxes" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"Consolidated Capital Expenditures" means, for any period, the aggregate of all expenditures of the Borrower and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of the Borrower and its Subsidiaries.

"Consolidated EBITDA" means, for any period, an amount determined for the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP equal to the sum of (without duplication) the following: (a) Consolidated Net Income; plus (b) to the extent deducted in the calculation of Consolidated Net Income: (i) Taxes, whether paid or deferred, (ii) Consolidated Net Interest Expense, (iii) amortization, (iv) depreciation, (v) non-cash charges for such period including, without limitation, goodwill, restructuring charges, non-cash charges arising from the accelerated recognition of pension expenses previously deferred under FAS 87/88, cumulative translation adjustments arising from the liquidation of Subsidiaries, financing costs and expenses, fixed asset and other intangibles impairment; provided that any cash payments made in any future period in respect of such charges shall be subtracted from Consolidated EBITDA in the period when such payments are made, (vi) any non-cash charges associated with the recognition of fair value of stock options and other equity-based compensation issued to employees which have been expensed in the Borrower's statement of operations for such period, (vii) non-recurring restructuring and integration expenses (which for the avoidance of doubt, shall include, but not be limited to, retention, severance, systems establishment costs, contract termination costs, including future lease commitments, and costs to consolidate facilities and relocate employees) incurred by the Borrower and its Subsidiaries in connection with, and directly related to, any Permitted Acquisition, in each case (x) to the extent that such restructuring and integration expenses are incurred within twelve (12) months following the consummation of such acquisition and (y) in an aggregate amount for all such expenses, when taken together with all costs, fees and expenses added back to Consolidated EBITDA pursuant to clause (viii) below for such four (4) Fiscal Quarter period, not to exceed an amount equal to ten percent (10%) of Consolidated EBITDA during the most recently ended period of four (4) consecutive Fiscal Quarters (before giving effect to such adjustment), (viii) out-of-pocket costs, fees and expenses incurred by the Borrower and its Subsidiaries in connection with, and directly related to, (A) this Agreement and the transactions contemplated hereby, (B) any Permitted Acquisition, (C) issuances of any Equity Interests, (D) dispositions of any assets permitted hereunder, or (E) incurrence, amendment, modification, refinancing or repayment of Debt (in each case of clauses (B) through (E), whether or not successful), including, without limitation, legal, accounting and advisory fees, in each case (x) to the extent that such out-of-pocket costs, fees and expenses are incurred within twelve (12) months following the Closing Date or the consummation of such acquisition, issuance, disposition, incurrence, amendment, modification, refinancing or repayment, as applicable, and (y) in an aggregate amount for all such costs, fees and expenses, when taken together with all expenses added back to Consolidated EBITDA pursuant to clause (vii) above for such four (4) Fiscal Quarter period, not to exceed an amount equal to ten percent (10%) of Consolidated EBITDA during the most recently ended period of four (4) consecutive Fiscal

Quarters (before giving effect to such adjustment) and (ix) losses from early extinguishment of Debt; minus (c) (i) pension related payments or contributions for such period in excess of the related charges or expenses reflected on the income statement for such period; minus (d) all non-cash items increasing Consolidated Net Income for such period.

“Consolidated Funded Debt” means, as of any date of determination, for the Borrower and its Subsidiaries on a consolidated basis, the sum of, without duplication, (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and the outstanding principal amount of all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (b) the outstanding principal amount of all purchase money Debt, (c) all direct obligations arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, (d) all Earn-Outs solely to the extent payable in cash, in an amount calculated in accordance with GAAP and to the extent included on the consolidated balance sheet of the Borrower and its Subsidiaries, (e) all Attributable Indebtedness, (f) all Guarantees with respect to outstanding Debt of the types specified in clauses (a) through (g) above of Persons other than the Borrower or any Subsidiary and (g) all Debt of the types referred to in clauses (a) through (f) above of any partnership in which the Borrower or a Subsidiary is a general partner, unless such Debt is expressly made non-recourse to the Borrower or such Subsidiary. Notwithstanding anything to the contrary herein, Consolidated Funded Debt shall include the outstanding principal amount of any Debt under any Permitted Securitization Facility.

“Consolidated Interest Coverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the most recently completed period of four consecutive Fiscal Quarters to (b) Consolidated Interest Expense for such period.

“Consolidated Interest Expense” means, for any period, total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) of the Borrower and its Subsidiaries on a consolidated basis determined in accordance with GAAP, including all commissions, discounts and other fees, charges owed with respect to letters of credit and net costs under Interest Rate Agreements.

“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Funded Debt as of such date to (b) Consolidated EBITDA for the most recently completed period of four consecutive Fiscal Quarters for which financial statements have been delivered pursuant to Section 6.02(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 6.02(a) or (b), the financial statements referred to in Section 5.06 for the Fiscal Year ended October 2, 2021).

“Consolidated Net Income” means, for any period, (i) the net income (or loss) of the Borrower and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP, excluding (ii) (a) the income (or loss) of any Person (other than a Subsidiary of the Borrower) in which any other Person (other than the Borrower or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to the Borrower or any of its Subsidiaries by such Person during such period, (b) the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of the Borrower or is merged into or consolidated with the Borrower or any of its Subsidiaries or that Person’s assets are acquired by the Borrower or any of its Subsidiaries, (c) the income of any Subsidiary of the Borrower to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (d) any after-tax gains or losses attributable to Asset Dispositions or returned surplus assets of any Pension Plan, and (e) (to the

extent not included in clauses (a) through (d) above) any net extraordinary gains or net extraordinary losses, to the extent included in determining net income (or loss) for such period.

“Consolidated Net Interest Expense” means, for any period, Consolidated Interest Expense for such period minus interest income included in Consolidated Net Income for such period.

“Consolidated Tangible Assets” means, as of any date of determination, the amount that would appear on a consolidated balance sheet of the Borrower and its Subsidiaries as the total assets of the Borrower and its Subsidiaries, minus the total intangible assets of the Borrower and its Subsidiaries.

“Consolidated Total Assets” means, as of any date of determination, the amount that would appear on a consolidated balance sheet of the Borrower and its Subsidiaries as the total assets of the Borrower and its Subsidiaries.

“Contingent Obligation” means any obligation of a Person arising from a guaranty, suretyship, indemnity or other assurance of payment or performance of any Debt, lease, dividend or other obligation (“primary obligations”) of another obligor (“primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person under any (a) guaranty, endorsement (other than for collection or deposit in the ordinary course of business), co-making or sale with recourse of an obligation of a primary obligor; (b) obligation to make take-or-pay or similar payments regardless of nonperformance by any other party to an agreement; and (c) arrangement (i) to purchase any primary obligation or security therefor, (ii) to supply funds for the purchase or payment of any primary obligation, (iii) to maintain or assure working capital, equity capital, net worth or solvency of the primary obligor, (iv) to purchase Property or services for the purpose of assuring the ability of the primary obligor to perform a primary obligation, or (v) otherwise to assure or hold harmless the holder of any primary obligation against loss in respect thereof. The amount of any Contingent Obligation shall be deemed to be the stated or determinable amount of the primary obligation (or, if less, the maximum amount for which such Person may be liable under the instrument evidencing the Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto.

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

“Convertible Debt Security” means any debt security the terms of which provide for the conversion thereof into Equity Interests, cash or a combination of Equity Interests and cash, to the extent such debt security has not, as of any applicable date of determination, been so converted.

“Corporate Head Office Campus” means the Borrower’s head office campus located at 2700 North First Street, 2701 Zanker Road, 60 East Plumeria Drive and 30 East Plumeria Drive, San Jose, California 95134.

“Covered Entity” has the meaning specified in Section 10.24(b).

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

“CWA” means the Clean Water Act (33 U.S.C. §§ 1251 et seq.).

“Daily Simple SOFR” means, with respect to a Daily Simple SOFR Loan, the rate per annum equal to the Daily Simple SOFR Published Rate two Business Days prior to the date of determination; provided that if the rate is not published on such date of determination then Daily Simple SOFR means

the Daily Simple SOFR Published Rate on the first Business Day immediately prior thereto, in each case, plus the SOFR Adjustment; provided that if Daily Simple SOFR would otherwise be less than zero, Daily Simple SOFR shall be deemed zero for purposes of this Agreement.

“Daily Simple SOFR Loan” means a Swing Line Loan that bears interest at a rate based on Daily Simple SOFR.

“Daily Simple SOFR Published Rate” with respect to any applicable determination date means the SOFR published on such date on the Federal Reserve Bank of New York’s website (or any successor source).

“Daily Simple SOFR Replacement Date” has the meaning specified in Section 3.03(c).

“Daily Simple SOFR Scheduled Unavailability Date” has the meaning specified in Section 3.03(c).

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

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

(b) the maximum amount of all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties and similar instruments;

(c) net obligations of such Person under any Hedging Agreement;

(d) all obligations of such Person to pay the deferred purchase price of Property or services (including Earn-Outs solely to the extent payable in cash, in an amount calculated in accordance with GAAP and to the extent included on the consolidated balance sheet of the Borrower and its Subsidiaries), other than (i) accounts payables owing in the Ordinary Course of Business and (ii) intercompany charges of expenses, intercompany receivables, deferred revenue and other accrued liabilities, in each case incurred in the Ordinary Course of Business;

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

(f) all Attributable Indebtedness in respect of Capital Lease and Synthetic Lease Obligations of such Person;

(g) all obligations of such Person in respect of Disqualified Equity Interests; and

(h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Debt of any Person shall include the Debt of any partnership in which such Person is a general partner, unless such Debt is expressly made non-recourse to such Person. The amount of any net obligation under any Hedging Agreement on any date shall be deemed to be the maximum aggregate amount (giving effect to any netting agreements) that would be required to pay if such Hedging Agreement were terminated as of such date.

**“Debtor Relief Laws”** means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

**“Debt Rating”** means, as of any date of determination, (a) the S&P Rating and (b) the Moody’s Rating; provided, that, (i) in the case of a split rating between two consecutive levels, the higher rating shall apply; (ii) in the case of a split rating across more than two consecutive levels, the rating that is one level lower than the higher rating shall apply; (iii) if there is only one rating, the rating one level lower than such rating shall apply; and (iv) if there is no rating, Pricing Level 3 shall apply.

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

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

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

(d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.16(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Borrower, each Issuing Lender, the Swing Line Lender and each other Lender promptly following such determination.

**“Designated Jurisdiction”** means any region, country or territory to the extent that such region, country or territory itself is, or whose government is, the subject of any Sanction.

**“Disclosure Letter”** means the disclosure letter of the Borrower to the Administrative Agent and the Lenders with respect to this Agreement, dated as of the Closing Date.

**“Disqualified Equity Interests”** means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interest into which they are convertible or for which they are exchangeable) or upon the happening of any event or condition, (a) mature or are mandatorily redeemable (other than solely for Qualified Equity Interests and cash in lieu of fractional shares), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests and cash in lieu of fractional shares) (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), in whole or in part, (c) provide for the scheduled payment of dividends in cash or (d) are or become convertible into or exchangeable for Debt or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the Maturity Date; provided that if such Equity Interests is issued pursuant to a plan for the benefit of the Borrower or its Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

**“Distribution”** means any declaration or payment of a distribution, interest or dividend on any Equity Interest (other than payment-in-kind, including a dividend payable solely in shares of stock or the distribution of non-cash rights in connection with any stockholder rights plan); or any purchase, redemption, or other acquisition or retirement for value of any Equity Interest; provided that (a) the conversion of (including any cash settlement payment upon conversion), or payment of any principal or premium on, or payment of any interest with respect to, any Convertible Debt Securities shall not constitute a Distribution and (b) any payment with respect to, or early unwind or settlement of, any Permitted Call Spread Swap Agreement shall not constitute a Distribution.

**“Dividing Person”** has the meaning assigned to it in the definition of “Division.”

**“Division”** means the division of the assets, liabilities and/or obligations of a Person (the “Dividing Person”) among two or more Persons (whether pursuant to a “plan of division” or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

**“Division Successor”** means any Person that, upon the consummation of a Division of a Dividing Person, holds all or any portion of the assets, liabilities and/or obligations previously held by such Dividing Person immediately prior to the consummation of such Division. A Dividing Person which

retains any of its assets, liabilities and/or obligations after a Division shall be deemed a Division Successor upon the occurrence of such Division.

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

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of any political subdivision of the United States of America.

“Earn-Outs” means, with respect to any Person, unsecured liabilities of such Person arising under an agreement to make any deferred payment as a part of the purchase price for a Permitted Acquisition, including performance bonuses or consulting payments in any related services, employment or similar agreement, in an amount that is subject to or contingent upon the revenues, income, cash flow or profits (or the like) of the underlying target, in each case, to the extent that such deferred payment would be included as part of such purchase price.

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a Subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

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

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

“Environment” means ambient air, indoor air, surface water, groundwater, drinking water, soil, surface and subsurface strata, and natural resources such as wetland, flora and fauna.

“Environmental Laws” all Applicable Laws relating to the protection or pollution of the environment or exposure of any individual to hazardous materials, including CERCLA, RCRA and CWA.

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

**“Environmental Notice”** means a written notice, complaint, summons, citation, order, claim, request for corrective or remedial action, or demand from any Governmental Authority or other Person alleging any Environmental Release or noncompliance with any applicable Environmental Law by the Borrower or any of its Subsidiaries.

**“Environmental Release”** means a “release” as defined in CERCLA or under any other applicable Environmental Law.

**“Equipment”** has the meaning set forth in the UCC.

**“Equity Interests”** means the interest of any (a) shareholder in a corporation; (b) partner in a partnership (whether general, limited, limited liability, unlimited liability or joint venture); (c) member in a limited liability or unlimited liability company; or (d) Person having any other form of equity security or ownership than described in (a) through (c). Notwithstanding the foregoing, neither Convertible Debt Securities nor Permitted Call Spread Swap Agreements shall constitute Equity Interests.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations promulgated thereunder.

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

**“ERISA Event”** means (a) a Reportable Event with respect to a Pension Plan; (b) the withdrawal of any Loan Party or ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is insolvent; (d) the filing of a notice of intent to terminate, the treatment of a Pension Plan amendment as a termination under Section 4041 or 4041A of ERISA; (e) the institution by the PBGC of proceedings to terminate a Pension Plan; (f) any event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (g) the determination that any Pension Plan is considered an at-risk plan or a plan in endangered or critical status within the meaning of Sections 430, 431 and 432 of the Code or Sections 303, 304 and 305 of ERISA; (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or ERISA Affiliate; or (i) a failure by any Loan Party or ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules in respect of a Pension Plan, whether or not waived, or the failure by any Loan Party or ERISA Affiliate to make any required contribution to a Multiemployer Plan.

**“EU Bail-In Legislation Schedule”** means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

**“Event of Default”** has the meaning specified in Section 8.01.

**“Excluded Subsidiary”** means (a) any FSHCO, (b) any Domestic Subsidiary of any Foreign Subsidiary, and (c) any Securitization Subsidiary.

**“Excluded Swap Obligation”** means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a Lien to secure, such Swap Obligation (or any Guarantee or other liability in respect thereof) is or

becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation thereof) by virtue of such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder (determined after giving effect to Section 10.19, Section 28 of the Guaranty and any other "keepwell, support or other agreement" for the benefit of such Guarantor and any and all Guarantees of such Guarantor's Swap Obligations by other Loan Parties) at the time the Guarantee of such Guarantor, or a grant by such Guarantor of a Lien, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes excluded in accordance with the first sentence of this definition.

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

**Existing Agreement**" has the meaning set forth in the recitals hereto.

**Existing Lenders**" has the meaning set forth in the recitals hereto.

**Existing Letters of Credit**" means the letters of credit issued under the Existing Agreement and set forth on Schedule 2.03.

**Facility**" means the Term Facility or the Revolving Credit Facility, as the context may require.

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

**FATCA**" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code, as of the date of this Agreement (or any amended or successor version described above) and any intergovernmental agreement (and related fiscal or regulatory legislation, or related official rules or practices) implementing the foregoing.

**Federal Funds Rate**" means, for any day, the rate per annum calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of

New York as the federal funds effective rate; provided that if the Federal Funds Rate as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Fee Letter” means the letter agreement, dated August 11, 2022, among the Borrower, the Administrative Agent and BofA Securities, Inc.

“First Tier Foreign Subsidiary” means, at any date of determination, a Foreign Subsidiary in which the Borrower or any Domestic Subsidiary (or any combination thereof) owns directly more than 50%, in the aggregate, of the Equity Interests of such Subsidiary.

“Fiscal Quarter” means a fiscal quarter of any Fiscal Year.

“Fiscal Year” means the fiscal year of the Borrower and its Subsidiaries for accounting and tax purposes, ending on the Saturday nearest September 30 of each year.

“FLSA” means the Fair Labor Standards Act of 1938.

“Foreign Lender” means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

“Foreign Plan” means any employee benefit plan or arrangement (a) maintained or contributed to by any Loan Party or Subsidiary that is not subject to the laws of the United States of America; or (b) mandated by a government other than the United States for employees of any Loan Party or Subsidiary.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

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

“FSHCO” means (a) SSCI Holdings and (b) any Domestic Subsidiary of the Borrower substantially all of the assets of which consist of Equity Interests in, or Debt of, one or more direct or indirect Foreign Subsidiaries that are “controlled foreign corporations” within the meaning of Section 957 of the Code.

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

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or

such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

**“Governmental Approvals”** means all authorizations, consents, approvals, licenses and exemptions of, registrations and filings with, and required reports to, all Governmental Authorities.

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

**“Guarantee”** means, as to any Person, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Debt or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation, (b) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Debt or other obligation of the payment or performance of such Debt or other obligation, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation, or (d) entered into for the purpose of assuring in any other manner the obligee in respect of such Debt or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part); provided that the term “Guarantee” shall not include any liability by endorsement of instruments for collection or deposit in the Ordinary Course of Business or customary indemnification obligations entered into in the Ordinary Course of Business or in connection with any transaction permitted hereby. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

**“Guarantors”** means, collectively, the Subsidiaries of the Borrower party to the Guaranty.

**“Guaranty”** means the Amended and Restated Guaranty Agreement dated as of the Closing Date and made by the Guarantors in favor of the Administrative Agent for the benefit of the Secured Parties, irrespective of the existence of a Collateral Period, in the form attached hereto as Exhibit K, as supplemented from time to time by the execution and delivery of Guaranty Joinder Agreements.

**“Guaranty Joinder Agreement”** means each Guaranty Joinder Agreement, substantially in the form thereof attached to the Guaranty, executed and delivered by a Subsidiary to the Administrative Agent.

**“Hazardous Materials”** means all substances, wastes, or chemicals regulated or defined by a Governmental Authority as “hazardous”, “radioactive”, “explosive”, “infectious or medical waste”, “toxic”, a “pollutant” or “contaminant”, pursuant to an applicable Environmental Law, including petroleum or petroleum distillates, natural gas, natural gas liquids, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and toxic mold.

**Hedging Agreement** means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a **“Master Agreement”**), including any such obligations or liabilities under any Master Agreement. For the avoidance of doubt, the following shall not be deemed a “Hedging Agreement”: (i) any phantom stock or similar plan (including any stock option plan) providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Subsidiaries, (ii) any stock option or warrant agreement for the purchase of Equity Interests of the Borrower or any Permitted Call Spread Swap Agreement, (iii) the purchase of Equity Interests or Debt (including securities convertible into Equity Interests) of Borrower pursuant to delayed delivery contracts or (iv) any of the foregoing to the extent that it constitutes a derivative embedded in a convertible security issued by the Borrower.

**Hedge Bank** means any Person that, (a) at the time it enters into a Hedging Agreement with the Borrower or any Subsidiary, is a Lender or an Affiliate of a Lender or (b) at the time it (or its Affiliate) becomes a Lender, is a party to a Hedging Agreement with the Borrower or any Subsidiary, in each case, in its capacity as a party to such Hedging Agreement, in each case so long as such Person or its Affiliate continues to be a Lender.

**Increase Effective Date** has the meaning specified in Section 2.14(d).

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

**Indemnitees** has the meaning specified in Section 10.04(b).

**Information** has the meaning specified in Section 10.07.

**Insignificant Subsidiary** means (a) any Domestic Subsidiary (excluding any Excluded Subsidiaries) that together with its Domestic Subsidiaries (excluding any Excluded Subsidiaries), has assets (excluding any intercompany items) with an aggregate book value of no more than five percent (5%) of the consolidated total assets (excluding any intercompany items) of the Borrower and its Domestic Subsidiaries (excluding any Excluded Subsidiaries), as of the most recently ended Fiscal Quarter; provided that, if at any time, the total assets (excluding any intercompany items) of the Insignificant Subsidiaries that are Domestic Subsidiaries (excluding any Excluded Subsidiary), taken as a whole, as of the last day of the most recently ended Fiscal Quarter shall be greater than ten percent (10%) of the consolidated total assets (excluding any intercompany items) of the Borrower and its Domestic Subsidiaries (excluding any Excluded Subsidiaries), then the Borrower shall take such actions as may be necessary, including causing an Insignificant Subsidiary that is a Domestic Subsidiary (other than an Excluded Subsidiary) to become a Guarantor and grant security interests pursuant to Section 6.09, in order to reduce such percentage to ten percent (10%) or less at such time and (b) any Foreign Subsidiary

that, together with its Subsidiaries, has assets with an aggregate book value of no more than \$20,000,000, as of the last day of the most recently ended Fiscal Quarter.

**“Insolvency Proceeding”** means any case or proceeding commenced by or against a Person under any state, provincial, territorial, federal or foreign law for, or any agreement of such Person to, (a) the entry of an order for relief under the Bankruptcy Code or any other insolvency, debtor relief or debt adjustment law; (b) the appointment of a receiver, interim receiver, receiver-manager, monitor, trustee, liquidator, administrator, conservator or other custodian for such Person or any part of its Property under any bankruptcy or insolvency law (including, in each case, the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity); or (c) an assignment or trust mortgage for the benefit of creditors under any bankruptcy or insolvency law.

**“Intellectual Property”** means all intellectual and similar Property of a Person, including inventions, designs, patents, copyrights, trademarks, service marks, trade names, trade secrets, confidential or proprietary information, customer lists, know-how, software and databases; all embodiments or fixations thereof and all related documentation, applications, registrations and franchises; all licenses or other rights to use any of the foregoing; and all books and records relating to the foregoing.

**“Intellectual Property Claim”** means any written claim or assertion (whether by suit or otherwise) that the Borrower’s or any Subsidiary’s ownership, use, marketing, sale or distribution of any Inventory, Equipment, Intellectual Property or other Property violates another Person’s Intellectual Property.

**“Interco Subordination Agreement”** means the Amended and Restated Interco Subordination Agreement dated as of May 20, 2015 and conformed through the Closing Date among the Loan Parties, each Subsidiary that may from time to time become a payee on any Intercompany Debt owed by any Loan Party, the Administrative Agent, and the other parties thereto, in the form attached hereto as Exhibit L.

**“Intercompany Debt”** means Debt (whether or not evidenced by a writing) of the Borrower or any of its Subsidiaries payable to, as applicable, the Borrower or any of its Subsidiaries.

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

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

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

(ii) any Interest Period pertaining to a Term SOFR Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding

day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

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

“Interest Rate Agreement” means any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement, each of which is for the purpose of managing the interest rate exposure or interest rate risk associated with the Borrower’s and its Subsidiaries’ operations and not for speculative purposes.

“Inventory” has the meaning set forth in the UCC, including all goods intended for sale, lease, display or demonstration; all work in process; and all raw materials, and other materials and supplies of any kind that are or could be used in connection with the manufacture, printing, packing, shipping, advertising, sale, lease or furnishing of such goods, or otherwise used or consumed in the business of the Borrower or any Subsidiary (but excluding Equipment).

“Investment” by any Person means any acquisition of all or substantially all the assets of, or a business line or unit or a division of, another Person; any acquisition of record or beneficial ownership of any Equity Interests of another Person; or any advance or capital contribution to another Person. For purposes of calculation, the amount of any Investment outstanding at any time shall be the aggregate amount of such Investment less all cash dividends and cash distributions received by such Person thereon (or in the case of noncash dividends and distributions received by such Person, the amount of cash received in respect thereof when and if converted into cash).

“IRS” means the United States Internal Revenue Service.

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

“Issuer Documents” means, with respect to any Letter of Credit issued by any Issuing Lender, the Letter of Credit Application, and any other document, agreement and instrument entered into by such Issuing Lender and the Borrower (or any Subsidiary) or in favor of such Issuing Lender and relating to such Letter of Credit.

“Issuing Lender” means, individually or collectively as the context may indicate, (a) Bank of America in its capacity as an issuer of Letters of Credit hereunder, or any successor to Bank of America in its capacity as an issuer of Letters of Credit hereunder, (b) MUFG Bank, Ltd. in its capacity as an issuer of Letters of Credit hereunder, or any successor to MUFG Bank, Ltd. in its capacity as an issuer of Letters of Credit hereunder, (c) Bank of the West in its capacity as an issuer of Letters of Credit hereunder, or any successor to Bank of the West in its capacity as an issuer of Letters of Credit hereunder and (d) any other Lender, selected by the Borrower in consultation with the Administrative Agent, which has consented to its appointment by the Borrower as an issuer of Letters of Credit hereunder in its capacity as an issuer of Letters of Credit hereunder; provided that at no time shall there be more than three (3) Issuing Lenders without the consent of the Administrative Agent.

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

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

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

**L/C Commitment** means, with respect to each Issuing Lender, the commitment of such Issuing Lender to issue Letters of Credit hereunder. The initial amount of each Issuing Lender's L/C Commitment is set forth on Schedule 2.01, or if an Issuing Lender has entered into an Assignment and Assumption or has otherwise assumed a L/C Commitment after the Closing Date, is the amount set forth for such Issuing Lender as its L/C Commitment in the Register maintained by the Administrative Agent. The L/C Commitment of an Issuing Lender may be modified from time to time by agreement between such Issuing Lender and the Borrower, and notified to the Administrative Agent.

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

**L/C Disbursement** means a payment made by an Issuing Lender pursuant to a Letter of Credit.

**L/C Obligations** means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

**Lender** has the meaning specified in the introductory paragraph hereto and, as the context requires, includes the Swing Line Lender.

**Lender Party** and **Lender Recipient Party** means collectively, the Lenders, the Swing Line Lender and the Issuing Lenders.

**Lending Office** means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent, which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such Affiliate. Unless the context otherwise requires each reference to a Lender shall include its applicable Lending Office.

**Letter of Credit** means any letter of credit issued hereunder, providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit. A Letter of Credit may be a commercial letter of credit or a standby letter of credit; provided, however, that any commercial letter of credit issued hereunder shall provide for payment in cash only and not pursuant to time drafts.

**Letter of Credit Application** means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable Issuing Lender.

**Letter of Credit Fee** has the meaning specified in Section 2.03(j).

**“Letter of Credit Sublimit”** means, at any time, an amount equal to the lesser of (a) \$100,000,000 and (b) the Revolving Credit Facility at such time. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facility.

**“License”** means any license or agreement under which any Loan Party is authorized to use Intellectual Property in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of Property or any other conduct of its business.

**“Licensor”** means any Person from whom a Loan Party obtains the right to use any Intellectual Property.

**“Lien”** means with respect to any asset, any mortgage, leasehold mortgage, lien (statutory or otherwise), pledge, charge, security interest, hypothecation, assignment for security, deposit arrangement, or other encumbrance or preferential arrangement in the nature of a security interest of any kind or nature in respect of such asset. For the purposes of this Agreement, a Person shall be deemed to own subject to a Lien on any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention agreement relating to such asset, or, in the case of real property, subject to any easement, right of way or other encumbrance on title.

**“Lien Waiver”** means an agreement, in form and substance reasonably satisfactory to the Administrative Agent, by which (a) for any material Collateral located on leased premises, the lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit the Administrative Agent to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any Documents in its possession relating to the Collateral as agent for the Administrative Agent, and agrees to deliver the Collateral to the Administrative Agent upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges the Administrative Agent’s Lien, waives or subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to the Administrative Agent upon request; and (d) for any Collateral subject to a Licensor’s Intellectual Property rights, the Licensor grants to the Administrative Agent the right, vis-à-vis such Licensor, to enforce the Administrative Agent’s Liens with respect to the Collateral, including the right to dispose of it with the benefit of the Intellectual Property, whether or not a default exists under any applicable License.

**“Loan”** means an extension of credit by a Lender to the Borrower under Article II in the form of a Term Loan, a Revolving Credit Loan or a Swing Line Loan.

**“Loan Documents”** means, collectively, this Agreement, including schedules and exhibits hereto, the Disclosure Letter, the Notes, the Security Documents, the Guaranty, the Fee Letter, the Issuer Documents, the Interco Subordination Agreement, all agreements creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.15 and any amendments, modifications or supplements hereto or to any other Loan Document or waivers hereof or to any other Loan Document.

**“Loan Parties”** means, collectively, the Borrower and each Guarantor.

**“Loan Year”** means each 12 month period commencing on the Closing Date and on each anniversary of the Closing Date.

**“Margin Stock”** has the meaning set forth in Regulation U of the FRB.

**“Material Adverse Effect”** means (a) a material adverse change in, or a material adverse effect on, the operations, business, assets, properties, liabilities (actual or contingent) or financial condition of the Borrower and its Subsidiaries, taken as a whole; (b) a material impairment of the ability of the Administrative Agent or any Lender to enforce or collect any obligations arising under any Loan Document or if a Collateral Period is in effect to realize upon the Collateral, or of the ability of the Borrower or any Guarantor to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Borrower or any Guarantor of any Loan Document to which it is a party.

**“Material Contract”** means any agreement or arrangement to which the Borrower or any Subsidiary is party (other than the Loan Documents) (a) that is deemed to be a material contract under any securities law applicable to such Person, including the Securities Act of 1933; (b) for which breach, termination, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect; or (c) that relates to Subordinated Debt or Debt having an outstanding principal amount of \$75,000,000 or more.

**“Material Indebtedness”** means any Debt (other than the Loans), or obligations in respect of one or more Hedging Agreements, of any Loan Party evidencing an outstanding principal amount exceeding \$75,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of such Loan Party in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Loan Party would be required to pay if such Hedging Agreement were terminated at such time.

**“Maturity Date”** means September 27, 2027; provided, however, that if such date is not a Business Day, the Maturity Date shall be the next preceding Business Day.

**“Minimum Collateral Amount”** means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during the existence of a Defaulting Lender, an amount equal to 105% of the Fronting Exposure of any Issuing Lender with respect to Letters of Credit issued by such Issuing Lender and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of Section 2.15(a)(i), (a)(ii) or (a)(iii), an amount equal to 105% of the Outstanding Amount of the applicable L/C Obligations in the case of Section 2.15(a)(i) and (a)(ii) and all L/C Obligations in the case of Section 2.15(a)(iii), and (c) otherwise, an amount determined by the Administrative Agent and the Issuing Lenders in their sole discretion.

**“Moody’s”** means Moody’s Investors Service, Inc. and any successor thereto.

**“Moody’s Rating”** means, as of any date of determination, the corporate family rating (or any substantially similar successor rating, however styled) of the Borrower and its Subsidiaries as determined by Moody’s.

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

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

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

“Non-Extension Notice Date” has the meaning specified in Section 2.03(b).

“Non-Guarantor Subsidiary” means any Subsidiary that is not a Guarantor.

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

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, Letter of Credit or Bank Product, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; provided that, without limiting the foregoing, the Obligations include (a) the obligation to pay principal, interest, Letter of Credit commissions, charges, expenses, fees, indemnities and other amounts payable by any Loan Party under any Loan Document and (b) the obligation of the Loan Parties to reimburse any amount in respect of any of the foregoing that the Administrative Agent or any Lender, in each case in its sole discretion, may elect to pay or advance on behalf of the Loan Parties as permitted pursuant to the Loan Documents; provided, further, that the “Obligations” of a Guarantor shall exclude any Excluded Swap Obligations with respect to such Guarantor and “Obligations” shall exclude obligations arising from any Permitted Call Spread Swap Agreement.

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

“Ordinary Course of Business” means the ordinary course of business of the Borrower or any Subsidiary, in the exercise of its reasonable business judgment and undertaken in good faith.

“Organic Documents” means, with respect to any Person, its charter, certificate or articles of incorporation, bylaws, articles of organization, limited liability agreement, operating agreement, members agreement, shareholders agreement, partnership agreement, certificate of partnership, certificate of formation, voting trust agreement, or similar agreement or instrument governing the formation or operation of such Person.

“OSHA” means the Occupational Safety and Hazard Act of 1970.

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

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06).

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

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

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

**“Payment Item”** means each check, draft or other item of payment payable to the Borrower, including those constituting proceeds of any Collateral.

**“PBGC”** means the Pension Benefit Guaranty Corporation.

**“Pension Act”** means the Pension Protection Act of 2006.

**“Pension Funding Rules”** means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension Act and, thereafter, Section 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

**“Pension Plan”** means any employee pension benefit plan (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Loan Party or ERISA Affiliate or to which any Loan Party or ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the preceding five plan years.

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

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

(b) all transactions in connection therewith shall be consummated, in all material respects, in accordance with all Applicable Laws and in conformity with all applicable Governmental Approvals;

(c) in the case of the acquisition of Equity Interests in which all of the Equity Interests (except for any such Equity Interests in the nature of directors’ qualifying shares required pursuant to Applicable Law) acquired or otherwise issued by such Person or any newly formed Subsidiary of the Borrower in connection with such acquisition shall be owned 100% by the Borrower or any other Loan

Party, the Borrower shall take, or cause to be taken, promptly after the date such Person becomes a Subsidiary of the Borrower, to the extent applicable, each of the actions set forth in Section 6.09:

- (d) in the case of an acquisition where the consideration paid (excluding any Earn-Outs) is \$75,000,000 or more, the Borrower shall have delivered to the Administrative Agent at least ten (10) Business Days (or such shorter period of time as may be agreed to by the Administrative Agent) prior to such proposed acquisition, all relevant financial information with respect to such acquired assets or Equity Interests, including, without limitation, the aggregate consideration for such acquisition;
- (e) any Person or assets or division as acquired in accordance herewith shall constitute a Permitted Business; and
- (f) such acquisition shall not have been preceded by a tender offer that has not been approved by the board of directors of such Person.

**“Permitted Asset Disposition”** means (a) a sale of Inventory in the Ordinary Course of Business (including, without limitation, the sale of Inventory from the Borrower or any Subsidiary to the Borrower or any Subsidiary); (b) a disposition of Equipment; (c) a disposition of damaged, worn out, surplus or obsolete personal property or fixtures in the Ordinary Course of Business so long as such property is no longer necessary for the proper conduct of the business of the Borrower and its Subsidiaries; (d) termination of a lease of real or personal Property that is not necessary for the Ordinary Course of Business, could not reasonably be expected to have a Material Adverse Effect and does not result from any Loan Party’s default; (e) any Asset Disposition approved in writing by the Administrative Agent and Required Lenders; (f) replacement of Equipment that is worn, damaged or obsolete with Equipment of like function and value, if the replacement Equipment is acquired substantially contemporaneously with such disposition and is free of Liens; (g) any involuntary loss resulting from a casualty event or condemnation; (h) the lapse or abandonment of Intellectual Property so long as such Intellectual Property is not material to the business of the Borrower and its Subsidiaries; or (i) the surrender or waiver of litigation rights or the settlement, release or surrender of tort or other litigation claims of any kind.

**“Permitted Business”** means any business that is related, ancillary or complementary to the businesses of the Borrower and its Subsidiaries on the Closing Date or any reasonable extension thereof.

**“Permitted Call Spread Swap Agreements”** means (a) any agreement (including, but not limited to, any convertible bond hedge transaction or capped call transaction) pursuant to which, among other things, the Borrower acquires an option requiring the counterparty thereto to deliver to the Borrower shares of common stock of the Borrower, cash in lieu of delivering shares of common stock or cash representing the termination value of such option or a combination thereof from time to time upon settlement, exercise or early termination of such option and (b) any agreement pursuant to which, among other things, the Borrower issues to the counterparty thereto warrants to acquire common stock of the Borrower, cash in lieu of delivering shares of common stock or cash representing the termination value of such warrants or a combination thereof from time to time upon settlement, exercise or early termination of such warrants, in each case entered into by the Borrower in connection with the issuance of Convertible Debt Securities (including, without limitation, the exercise of any overallotment or underwriter’s option); provided that (i) the terms, conditions and covenants of each such Permitted Call Spread Swap Agreement are customary for agreements of such type (as reasonably determined by the Board of Directors of the Borrower in good faith) and (ii) in the case of clause (b) above, such Permitted Call Spread Swap Agreement is classified as an equity instrument in accordance with GAAP.

**“Permitted Contingent Obligations”** means any Contingent Obligations (a) arising from endorsements of Payment Items for collection or deposit in the Ordinary Course of Business; (b) arising

from Hedging Agreements permitted hereunder; (c) existing on the Closing Date, and any extension or renewal thereof that does not increase the amount of such Contingent Obligation when extended or renewed; (d) incurred in the Ordinary Course of Business with respect to surety, appeal or performance bonds, or other similar obligations; (e) arising from customary indemnification obligations in favor of purchasers in connection with dispositions of Equipment permitted hereunder; (f) arising under the Loan Documents; or (g) in an aggregate amount of \$75,000,000 or less at any time.

“Permitted Lien” has the meaning set forth in Section 7.02.

“Permitted Pool Transaction” means the transfer of cash, whether directly or indirectly, through the repayment of or making of any Intercompany Debt, the making of any Upstream Payment, the making of Investments or otherwise in the Ordinary Course of Business, from a Foreign Subsidiary to another Foreign Subsidiary in order to have the cash balances of such Foreign Subsidiaries repay or refund their obligations under a cash management pool with a financial institution; provided that in connection with any such transfer, (a) if any cash is proposed to be transferred from a Loan Party to a Foreign Subsidiary, prior to, or simultaneously with, such proposed transfer, an equivalent amount of cash shall be transferred to such Loan Party from a Foreign Subsidiary and (b) if any cash is proposed to be transferred to a Loan Party from a Foreign Subsidiary, prior to, or simultaneously with, such proposed transfer, an equivalent amount of cash shall be transferred from such Loan Party to a Foreign Subsidiary.

“Permitted Purchase Money Debt” means any Purchase Money Debt of the Borrower and its Subsidiaries that is unsecured or secured only by a Purchase Money Lien, as long as the aggregate principal amount of all such Purchase Money Debt does not exceed \$100,000,000 at any time plus any amount permitted by and not utilized pursuant to Section 7.01(l), but in no event shall the aggregate outstanding principal amount of Purchase Money Debt and Debt permitted under Section 7.01(l) exceed at any time \$200,000,000.

“Permitted Securitization Facility” shall mean a financing facility established by a Securitization Subsidiary and one or more of the Borrower or its Subsidiaries, whereby the Borrower or its Subsidiaries shall have sold or transferred accounts receivable, payment intangibles, chattel paper, payments, or similar rights to payment to a Securitization Subsidiary; provided that (a) except as permitted in respect of indemnities by clause (b) of this proviso, no portion of the Debt or any other obligation (contingent or otherwise) under such Permitted Securitization Facility shall be guaranteed by the Borrower or any of its Subsidiaries (other than a Securitization Subsidiary), (b) there shall be no recourse or obligation to the Borrower or any of its Subsidiaries (other than a Securitization Subsidiary) whatsoever other than pursuant to representations, warranties, covenants and indemnities entered into in the Ordinary Course of Business in connection with such Permitted Securitization Facility that in the reasonable opinion of the Borrower are customary for securitization transactions and (c) none of the Borrower nor any of its Subsidiaries (other than the Securitization Subsidiary) shall have provided, either directly or indirectly, any other credit support of any kind in connection with such Permitted Securitization Facility, other than as set forth in clause (b) of this definition.

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

“Plan” means any employee benefit plan (as such term is defined in Section 3(3) of ERISA) established by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, an ERISA Affiliate.

“Platform” has the meaning specified in Section 6.02.

**"Pledge Agreement"** means the Amended and Restated Pledge Agreement dated as of the Closing Date made by the Loan Parties in favor of the Administrative Agent for the benefit of the Secured Parties in the form attached hereto as Exhibit J, as supplemented from time to time by the execution and delivery of Pledge Joinder Agreements and Pledge Agreement Supplements.

**"Pledge Agreement Supplement"** means each Pledge Agreement Supplement, substantially in the form thereof attached to the Pledge Agreement, executed and delivered by a Loan Party to the Administrative Agent.

**"Pledge Joinder Agreement"** means each Pledge Joinder Agreement, substantially in the form thereof attached to the Pledge Agreement, executed and delivered by a Loan Party to the Administrative Agent.

**"Pro Forma Compliance"** means, with respect to any Specified Transaction, that such Specified Transaction does not cause, create or result in a Default after giving Pro Forma Effect, based upon the results of operations for the most recently completed period of four consecutive Fiscal Quarters for which financial statements are available, to (a) such Specified Transaction and (b) all other Specified Transactions which are contemplated in connection therewith or required to be given Pro Forma Effect hereunder that have occurred on or after the first day of such period.

**"Pro Forma Effect"** means, for any Specified Transaction, whether actual or proposed, for purposes of determining compliance with the financial covenants set forth in Section 7.16, each such Specified Transaction or proposed Specified Transaction shall be deemed to have occurred on and as of the first day of the relevant period of four consecutive Fiscal Quarters, and the following pro forma adjustments shall be made:

(a) in the case of an actual or proposed Asset Disposition, all income statement items (whether positive or negative) attributable to the division or line of business or the Person subject to such Asset Disposition shall be excluded from the results of the Borrower and its Subsidiaries for such period;

(b) in the case of an actual or proposed Permitted Acquisition, income statement items (whether positive or negative) attributable to the Property, line of business or the Person subject to such Permitted Acquisition shall be included in the results of the Borrower and its Subsidiaries for such period;

(c) interest accrued during such period on, and the principal of, any Debt repaid or to be repaid or refinanced in such Specified Transaction shall be excluded from the results of the Borrower and its Subsidiaries for such period; and

(d) any Debt actually or proposed to be incurred or assumed in such Specified Transaction shall be deemed to have been incurred as of the first day of such period, and interest thereon shall be deemed to have accrued from such day on such Debt at the applicable rates provided therefor (and in the case of interest that does or would accrue at a formula or floating rate, at the rate in effect at the time of determination) and shall be included in the results of the Borrower and its Subsidiaries for such period.

Whenever any financial covenant set forth in Section 7.16 is to be calculated giving Pro Forma Effect to any Specified Transaction, such calculations shall be made in good faith by a financial or accounting officer of the Borrower who is a Senior Officer.

**“Properly Contested”** means with respect to any obligation of any Person, (a) the obligation is subject to a bona fide dispute regarding amount or the Person’s liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established to the extent required in accordance with GAAP; (d) non-payment could not reasonably be expected to have a Material Adverse Effect, nor result in forfeiture or sale of any material portion of the assets of the Person; (e) except for non-delinquent tax Liens, no Lien is imposed on any material portion of the assets of the Person, unless bonded and stayed to the extent reasonably requested by and to the satisfaction of the Administrative Agent; and (f) if the obligation results from entry of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

**“Property”** means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

**“PTE”** means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

**“Public Lender”** has the meaning specified in **Section 6.02**.

**“Purchase Money Debt”** means (a) Debt (other than the Obligations) for payment of any of the purchase price of fixed assets; (b) Debt (other than the Obligations) incurred within 30 days before or after acquisition of any fixed assets, for the purpose of financing any of the purchase price thereof; and (c) any renewals, extensions or refinancings (but not increases) thereof.

**“Purchase Money Lien”** means a Lien that secures Purchase Money Debt, encumbering only the fixed assets and related software acquired with such Debt, and any accession, addition or improvement thereto, any replacement thereof and the proceeds thereof, together with customary cash deposits, and constituting a Capital Lease or a purchase money security interest under the UCC.

**“Qualified Equity Interests”** means any Equity Interests that are not Disqualified Equity Interests.

**“RCRA”** means the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*).

**“Real Estate”** means all right, title and interest (whether as owner, lessor or lessee) in any real Property and related appurtenances or any buildings, structures, parking areas or other improvements thereon.

**“Recipient”** means the Administrative Agent, any Lender or any Issuing Lender.

**“Refinancing Conditions”** means the following conditions for Refinancing Debt: (a) it is in an aggregate principal amount that does not exceed the principal amount of the Debt being extended, renewed, replaced or refinanced plus an amount necessary to pay any fees and expenses, including premiums and defeasances costs, related thereto; (b) it has a final maturity no sooner than, and a weighted average life no less than, the Debt being extended, renewed, replaced or refinanced; (c) it is subordinated to the Obligations at least to the same extent as the Debt being extended, renewed, replaced or refinanced; (d) taken as a whole in each case, (i) the representations, (ii) the covenants and (iii) the defaults applicable to it are not materially less favorable to the Borrower (determined by the Borrower in good faith in consultation with the Administrative Agent) than those applicable to the Debt being extended, renewed, replaced or refinanced (it being understood and agreed that, in determining whether any of the foregoing provisions of Refinancing Debt are materially less favorable to the Borrower, the Borrower shall be permitted (but shall not be required) to consult with the Administrative Agent prior to incurring such

Refinancing Debt and request that the Administrative Agent make a determination as to whether such provisions are materially less favorable to the Borrower, and the good faith determination of the Administrative Agent in that regard shall be definitive and it being further understood that the Administrative Agent shall have no obligation to make any such determination); (e) any Liens securing such Debt cover the same types of property as the Debt being extended, renewed, replaced or refinanced; (f) no additional Person is obligated on such Debt unless such Person would otherwise be permitted under this Agreement to be obligated on the Debt being extended, renewed, replaced or refinanced; and (g) upon giving effect to it, no Default or Event of Default exists.

“Refinancing Debt” means Debt that is the result of an extension, renewal, replacement or refinancing of Debt permitted under Section 7.01(b), (d), (f) or (g).

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

“Regulation U” means Regulation U of the FRB, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

“Related Assets” means, with respect to any receivables, any assets related thereto, including all collateral securing such receivables, all contracts and contract rights, purchase orders, leases, security interests, financing statements or other documentation in respect of such receivables, and all guarantees, indemnities, warranties or other documentation or other obligations in respect of any such receivable, any other assets which are customarily transferred, or in respect of which security interests are customarily granted in connection with transactions (including without limitation any Permitted Securitization Facility) involving receivables similar to the receivables, interest in goods represented by the receivables and all goods returned by or reclaimed, repossessed or recovered from, the account debtor, and any collections or proceeds of the foregoing, and any Equity Interests in a Securitization Subsidiary.

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

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

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

“Required Class Lenders” means, at any time with respect to any Class of Loans or Commitments, Lenders having Total Credit Exposures with respect to such Class representing more than 50% of the Total Credit Exposures of all Lenders of such Class. The Total Credit Exposure of any Defaulting Lender with respect to such Class shall be disregarded in determining Required Class Lenders at any time.

“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided that, the amount of any participation in any Swing Line Loan and Unreimbursed Amounts that such Defaulting Lender has failed to fund that have not been reallocated to and funded by another Lender shall be deemed

to be held by the Lender that is the Swing Line Lender or the Issuing Lender in respect of such Unreimbursed Amount, as the case may be, in making such determination.

“Required Revolving Lenders” means, as of any date of determination, Revolving Credit Lenders holding more than 50% of the sum of the (a) Total Revolving Credit Outstandings (with the aggregate amount of each Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed “held” by such Revolving Credit Lender for purposes of this definition) and (b) aggregate unused Revolving Credit Commitments; provided that the unused Revolving Credit Commitment of, and the portion of the Total Revolving Credit Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Revolving Lenders.

“Required Term Lenders” means, as of any date of determination, Term Lenders holding more than 50% of the Term Facility on such date; provided that the portion of the Term Facility held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Term Lenders.

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

“Resignation Effective Date” has the meaning specified in Section 9.06.

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

“Restrictive Agreement” means an agreement (other than a Loan Document) that conditions or restricts the right of the Borrower, any other Loan Party or any Subsidiary to Guarantee any Debt of the Borrower, any other Loan Party or any Subsidiary under the Loan Documents, to grant Liens on any assets in favor of the Administrative Agent under the Loan Documents, to declare or make Distributions on Equity Interests of any Loan Party or any Subsidiary or to repay any Intercompany Debt.

“Revolver Increase” has the meaning specified in Section 2.14(a).

“Revolving Credit Borrowing” means a borrowing consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of Term SOFR Loans, having the same Interest Period, made by each of the Revolving Credit Lenders pursuant to Section 2.01(b).

“Revolving Credit Commitment” means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Borrower pursuant to Section 2.01(b), (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the Dollar amount set forth opposite such Lender’s name on Schedule 2.01 under the caption “Revolving Credit Commitment” or opposite such caption in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

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

“Revolving Credit Facility” means, at any time, the aggregate amount of the Revolving Credit Lenders’ Revolving Credit Commitments at such time.

“Revolving Credit Lender” means, at any time, any Lender that has a Revolving Credit Commitment at such time.

“Revolving Credit Loan” has the meaning specified in Section 2.01(b).

“Revolving Credit Note” means a promissory note made by the Borrower in favor of a Revolving Credit Lender evidencing Revolving Credit Loans or Swing Line Loans, as the case may be, made by such Revolving Credit Lender, substantially in the form of Exhibit C-1.

“Royalties” means all royalties, fees, expense reimbursement and other amounts payable by the Borrower or any Subsidiary under a License.

“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of S&P Global, Inc., and any successor thereto.

“S&P Rating” means, as of any date of determination, the corporate rating (or any substantially similar successor rating, however styled) of the Borrower and its Subsidiaries as determined by S&P.

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

“Sanmina India Joint Venture” means the joint venture formed or to be formed in accordance with the terms of the Sanmina India Joint Venture Documents.

“Sanmina India Joint Venture Documents” means (a) that certain Joint Venture and Shareholders’ Agreement among the Borrower, Reliance Strategic Business Ventures Limited (“Reliance”), Sanmina-SCI India Private Limited (“Sanmina India”) and Sanmina-SCI Systems Singapore Pte Ltd (“Sanmina Singapore”), (b) that certain Share Subscription and Purchase Agreement (the “SSPA”) among the Borrower, Reliance, Sanmina India, Sanmina Singapore and AET Holdings Limited and (c) and those certain documents defined as Transaction Documents in the SSPA.

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

“Secured Cash Management Agreement” means any Cash Management Agreement that is entered into by and between the Borrower or any Subsidiary and any Cash Management Bank.

“Secured Hedge Agreement” means any Hedging Agreement permitted hereunder that is entered into by and between the Borrower or any Subsidiary and any Hedge Bank.

“Secured Parties” means, collectively, the Administrative Agent, the Lenders, the Issuing Lenders, the Hedge Banks, the Cash Management Banks, each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05, and the other Persons the Obligations owing to which are or are purported to be secured by the Collateral under the terms of the Security Documents.

“Securitization Subsidiary” means a wholly-owned Subsidiary of the Borrower that is a special purpose vehicle that has been established for the sole purpose of facilitating a financing under a Permitted Securitization Facility and that shall not engage in any activities other than in connection with the Permitted Securitization Facility.

“Security Agreement” means the Second Amended and Restated Security Agreement dated as of the Closing Date, made by the Loan Parties in favor of the Administrative Agent for the benefit of the

Secured Parties in the form attached hereto as Exhibit I, as supplemented from time to time by the execution and delivery of Security Joinder Agreements.

“Security Documents” means, collectively, the Security Agreement, each Security Joinder Agreement, the Pledge Agreement, each Pledge Joinder Agreement, each Pledge Agreement Supplement, each of the collateral assignments, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent pursuant to Section 6.09, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Administrative Agent for the benefit of the Secured Parties.

“Security Joinder Agreement” means each Security Joinder Agreement, substantially in the form thereof attached to a Security Agreement, executed and delivered by a Subsidiary to the Administrative Agent.

“Senior Officer” means the chairman of the board, president, chief executive officer, chief financial officer or treasurer of the Borrower or, if the context requires, any other Loan Party, solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of a Loan Party and, solely for purposes of notices given pursuant to Article II, any other officer of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Senior Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Senior Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

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

“SOFR Adjustment” with respect to Daily Simple SOFR means 0.10% (10 basis points); and with respect to Term SOFR means 0.10% (10 basis points) for an Interest Period of one-month’s duration, 0.15% (15 basis points) for an Interest Period of three-months’ duration, 0.25% (25 basis points) for an Interest Period of six-months’ duration.

“Solvent” and “Solvency” mean, as to any Person as of the date of determination, such Person (a) owns Property whose fair salable value is greater than the amount required to pay all of its debts (including contingent, subordinated, unmatured and unliquidated liabilities); (b) owns Property whose present fair salable value (as defined below) is greater than the probable total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) of such Person as they become absolute and matured; (c) is able to pay all of its debts as they mature; (d) has capital that is not unreasonably small for its business and is sufficient to carry on its business and transactions and all business and transactions in which it is about to engage; (e) is not “insolvent” within the meaning of Section 101(32) of the Bankruptcy Code; and (f) has not incurred (by way of assumption or otherwise) any obligations or liabilities (contingent or otherwise) under any Loan Documents, or made any conveyance in connection therewith, with actual intent to hinder, delay or defraud either present or future creditors of such Person or any of its Affiliates. “Fair salable value” means the amount that could be obtained for assets within a reasonable time, either through collection or through sale under ordinary selling conditions by a capable and diligent seller to an interested buyer who is willing (but under no compulsion) to purchase. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such

contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

“Specified Loan Party” means any Loan Party that is not an “eligible contract participant” under the Commodity Exchange Act (determined prior to giving effect to Section 10.19 or Section 28 of the Guaranty).

“Specified Transaction” means (a) a Disposition of all of the Equity Interests of a Person or all or substantially all of a division or a line of business, (b) any Acquisition for which the consideration paid (excluding Earn-Outs) is \$50,000,000 or more, (c) Debt incurred pursuant to Section 7.01(r) or Section 7.01(v), or (d) a Distribution made pursuant to Section 7.03(a)(i).

“SSCI Holdings” means Sanmina-SCI Holdings, LLC, a Delaware limited liability company.

“Subordinated Debt” means unsecured Debt incurred by the Borrower that is expressly in writing subordinate and junior in right of payment to the full and final payment of all Obligations, has no scheduled amortization payments or mandatory prepayments or redemptions (other than as a result of an event of default thereunder or as a result of customary change of control provisions or as a result of such Debt being convertible into Equity Interests of the Borrower) prior to 91 days after the Maturity Date, and the covenants and subordination provisions thereof are reasonably satisfactory to the Administrative Agent.

“Subsidiary” of a Person means a corporation, partnership, limited liability company or other business entity of which a majority of the outstanding shares of securities or other interests having ordinary voting power for the election of directors or other equivalent governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, directly or indirectly, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower. For the avoidance of doubt, the Borrower does not own, directly or indirectly, the majority of interests in the Sanmina India Joint Venture as of the Closing Date and the Sanmina India Joint Venture does not constitute a “Subsidiary” as of the Closing Date.

“Successor Rate” means any proposed rates and adjustments provided in accordance with Section 3.03(b) or (c), as applicable.

“Swap Obligations” means with respect to any Guarantor any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

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

“Swing Line Commitment” means as to any Lender (a) the amount set forth opposite such Lender’s name on Schedule 2.01 hereof or (b) if such Lender has entered into an Assignment and Assumption or has otherwise assumed a Swing Line Commitment after the Closing Date, the amount set forth for such Lender as its Swing Line Commitment in the Register maintained by the Administrative Agent pursuant to Section 10.06(c).

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

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

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

**"Swing Line Sublimit"** means, at any time, an amount equal to the lesser of (a) \$75,000,000 and (b) the Revolving Credit Facility at such time. The Swing Line Sublimit is part of, and not in addition to, the Revolving Credit Facility.

**"Synthetic Lease Obligation"** means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property (including sale and leaseback transactions), in each case, creating obligations that do not appear on the balance sheet of such Person but which, upon the application of any Debtor Relief Laws to such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

**"Taxes"** means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

**"Term Borrowing"** means a borrowing consisting of simultaneous Term Loans of the same Type and, in the case of Term SOFR Loans, having the same Interest Period made by the Term Lenders pursuant to Section 2.01(a).

**"Term Commitment"** means, as to each Term Lender, its obligation to make Term Loans to the Borrower pursuant to Section 2.01(a) in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Term Lender's name on Schedule 2.01 under the caption "Term Commitment" or opposite such caption in the Assignment and Assumption pursuant to which such Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

**"Term Facility"** means, (a) on or prior to the Closing Date, the aggregate amount of the Term Commitments at such time and (b) thereafter, the Outstanding Amount of the Term Loans of all Term Lenders at such time.

**"Term Lender"** means (a) on or prior to the Closing Date, in respect of the Term Facility, any Lender that has a Term Commitment at such time and (b) thereafter, any Lender that holds Term Loans at such time.

**"Term Loan"** means an advance made by any Term Lender under the Term Facility.

**"Term Loan Exposure"** means, as to any Lender at any time, the aggregate Outstanding Amount at such time of its Term Loans; provided that at any time prior to the making of the Term Loans, the Term Loan Exposure of any Lender shall be equal to such Lender's Term Commitment.

**"Term Note"** means a promissory note made by the Borrower in favor of a Term Lender evidencing Term Loans made by such Term Lender, substantially in the form of Exhibit C-2.

**"Term SOFR"** means:

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

Rate on the first U.S. Government Securities Business Day immediately prior thereto, in each case, plus the SOFR Adjustment for such Interest Period; and

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

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

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

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

“Total Credit Exposure” means, as to any Lender at any time, (a) in respect of the Revolving Credit Facility, the unused Revolving Credit Commitments and Revolving Credit Exposure of such Lender at such time and (b) in respect of the Term Facility, the Term Loan Exposure of such Lender at such time.

“Total Revolving Credit Outstandings” means the aggregate Outstanding Amount of all Revolving Credit Loans, Swing Line Loans and L/C Obligations.

“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Term SOFR Loan.

“UCC” means the Uniform Commercial Code as in effect in the State of New York provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

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

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

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

“Unfunded Pension Liability” means the excess of a Pension Plan’s benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan’s assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

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

“Unreimbursed Amount” has the meaning specified in Section 2.03(f).

**"Upstream Payment"** means a Distribution by a Subsidiary of the Borrower to the Borrower or a wholly-owned Subsidiary.

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

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

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

**"Withholding Agent"** means the Borrower, any Loan Party and the Administrative Agent.

**"Write-Down and Conversion Powers"** means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

**1.02 Other Interpretive Provisions**. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organic Document and any Loan Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law, rule or regulation shall, unless otherwise specified, refer to such law, rule or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

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

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

(d) Any reference herein to a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

1.03 Accounting Terms. (a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, other than for purposes of Sections 6.02(a) and 6.02(b), Debt of the Borrower and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

(b) Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (A) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (B) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Notwithstanding anything in the Loan Documents, all obligations of any Person that are or would have been treated as operating leases for purposes of GAAP prior to the issuance by the Financial Accounting Standards Board on February 25, 2016 of an Accounting Standards Update (the “ASU”) shall continue to be accounted for as operating leases for purposes of all financial definitions, calculations and covenants for purposes of this Agreement (other than for purposes of the delivery of financial statements prepared in accordance with GAAP) whether or not such operating lease obligations were in effect on such date, notwithstanding the fact that such obligations are required in accordance with the ASU (on a prospective or retroactive basis or otherwise) to be treated as capitalized lease obligations in accordance with GAAP.

(c) Pro Forma Treatment. Each Asset Disposition of all of the Equity Interests of a Person or all or substantially all of a division or a line of business, and each Permitted Acquisition, by the Borrower and its Subsidiaries that is consummated during any relevant period of four consecutive Fiscal Quarters shall, for purposes of determining compliance with the financial covenants set forth in Section 7.16, be given Pro Forma Effect as if such transaction had occurred on and as of the first day of such period.

1.04 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.05 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.06 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

1.07 Currency Equivalents Generally. Any amount specified in this Agreement (other than in Articles II, IX and X) or any of the other Loan Documents to be in Dollars shall also include the equivalent of such amount in any currency other than Dollars.

1.08 Interest Rates. The Administrative Agent does not warrant, nor accept responsibility for, nor shall the Administrative Agent have any liability with respect to, the administration, submission or any other matter related to any reference rate referred to herein or with respect to any rate (including, for the avoidance of doubt, the selection of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or the effect of any of the foregoing, or of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions or other activities that affect any reference rate referred to herein, or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or any related spread or other adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any reference rate referred to herein or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing), in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or other action or omission related to or affecting the selection, determination, or calculation of any rate (or component thereof) provided by any such information source or service.

## ARTICLE II THE COMMITMENTS AND CREDIT EXTENSIONS

### 2.01 Loans.

(a) The Term Borrowing. Subject to the terms and conditions set forth herein, each Term Lender severally agrees to make a single Term Loan to the Borrower in Dollars on the Closing Date, in an aggregate principal amount not to exceed such Term Lender's Term Commitment. The Term Borrowing shall consist of Term Loans made simultaneously by the Term Lenders in accordance with their respective Applicable Percentage of the Term Facility. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed. Term Loans may be Base Rate Loans or Term SOFR Loans, as further provided herein.

(b) The Revolving Credit Borrowings. Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans (each such loan, a "Revolving Credit

Loan") to the Borrower in Dollars from time to time, on any Business Day during the Availability Period under the Revolving Credit Facility, in an aggregate principal amount not to exceed at any time outstanding the amount of such Lender's Revolving Credit Commitment; provided, however, that after giving effect to any Revolving Credit Borrowing, (i) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Facility and (ii) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Revolving Credit Lender's Revolving Credit Commitment. Within the limits of each Revolving Credit Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(b), prepay under Section 2.05, and reborrow under this Section 2.01(b). Revolving Credit Loans may be Base Rate Loans or Term SOFR Loans, as further provided herein.

**2.02 Borrowings, Conversions and Continuations of Loans.** (a) Each Term Borrowing, each Revolving Credit Borrowing, each conversion of Term Loans or Revolving Credit Loans from one Type to the other, and each continuation of Term SOFR Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by (A) telephone or (B) a Committed Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Administrative Agent of a Committed Loan Notice. Each such notice must be received by the Administrative Agent not later than 1:00 p.m. (i) two (2) Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Term SOFR Loans or of any conversion of Term SOFR Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each Borrowing of, conversion to or continuation of Term SOFR Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Except as provided in Sections 2.03(f) and 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Committed Loan Notice shall specify (i) whether the Borrower is requesting a Term Borrowing, a Revolving Credit Borrowing, a conversion of Term Loans or Revolving Credit Loans from one Type to the other, or a continuation of Term SOFR Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Term Loans or Revolving Credit Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Committed Loan Notice for a Revolving Credit Borrowing or if the Borrower fails to give a timely notice requesting a conversion or continuation of a Revolving Credit Loan, then the applicable Revolving Credit Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Term SOFR Loans. If the Borrower fails to specify a Type of Loan in a Committed Loan Notice for a Term Borrowing or if the Borrower fails to give a timely notice requesting a conversion or continuation of a Term Loan, then the applicable Term Loans shall be made as, or converted to, Term SOFR Loans with an Interest Period of one month. Any such automatic continuation or conversion to Term SOFR Loans with an Interest Period of one month shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Term Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Term SOFR Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, a Swing Line Loan may not be converted to a Term SOFR Loan.

(b) Following receipt of a Committed Loan Notice for a Facility, the Administrative Agent shall promptly notify each Lender under such Facility of the amount of its Applicable Percentage under the applicable Facility of the applicable Term Loans or Revolving Credit Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each

Lender under the applicable Facility of the details of any automatic conversion to Base Rate Loans described in Section 2.02(a). In the case of a Term Borrowing or Revolving Credit Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 3:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; provided, however, that if, on the date a Committed Loan Notice with respect to a Revolving Credit Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Revolving Credit Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(c) Except as otherwise provided herein, a Term SOFR Loan may be continued or converted only on the last day of an Interest Period for such Term SOFR Loan. During the existence of a Default, no Loans may be requested as, converted to or continued as Term SOFR Loans without the consent of the Required Lenders.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Term SOFR Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in Bank of America's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Revolving Credit Borrowings, all conversions of Revolving Credit Loans from one Type to the other, and all continuations of Revolving Credit Loans as the same Type, there shall not be more than five (5) Interest Periods in effect with respect to the Revolving Credit Facility. After giving effect to all Term Borrowings, all conversions of Term Loans from one Type to the other, and all continuations of Term Loans as the same Type, there shall not be more than five Interest Periods in effect with respect to the Term Facility.

(f) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all of the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower, the Administrative Agent, and such Lender.

(g) With respect to SOFR or Term SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Borrower and the Lenders reasonably promptly after such amendment becomes effective.

### 2.03 Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, in addition to the Loans provided for in Section 2.01, the Borrower may request an Issuing Lender, in reliance on the agreements of the Revolving Credit Lenders set forth in this Section, to issue, at any time and from time to time during the Availability Period, Letters of Credit denominated in Dollars for its own account or the account of any of its Subsidiaries in such form as is acceptable to the Administrative Agent and the

applicable Issuing Lender in its reasonable determination. Letters of Credit issued hereunder shall constitute utilization of the Revolving Credit Commitments.

(b) Notice of Issuance, Amendment, Extension, Reinstatement or Renewal. To request the issuance of a Letter of Credit (or the amendment of the terms and conditions, extension of the terms and conditions, extension of the expiration date, or reinstatement of amounts paid, or renewal of an outstanding Letter of Credit), the Borrower shall deliver (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Lender) to the Issuing Lender selected by it and to the Administrative Agent not later than 11:00 a.m. at least two Business Days (or such later date and time as the Administrative Agent and such Issuing Lender may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, extended, reinstated or renewed, and specifying the date of issuance, amendment, extension, reinstatement or renewal (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with subsection (d) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof, the purpose and nature of the requested Letter of Credit and such other information as shall be necessary to prepare, amend, extend, reinstate or renew such Letter of Credit. If requested by the applicable Issuing Lender, the Borrower also shall submit a letter of credit application and reimbursement agreement on such Issuing Lender's standard form in connection with any request for a Letter of Credit. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application and reimbursement agreement or other agreement submitted by the Borrower to, or entered into by the Borrower with, the applicable Issuing Lender relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

If the Borrower so requests in any applicable Letter of Credit Application (or the amendment of an outstanding Letter of Credit), the applicable Issuing Lender may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit shall permit such Issuing Lender to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon by the Borrower and such Issuing Lender at the time such Letter of Credit is issued. Unless otherwise directed by the applicable Issuing Lender, the Borrower shall not be required to make a specific request to such Issuing Lender for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Credit Lenders shall be deemed to have authorized (but may not require) the applicable Issuing Lender to permit the extension of such Letter of Credit at any time to an expiration date not later than the date permitted pursuant to Section 2.03(d); provided, that such Issuing Lender shall not (i) permit any such extension if (A) such Issuing Lender has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its extended form under the terms hereof (except that the expiration date may be extended to a date that is no more than one year from the then-current expiration date) or (B) it has received notice (which may be in writing or by telephone (if promptly confirmed in writing)) on or before the day that is seven Business Days before the Non-Extension Notice Date from the Administrative Agent that the Required Revolving Lenders have elected not to permit such extension or (ii) be obligated to permit such extension if it has received notice (which may be in writing or by telephone (if promptly confirmed in writing)) on or before the day that is seven Business Days before the Non-Extension Notice Date from the Administrative Agent, any Revolving Credit Lender or the Borrower that one or more of the applicable conditions set forth in Section 4.02 is not then satisfied, and in each such case directing such Issuing Lender not to permit such extension.

(c) Limitations on Amounts, Issuance and Amendment. A Letter of Credit shall not be issued, amended, extended, reinstated or renewed only if (and upon issuance, amendment, extension, reinstatement or renewal of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, extension, reinstatement or renewal (i) the aggregate amount of the outstanding Letters of Credit issued by the Issuing Lender shall exceed its L/C Commitment, (ii) the aggregate L/C Obligations shall exceed the Letter of Credit Sublimit, (iii) the Revolving Credit Exposure of any Revolving Credit Lender shall exceed its Revolving Credit Commitment or (iv) the total Revolving Credit Exposures shall exceed the total Revolving Credit Commitments.

(i) No Issuing Lender shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Lender from issuing the Letter of Credit, or any Law applicable to such Issuing Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Lender shall prohibit, or request that such Issuing Lender refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such Issuing Lender with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Lender is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such Issuing Lender any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such Issuing Lender in good faith deems material to it;

(B) the issuance of the Letter of Credit would violate one or more policies of such Issuing Lender applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and the Issuing Lender, the Letter of Credit is in an initial stated amount less than \$10,000;

(D) the Letter of Credit is to be denominated in a currency other than Dollars;

(E) any Revolving Credit Lender is at that time a Defaulting Lender, unless the Issuing Lenders have entered into arrangements, including the delivery of Cash Collateral, satisfactory to the Issuing Lenders (in their sole discretion) with the Borrower or such Lender to eliminate the Issuing Lenders' actual or potential Fronting Exposure (after giving effect to Section 2.16(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which the Issuing Lenders have actual or potential Fronting Exposure, as they may elect in their sole discretion; or

(F) the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder.

(ii) No Issuing Lender shall be under any obligation to amend any Letter of Credit if (A) such Issuing Lender would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(d) Expiration Date. Each Letter of Credit shall have a stated expiration date no later than the earlier of (i) the date twelve months after the date of the issuance of such Letter of Credit (or, in the case of any extension of the expiration date thereof, whether automatic or by amendment, twelve months after the then current expiration date of such Letter of Credit) and (ii) the date that is five Business Days prior to the Maturity Date.

(e) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount or extending the expiration date thereof), and without any further action on the part of the applicable Issuing Lender or the Revolving Credit Lenders, such Issuing Lender hereby grants to each Revolving Credit Lender, and each Revolving Credit Lender hereby acquires from such Issuing Lender, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. Each Revolving Credit Lender acknowledges and agrees that its obligation to acquire participations pursuant to this subsection (e) in respect of Letters of Credit is absolute, unconditional and irrevocable and shall not be affected by any circumstance whatsoever, including any amendment, extension, reinstatement or renewal of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Revolving Credit Commitments.

In consideration and in furtherance of the foregoing, each Revolving Credit Lender hereby absolutely, unconditionally and irrevocably agrees to pay to the Administrative Agent, for account of the applicable Issuing Lender, such Lender's Applicable Percentage of each L/C Disbursement made by such Issuing Lender not later than 1:00 p.m. on the Business Day specified in the notice provided by the Administrative Agent to the Revolving Credit Lenders pursuant to Section 2.03(f) until such L/C Disbursement is reimbursed by the Borrower or at any time after any reimbursement payment is required to be refunded to the Borrower for any reason, including after the Maturity Date. Such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each such payment shall be made in the same manner as provided in Section 2.02 with respect to Loans made by such Lender (and Section 2.02 shall apply, *mutatis mutandis*, to the payment obligations of the Revolving Credit Lenders pursuant to this Section 2.03), and the Administrative Agent shall promptly pay to the applicable Issuing Lender the amounts so received by it from the Revolving Credit Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to Section 2.03(f), the Administrative Agent shall distribute such payment to the applicable Issuing Lender or, to the extent that the Revolving Credit Lenders have made payments pursuant to this subsection (e) to reimburse such Issuing Lender, then to such Revolving Credit Lenders and such Issuing Lender as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse the applicable Issuing Lender for any L/C Disbursement shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such L/C Disbursement.

Each Revolving Credit Lender further acknowledges and agrees that its participation in each Letter of Credit will be automatically adjusted to reflect such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit as a result of an assignment in accordance with Section 10.06 or otherwise pursuant to this Agreement.

If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of any Issuing Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(e), then, without limiting the other provisions of this Agreement, the applicable Issuing Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Lender at

a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such Issuing Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such Issuing Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Loan included in the relevant Revolving Credit Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of an Issuing Lender submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this subsection(e) shall be conclusive absent manifest error.

(f) Reimbursement. If any Issuing Lender shall make any L/C Disbursement in respect of a Letter of Credit, the Borrower shall reimburse the applicable Issuing Lender in respect of such L/C Disbursement by paying to the Administrative Agent an amount equal to such L/C Disbursement not later than 12:00 noon on (i) the Business Day that the Borrower receives notice of such L/C Disbursement, if such notice is received prior to 10:00 a.m. or (ii) the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time, provided that, if such L/C Disbursement is not less than \$500,000, the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.02 or Section 2.04 that such payment be financed with a Borrowing of Base Rate Loans or Swing Line Loan in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting Borrowing of Base Rate Loans or Swing Line Loan. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Revolving Credit Lender of the applicable L/C Disbursement, the payment then due from the Borrower in respect thereof (the "Unreimbursed Amount") and such Lender's Applicable Percentage thereof. In such event, the Borrower shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on the date of payment by the applicable Issuing Lender under a Letter of Credit in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the aggregate Revolving Credit Commitments and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by any Issuing Lender or the Administrative Agent pursuant to this Section 2.03(f) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(g) Obligations Absolute. The Borrower's obligation to reimburse L/C Disbursements as provided in subsection(f) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of:

- (i) any lack of validity or enforceability of this Agreement, any other Loan Document or any Letter of Credit, or any term or provision herein or therein;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), any Issuing Lender or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement in such draft or other document being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by any Issuing Lender of any requirement that exists for any Issuing Lender's protection and not the protection of the Borrower or any waiver by any Issuing Lender which does not in fact materially prejudice the Borrower;

(v) honor of a demand for payment presented electronically even if such Letter of Credit required that demand be in the form of a draft;

(vi) any payment made by any Issuing Lender in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) payment by any Issuing Lender under a Letter of Credit against presentation of a draft or other document that does not comply strictly with the terms of such Letter of Credit; or any payment made by an Issuing Lender under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(viii) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the applicable Issuing Lender. The Borrower shall be conclusively deemed to have waived any such claim against any Issuing Lender and its correspondents unless such notice is given as aforesaid.

None of the Administrative Agent, the Lenders, the Issuing Lenders, or any of their Related Parties shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit by the Issuing Lenders or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms, any error in translation or any consequence arising from causes beyond the control of the Issuing Lenders; provided that the foregoing shall not be construed to excuse the Issuing Lenders from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by Applicable Law) suffered by the Borrower that are caused by any Issuing Lender's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence

or willful misconduct on the part of the applicable Issuing Lender (as finally determined by a court of competent jurisdiction), such Issuing Lender shall be deemed to have exercised care in each such determination, and that:

(i) any Issuing Lender may replace a purportedly lost, stolen, or destroyed original Letter of Credit or missing amendment thereto with a certified true copy marked as such or waive a requirement for its presentation;

(ii) any Issuing Lender may accept documents that appear on their face to be in substantial compliance with the terms of a Letter of Credit without responsibility for further investigation, regardless of any notice or information to the contrary, and may make payment upon presentation of documents that appear on their face to be in substantial compliance with the terms of such Letter of Credit and without regard to any non-documentary condition in such Letter of Credit;

(iii) any Issuing Lender shall have the right, in its sole discretion, to decline to accept such documents and to make such payment if such documents are not in strict compliance with the terms of such Letter of Credit; and

(iv) this sentence shall establish the standard of care to be exercised by each Issuing Lender when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof (and the parties hereto hereby waive, to the extent permitted by Applicable Law, any standard of care inconsistent with the foregoing).

Without limiting the foregoing, none of the Administrative Agent, the Lenders, the Issuing Lenders, or any of their Related Parties shall have any liability or responsibility by reason of (i) any presentation that includes forged or fraudulent documents or that is otherwise affected by the fraudulent, bad faith, or illegal conduct of the beneficiary or other Person, (ii) any Issuing Lender declining to take-up documents and make payment (A) against documents that are fraudulent, forged, or for other reasons by which that it is entitled not to honor or (B) following the Borrower's waiver of discrepancies with respect to such documents or request for honor of such documents or (iii) any Issuing Lender retaining proceeds of a Letter of Credit based on an apparently applicable attachment order, blocking regulation, or third-party claim notified to the applicable Issuing Lender.

(h) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the applicable Issuing Lender and the Borrower when a Letter of Credit is issued by it (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, no Issuing Lender shall be responsible to the Borrower for, and any Issuing Lenders' rights and remedies against the Borrower shall not be impaired by, any action or inaction of any Issuing Lender required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where any Issuing Lender or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(i) Actions of Issuing Lenders. Each Issuing Lender shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the Issuing

Lenders shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by the Issuing Lenders in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article IX included the Issuing Lenders with respect to such acts or omissions, and (B) as additionally provided herein with respect to the Issuing Lenders.

(j) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Percentage a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit equal to the Applicable Rate times the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

(k) Fronting Fee and Documentary and Processing Charges Payable to the Issuing Lenders. The Borrower shall pay directly to each Issuing Lender for its own account a fronting fee (i) with respect to each commercial Letter of Credit, at the rate specified in the Fee Letter or at a rate otherwise separately agreed between the Borrower and such Issuing Lender, computed on the amount of such Letter of Credit, and payable upon the issuance thereof, (ii) with respect to any amendment of a commercial Letter of Credit increasing the amount of such Letter of Credit, at a rate separately agreed between the Borrower and such Issuing Lender, computed on the amount of such increase, and payable upon the effectiveness of such amendment, and (iii) with respect to each standby Letter of Credit, at the rate per annum specified in the Fee Letter, in each case computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the tenth Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrower shall pay directly to each Issuing Lender for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such Issuing Lender relating to letters of credit issued by it as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(l) Disbursement Procedures. The Issuing Lender for any Letter of Credit shall, within the time allowed by Applicable Laws or the specific terms of the Letter of Credit following its receipt thereof, examine all documents purporting to represent a demand for payment under such Letter of Credit. The Issuing Lender shall promptly after such examination notify the Administrative Agent and the Borrower in writing of such demand for payment if the Issuing Lender has made or will make an L/C Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the Issuing Lender and the Revolving Credit Lenders with respect to any such L/C Disbursement.

(m) Interim Interest. If the Issuing Lender for any Letter of Credit shall make any L/C Disbursement, then, unless the Borrower shall reimburse such L/C Disbursement in full on the date such L/C Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such L/C Disbursement is made to but excluding the date that the Borrower reimburses such L/C Disbursement, at the rate per annum then applicable to Base Rate Loans; provided that if the Borrower fails to reimburse such L/C Disbursement when due pursuant to subsection (f) of this Section, then Section 2.08(b) shall apply. Interest accrued pursuant to this subsection shall be for account of the applicable Issuing Lender, except that interest accrued on and after the date of payment by any Lender pursuant to subsection (f) of this Section to reimburse such Issuing Lender shall be for account of such Lender to the extent of such payment.

(n) Letter of Credit Reports. For so long as any Letter of Credit issued by any Issuing Lender (other than Bank of America) is outstanding, such Issuing Lender shall deliver to the Administrative Agent on the last Business Day of each calendar month, and on each date that an L/C Credit Extension occurs with respect to any such Letter of Credit, a report in the form of Exhibit F, appropriately completed with the information for every outstanding Letter of Credit issued by such Issuing Lender.

(o) Replacement of an Issuing Lender. Any Issuing Lender may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Lender and the successor Issuing Lender. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Lender. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Lender pursuant to Section 2.03(j). From and after the effective date of any such replacement, (i) the successor Issuing Lender shall have all the rights and obligations of an Issuing Lender under this Agreement with respect to Letters of Credit to be issued by it thereafter and (ii) references herein to the term "Issuing Lender" shall be deemed to include such successor or any previous Issuing Lender, or such successor and all previous Issuing Lenders, as the context shall require. After the replacement of an Issuing Lender hereunder, the replaced Issuing Lender shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Lender under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(p) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Revolving Lenders (or, if the maturity of the Loans has been accelerated, Revolving Credit Lenders with L/C Obligations representing at least 66-2/3% of the total L/C Obligations) demanding the deposit of Cash Collateral pursuant to this subsection (p), the Borrower shall immediately deposit into an account established and maintained on the books and records of the Administrative Agent (the "Collateral Account") an amount in cash equal to 105% of the total L/C Obligations as of such date plus any accrued and unpaid interest thereon, provided that the obligation to deposit such Cash Collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in subsection (f) of Section 8.01. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. In addition, and without limiting the foregoing or subsection (d) of this Section, if any L/C Obligations remain outstanding after the expiration date specified in said subsection (d), the Borrower shall immediately deposit into the Collateral Account an amount in cash equal to 105% of such L/C Obligations as of such date plus any accrued and unpaid interest thereon.

The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in the Collateral Account. Moneys in the Collateral Account shall be applied by the Administrative Agent to reimburse the applicable Issuing Lender for L/C Disbursements for which it has not been reimbursed, together with related fees, costs, and customary processing charges, and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the L/C Obligations at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with L/C Obligations representing 66-2/3% of the total L/C Obligations), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of Cash Collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived.

(q) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse, indemnify and compensate the applicable Issuing Lender hereunder for any and all drawings under such Letter of Credit as if such Letter of Credit had been issued solely for the account of the Borrower. The Borrower irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Subsidiary in respect of such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

(r) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

#### 2.04 Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender, in reliance upon the agreements of the other Revolving Credit Lenders set forth in this Section 2.04, may make loans (each such loan, a "Swing Line Loan") to the Borrower in Dollars from time to time on any Business Day during the Availability Period with respect to the Revolving Credit Facility in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit; provided, however, that (i) after giving effect to any Swing Line Loan, (A) the Total Revolving Credit Outstanding shall not exceed the Revolving Credit Facility at such time and (B) the Revolving Credit Exposure of any Revolving Credit Lender (other than the Swing Line Lender) shall not exceed such Revolving Credit Lender's Revolving Credit Commitment, (ii) the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan and (iii) the Swing Line Lender shall not be under any obligation to make any Swing Line Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall bear interest only at a rate per annum based on the Daily Simple SOFR Rate. Immediately upon the making of a Swing Line Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Revolving Credit Lender's Applicable Revolving Credit Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent, which may be given by (A)

telephone or (B) a Swing Line Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Administrative Agent of a Swing Line Loan Notice. Each such notice must be received by the Swing Line Lender and the Administrative Agent not later than 3:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$100,000, and (ii) the requested borrowing date, which shall be a Business Day. Promptly after receipt by the Swing Line Lender of any Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Administrative Agent (including at the request of any Revolving Credit Lender) prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrower at its office by crediting the account of the Borrower on the books of the Swing Line Lender in immediately available funds.

(c) Refinancing of Swing Line Loans. (i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Revolving Credit Lender make a Base Rate Loan in an amount equal to such Lender's Applicable Revolving Credit Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Revolving Credit Facility and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). The Swing Line Lender shall furnish the Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Credit Lender shall make an amount equal to its Applicable Revolving Credit Percentage of the amount specified in such Committed Loan Notice available to the Administrative Agent in immediately available funds (and the Administrative Agent may apply Cash Collateral available with respect to the applicable Swing Line Loan) for the account of the Swing Line Lender at the Administrative Agent's Office not later than 1:00 p.m. on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Credit Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Revolving Credit Lenders fund its risk participation in the relevant Swing Line Loan and each Revolving Credit Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Revolving Credit Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Revolving Credit Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swing Line Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Revolving Credit Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Loan included in the relevant Revolving

Credit Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Revolving Credit Lender may have against the Swing Line Lender, the Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations. (i) At any time after any Revolving Credit Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Revolving Credit Lender its Applicable Revolving Credit Percentage thereof in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Revolving Credit Lender shall pay to the Swing Line Lender its Applicable Revolving Credit Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until each Revolving Credit Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Revolving Credit Lender's Applicable Revolving Credit Percentage of any Swing Line Loan, interest in respect of such Applicable Revolving Credit Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

2.05 Prepayments. (a) The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay any Loans in whole or in part without premium or penalty; provided that (i) such notice must be in a form acceptable to the Administrative Agent and be received by the Administrative Agent not later than 1:00 p.m. (1) two Business Days prior to any date of prepayment of Term SOFR Loans and (2) on the date of prepayment of Base Rate Loans; (ii) any prepayment of Term SOFR Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if Term SOFR Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment based on such Lender's Applicable Percentage. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein; provided that, any notice of prepayment may be conditioned upon the consummation of a refinancing of this Agreement or other transaction and may be revoked by the Borrower in the event such refinancing or

transaction is not consummated, and if so revoked, such repayment shall not be due and payable. Any prepayment of a Term SOFR Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each prepayment of the outstanding Term Loans pursuant to this Section 2.05(a) shall be applied to the principal repayment installments thereof in inverse order of maturity, and after such application, to repayment of any Outstanding Amount of the Term Loans. Subject to Section 2.16, each prepayment of Loans shall be paid to the Lenders in accordance with their respective Applicable Percentages in respect of each of the relevant Facilities.

(b) The Borrower may, upon notice to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of \$100,000. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

**2.06 Termination or Reduction of Commitments.** (a) The Borrower may, upon notice to the Administrative Agent, terminate the Revolving Credit Facility, the Letter of Credit Sublimit or the Swing Line Sublimit, or from time to time permanently reduce the Revolving Credit Facility, the Letter of Credit Sublimit or the Swing Line Sublimit; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$25,000,000 or any whole multiple of \$1,000,000 in excess thereof and (iii) the Borrower shall not terminate or reduce (A) the Revolving Credit Facility if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Revolving Credit Outstandings would exceed the Revolving Credit Facility, (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit, or (C) the Swing Line Sublimit if, after giving effect thereto and to any concurrent prepayments hereunder, the Outstanding Amount of Swing Line Loans would exceed the Swing Line Sublimit; provided further that any notice to reduce or terminate the Revolving Credit Facility may be contingent upon the consummation of the refinancing of this Agreement or other transaction, and may be revoked if such refinancing or transaction is not consummated, and if so revoked, the Revolving Credit Facility shall not be so reduced or terminated as requested in such notice. The Administrative Agent will promptly notify the Lenders of any such notice of termination or reduction of the Revolving Credit Facility. The amount of any such Revolving Credit Facility reduction shall not be applied to the Swing Line Sublimit or the Letter of Credit Sublimit unless otherwise specified by the Borrower.

(b) Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the Lenders of any termination or reduction of the Letter of Credit Sublimit, Swing Line Sublimit or the Revolving Credit Commitment under this Section 2.06. Upon any reduction of the Revolving Credit Commitments, the Revolving Credit Commitment of each Revolving Credit Lender shall be reduced by such Lender's Applicable Revolving Credit Percentage of such reduction amount. All fees accrued until the effective date of any termination of the Revolving Credit Facility shall be paid on the effective date of such termination.

**2.07 Repayment of Loans.** (a) Term Loans. The Borrower shall repay to the Term Lenders the aggregate principal amount of all Term Loans in quarterly principal installments on the last Business Day of each March, June, September and December (each, a "Quarterly Payment Date") (commencing on December 31, 2022) equal to 1.25%, for each quarterly installment, of the initial aggregate principal amount of all Term Loans made during the Availability Period (which quarterly installments shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.05), in each case, unless accelerated sooner pursuant to Section 8.02; provided, however, that the final principal repayment installment of the Term Loans shall be repaid on the Maturity Date for the Term Facility and in any event shall be in an amount equal to the aggregate principal amount of all Term Loans outstanding on such date.

(b) Revolving Credit Loans. The Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of all Revolving Credit Loans outstanding on such date.

(c) Swing Line Loans. The Borrower shall repay each Swing Line Loan on the earlier to occur of (i) the date ten Business Days after such Loan is made and (ii) the Maturity Date. At any time that there shall exist a Defaulting Lender, immediately upon the request of any Swing Line Lender, the Borrower shall repay the outstanding Swing Line Loans made by such Swing Line Lender in an amount sufficient to eliminate any Fronting Exposure in respect of such Swing Line Loans.

2.08 Interest. (a) Subject to the provisions of Section 2.08(b), (i) each Term SOFR Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Term SOFR Rate for such Interest Period plus the Applicable Rate; (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate; and (iii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Daily Simple SOFR Rate plus the Applicable Rate.

(b) (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by Applicable Laws.

(ii) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by Applicable Laws.

(iii) Upon the request of the Required Lenders, while any Event of Default exists (other than as set forth in Sections 2.08(b)(i) and (b)(ii) above), the Borrower shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by Applicable Laws.

(iv) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

2.09 Fees. In addition to certain fees described in Sections 2.03(j) and (k):

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Revolving Credit Percentage, a commitment fee equal to the Applicable Rate times the actual daily amount by which the Revolving Credit Facility exceeds the sum of (i) the Outstanding Amount of Revolving Credit Loans and (ii) the Outstanding Amount of L/C Obligations, subject to adjustment as provided in Section 2.16. For the avoidance of doubt, the Outstanding Amount of Swing Line Loans shall not be counted towards or considered usage of the Aggregate Commitments for purposes of determining the commitment fee. The commitment fee shall accrue at all times during the relevant Availability Period, including at any time during which one or more of the conditions in Section 4.02 is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and, in the case of the commitment fee with respect to the Revolving Credit Facility, on the last day of the Availability Period for the Revolving Credit Facility. The commitment fee shall be calculated quarterly in arrears, and if there is any change in

the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(b) **Other Fees.** (i) The Borrower shall pay to the Arrangers and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

2.10 **Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.** All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to the Term SOFR Rate) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

2.11 **Evidence of Debt.** (a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The Administrative Agent shall maintain the Register in accordance with Section 10.06(c). The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the Register, the Register shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in Section 2.11(a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

2.12 **Payments Generally; Administrative Agent's Clawback.** (a) **General.** All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage in respect of the relevant Facility (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Term SOFR Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the time at which any payment is due to the Administrative Agent for the account of the Lenders or any Issuing Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or the applicable Issuing Lender, as the case may be, the amount due.

With respect to any payment that the Administrative Agent makes for the account of the Lenders or any Issuing Lender hereunder as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "Rescindable Amount") : (1) the Borrower has not in fact made such payment; (2) the Administrative Agent has made a payment in excess of the amount so paid by the Borrower (whether or not then owed); or (3) the Administrative Agent has for any reason otherwise erroneously made such payment; then each of the Lenders or Issuing Lender, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Lender or Issuing Lender, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.

(c) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.04(c) are several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.04(c).

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(f) Insufficient Funds. If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, L/C Borrowings, interest and fees then due hereunder, such funds shall be applied (i) first, toward payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, toward payment of principal and L/C Borrowings then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and L/C Borrowings then due to such parties.

2.13 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of (a) Obligations due and payable to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations due and payable to such Lender at such time to (ii) the aggregate amount of the Obligations due and payable to all Lenders hereunder and under the other Loan Documents at such time) of payments on account of the Obligations due and payable to all Lenders hereunder and under the other Loan Documents at such time obtained by all the Lenders at such time or (b) Obligations owing (but not due and payable) to such Lender hereunder and under the other Loan Documents at such time in excess of its ratable share (according to the proportion of (i) the amount of such Obligations owing (but not due and payable) to such Lender at such time to (ii) the aggregate amount of the Obligations owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time) of payment on account of the Obligations owing (but not due and payable) to all Lenders hereunder and under the other Loan Documents at such time obtained by all of the Lenders at such time then the Lender receiving such greater proportion shall (A) notify the Administrative Agent of such fact, and (B) purchase (for cash at face value) participations in the Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Obligations then due and payable to the Lenders or owing (but not due and payable) to the Lenders, as the case may be, provided that:

(i) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (w) any payment made by or on behalf of the Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (x) the application of Cash Collateral provided for in Section 2.15, (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than an assignment to the Borrower or any Affiliate thereof (as to which the provisions of this Section shall apply) or (z) any payment obtained by a Lender as consideration for it to extend the termination date of its Commitment.

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

#### 2.14 Increase in Revolving Credit Commitments.

(a) Request for Increase. Provided there exists no Default, upon written notice to the Administrative Agent (which shall promptly notify the Lenders), the Borrower may from time to time after the Closing Date request an increase in the Revolving Credit Commitments (each, a “Revolver Increase”) by an aggregate amount (for all such requests) not exceeding \$200,000,000; provided that (A) any such request for such Revolver Increase shall be in a minimum amount of \$25,000,000 and increments of \$5,000,000 in excess thereof and (B) the Borrower may make a maximum of six (6) such requests. At the time of sending such notice, the Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Revolving Credit Lender is requested to respond (which shall in no event be less than ten Business Days from the date of delivery of such notice to the Lenders, unless otherwise agreed by the Administrative Agent).

(b) Lender Elections to Increase. Each Revolving Credit Lender shall notify the Administrative Agent within such time period whether or not it agrees to increase its Revolving Credit Commitment and, if so, whether by an amount equal to, greater than, or less than its Applicable Percentage of such requested Increase. Any Revolving Credit Lender not responding within such time period shall be deemed to have declined to increase its Revolving Credit Commitment.

(c) Notification by Administrative Agent; Additional Revolving Credit Lenders. The Administrative Agent shall notify the Borrower and each Revolving Credit Lender of the Revolving Credit Lenders’ responses to each request made hereunder. To achieve the full amount of a requested Revolver Increase and subject to the approval of the Administrative Agent and each Issuing Lender and the Swing Line Lender, the Borrower may also invite any Eligible Assignees to become Revolving Credit Lenders pursuant to a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent and its counsel (each such third party financial institution, an “Additional Lender”).

(d) Effective Date and Allocations. If the Revolving Credit Commitments are increased in accordance with this Section, the Administrative Agent and the Borrower shall determine the effective date (the “Increase Effective Date”) and the final allocation of such Revolver Increase. The Administrative Agent shall promptly notify the Borrower and the Revolving Credit Lenders of the final allocation of such Revolver Increase and the Increase Effective Date.

(e) Conditions to Effectiveness of Revolver Increase. As a condition precedent to such Revolver Increase, the Borrower shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the Increase Effective Date (in sufficient copies for each Revolving Credit Lender) signed by a Senior Officer of such Loan Party (x) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such Revolver Increase, and (y) in the case of the Borrower, certifying that, before and after giving effect to such Revolver Increase, (A) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects (or, to the extent any such representation and warranty is modified by materiality or Material Adverse Effect, in all respects) on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (or, to the extent any such representation and warranty is modified by materiality or Material Adverse Effect, in all respects) as of such earlier date, and except that for purposes of this Section 2.14, (i) the representations and warranties contained in the first two sentences of Section 5.06 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.02, (ii) the representations and warranties contained in Section 5.14, Section 5.27 and in the last sentence of Section 5.06 shall be excluded during any Collateral Release Period, (B) no Default or Event of Default exists or would result therefrom, (C) the Borrower is in pro forma compliance with the financial covenants set forth in Section 7.16 (such calculations to be made assuming the Revolving Credit Commitments provided pursuant to such Revolver Increase have been fully utilized) and (D) (x) upon the request of any Revolving Credit Lender made at least five (5) days prior to the Increase Effective Date, and to the extent such information has not been previously provided by the Borrower to such Revolving Credit Lender, the Borrower shall have provided to such Revolving Credit Lender, and such Revolving Credit Lender shall be reasonably satisfied with, the documentation and other information so requested in connection with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the Act, in each case at least three (3) days prior to the Increase Effective Date and (y) at least three (3) days prior to the Increase Effective Date, any Loan Party that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation shall have delivered, to each Revolving Credit Lender that so requests, a Beneficial Ownership Certification in relation to such Loan Party. The Borrower shall prepay any Revolving Credit Loans outstanding on the Increase Effective Date (and pay any additional amounts required pursuant to Section 3.05) to the extent necessary to keep the outstanding Revolving Credit Loans ratable with any revised Applicable Revolving Credit Percentages arising from any nonratable increase in the Revolving Credit Commitments under this Section.

(f) Terms of Revolver Increase. The terms and provisions of loans and commitments made pursuant to any Revolver Increase shall be identical to the existing Revolving Credit Commitments and Revolving Credit Loans.

(g) Equal and Ratable Benefit. The Revolving Credit Commitments established pursuant to this Section shall constitute Commitments and Credit Extensions under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from the Guaranty and the security interests created by the Security Documents. The Loan Parties shall take any actions reasonably required by the Administrative Agent to ensure and/or demonstrate that the Lien and security interests granted by the Security Documents continue to be perfected under the UCC or otherwise after giving effect to the establishment of any such new Revolving Credit Commitments.

(h) Conflicting Provisions. This Section shall supersede any provisions in Section 2.13 or 10.01 to the contrary.

## 2.15 Cash Collateral.

(a) Certain Credit Support Events. If (i) any Issuing Lender has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, (ii) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, (iii) the Borrower shall be required to provide Cash Collateral pursuant to Section 8.02(c), or (iv) there shall exist a Defaulting Lender, the Borrower shall immediately (in the case of clause (iii) above) or within one Business Day (in all other cases), following any request by the Administrative Agent or the applicable Issuing Lender, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.18(a)(iv) and any Cash Collateral provided by the Defaulting Lender). If at any time the Administrative Agent determines that any funds held as Cash Collateral are subject to any right or claim of any Person other than the Administrative Agent or that the total amount of such funds is less than the aggregate Outstanding Amount of all L/C Obligations, the Borrower will, forthwith upon demand by the Administrative Agent, pay to the Administrative Agent, as additional funds to be deposited as Cash Collateral, an amount equal to the excess of (x) such aggregate Outstanding Amount over (y) the total amount of funds, if any, then held as Cash Collateral that the Administrative Agent determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under Applicable Laws, to reimburse the applicable Issuing Lender. Additionally, if the Administrative Agent notifies the Borrower at any time that the Outstanding Amount of all L/C Obligations at such time exceeds 105% of the Letter of Credit Sublimit then in effect, then, within two Business Days after receipt of such notice, the Borrower shall provide Cash Collateral for the Outstanding Amount of the L/C Obligations in an amount not less than the amount by which the Outstanding Amount of all L/C Obligations exceeds the Letter of Credit Sublimit.

(b) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the Issuing Lenders and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant to Section 2.15(a) or Section 2.16, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.15(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or any Issuing Lender as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. The Borrower shall pay on written demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.15 or Sections 2.03, 2.04, 2.05, 2.16 or 8.02 in respect of Letters of Credit or Swing Line Loans shall be held and applied to the satisfaction of the specific L/C Obligations, Swing Line Loans, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.06(b)(vi))) or (ii) the determination by the Administrative Agent and the applicable Issuing Lender that there exists excess Cash Collateral; provided, however, (x) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Loan Documents and the other applicable provisions of the

Loan Documents, and (y) the Person providing Cash Collateral and the applicable Issuing Lender may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

## 2.16 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 10.01 and in the definition of "Required Lenders", "Required Revolving Lenders", "Required Term Loan Lenders" and "Required Class Lenders".

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Lender or Swing Line Lender hereunder; *third*, to Cash Collateralize each Issuing Lender's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.15; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize each Issuing Lender's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.15; *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Lenders or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Lender or the Swing Line Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swing Line Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.16(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

### (iii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the

Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.15.

(C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such Letter of Credit Fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the applicable Issuing Lender the amount of any such Letter of Credit Fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such Letter of Credit Fee.

(iv) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders that are Revolving Credit Lenders in accordance with their respective Applicable Revolving Credit Percentages (calculated without regard to such Defaulting Lender's Revolving Credit Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. Subject to Section 10.20, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swing Line Loans. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under Applicable Law, (x) first, prepay Swing Line Loans in an amount equal to the Swing Line Lenders' Fronting Exposure and (y) second, Cash Collateralize the Issuing Lenders' Fronting Exposure in accordance with the procedures set forth in Section 2.15.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent, Swing Line Lender and each Issuing Lender agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Revolving Credit Percentages (without giving effect to Section 2.16(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Swing Line Loans/Letters of Credit. So long as any Revolving Credit Lender is a Defaulting Lender, (i) the Swing Line Lender shall not be required to fund any Swing Line Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swing Line Loan and (ii) the applicable Issuing Lender shall not be required to issue, extend, increase, reinstate or renew any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

**ARTICLE III**  
**TAXES, YIELD PROTECTION AND ILLEGALITY**

3.01 **Taxes.** (a) **Defined Terms:** For purposes of this Section 3.01, the term “Applicable Law” includes FATCA and the term “Lender” includes any Issuing Lender.

(b) **Payments Free of Taxes.** Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 3.01) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) **Payment of Other Taxes by the Borrower.** The Borrower shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) **Tax Indemnifications.** (i) The Borrower shall, and does hereby, indemnify each Recipient, and shall make payment in respect thereof within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or an Issuing Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an Issuing Lender, shall be conclusive absent manifest error. The Borrower shall, and does hereby, indemnify the Administrative Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender or an Issuing Lender for any reason fails to pay indefeasibly to the Administrative Agent as required pursuant to Section 3.01(d)(ii) below. Upon making such payment to the Administrative Agent, and upon written request by the Borrower, the Administrative Agent shall assign to the Borrower the rights of the Administrative Agent pursuant to Section 3.01(d)(ii) below against the applicable Defaulting Lender or Issuing Lender (other than the right of set off pursuant to the last sentence of Section 3.01(d)(ii)).

(ii) Each Lender and each Issuing Lender shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Administrative Agent against any Indemnified Taxes attributable to such Lender or such Issuing Lender (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (y) the Administrative Agent and the Borrower, as applicable, against any Taxes attributable to such Lender’s failure to comply with the provisions of Section 10.06(d), relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Borrower, as applicable, against any Excluded Taxes attributable to such Lender or such Issuing

Lender, in each case, that are payable or paid by the Administrative Agent or the Borrower in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender and each Issuing Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender or such Issuing Lender, as the case may be, under this Agreement or any other Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this clause (ii).

(e) Evidence of Payments. Upon request by the Borrower or the Administrative Agent, as the case may be, after any payment of Taxes by the Borrower or by the Administrative Agent to a Governmental Authority as provided in this Section 3.01, the Borrower shall deliver to the Administrative Agent or the Administrative Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Administrative Agent, as the case may be.

(f) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall

be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

- (1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;
  - (2) executed copies of IRS Form W-8ECI;
  - (3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable); or
  - (4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-2 or Exhibit G-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner;
- (C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. Unless required by Applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender or an Issuing Lender, or have any obligation to pay to any Lender or any Issuing Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or such Issuing Lender, as the case may be. If any Recipient determines that it has received a refund of any Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 3.01, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Borrower, upon the request of the Recipient, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Borrower pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

(h) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender or an Issuing Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to SOFR, Daily Simple SOFR or Term SOFR, or to determine or charge interest rates based upon SOFR, Daily Simple SOFR or Term SOFR, then, upon notice thereof by such Lender to the Borrower (through the Administrative Agent), (a) any obligation of such Lender to make or continue Daily Simple SOFR or Term SOFR Loans or to convert Base Rate Loans to Term SOFR Loans shall be suspended, and (b) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Term SOFR component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (i) the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Term SOFR Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Term SOFR Loan to such day, or immediately, if such Lender may not lawfully continue to maintain such Term SOFR Loan and (ii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon SOFR, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Term SOFR component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon SOFR. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.05.

3.03 Inability to Determine Rates.

(a) If in connection with any request for a Daily Simple SOFR Loan, Term SOFR Loan or a conversion of Base Rate Loans to Term SOFR Loans or a continuation of any of such Loans, as applicable, (i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (A) no Successor Rate has been determined in accordance with Section 3.03(b), and the circumstances under clause (i) of Section 3.03(b) or the Scheduled Unavailability Date has occurred, (B) no Successor Rate has been determined in accordance with Section 3.03(c), and the circumstances under clause (i) of Section 3.03(c) or the Daily Simple SOFR Scheduled Unavailability Date has occurred or (C) adequate and reasonable means do not otherwise exist for determining Daily Simple SOFR or Term SOFR for any requested Interest Period with respect to a proposed Term SOFR Loan or in connection with an existing or proposed Base Rate Loan, or (ii) the Administrative Agent or the Required Lenders determine that, for any reason, Term SOFR for any requested Interest Period with respect to a proposed Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Daily Simple SOFR Loans, Term SOFR Loans, or to convert Base Rate Loans to Term SOFR Loans, shall be suspended (to the extent of the affected Daily Simple SOFR Loans, Term SOFR Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Term SOFR component of the Base Rate, the utilization of the Term SOFR component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of this Section 3.03(a), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (i) the Borrower may revoke any pending

request for a Borrowing of, or conversion to, or continuation of Term SOFR Loans or Daily Simple SOFR Loans (to the extent of the affected Daily Simple SOFR Loans, Term SOFR Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Committed Borrowing of Base Rate Loans in the amount specified therein and (ii) any outstanding Term SOFR Loans shall be deemed to have been converted to Base Rate Loans immediately at the end of their respective applicable Interest Period.

(b) Replacement of Term SOFR or Successor Rate. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Borrower) that the Borrower or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining one month, three month and six month interest periods of Term SOFR, including, without limitation, because the Term SOFR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) CME or any successor administrator of the Term SOFR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator with respect to its publication of Term SOFR, in each case acting in such capacity, has made a public statement identifying a specific date after which one month, three month and six month interest periods of Term SOFR or the Term SOFR Screen Rate shall or will no longer be made available, or permitted to be used for determining the interest rate of U.S. dollar denominated syndicated loans, or shall or will otherwise cease, provided that, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent that will continue to provide such interest periods of Term SOFR after such specific date (the latest date on which one month, three month and six month interest periods of Term SOFR or the Term SOFR Screen Rate are no longer available permanently or indefinitely, the “Scheduled Unavailability Date”);

then, on a date and time determined by the Administrative Agent (any such date, the “Term SOFR Replacement Date”), which date shall be at the end of an Interest Period or on the relevant interest payment date, as applicable, for interest calculated and, solely with respect to clause (ii) above, no later than the Scheduled Unavailability Date, Term SOFR will be replaced hereunder and under any Loan Document with Daily Simple SOFR plus the SOFR Adjustment for any payment period for interest calculated that can be determined by the Administrative Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document (the “Successor Rate”).

If the Successor Rate is Daily Simple SOFR plus the SOFR Adjustment, all interest payments will be payable on a monthly basis.

Notwithstanding anything to the contrary herein, (i) if the Administrative Agent determines that Daily Simple SOFR is not available on or prior to the Term SOFR Replacement Date, or (ii) if the events or circumstances of the type described in Section 3.03(b)(i) or (ii) have occurred with respect to the Successor Rate then in effect, then in each case, the Administrative Agent and the Borrower may amend this Agreement solely for the purpose of replacing Term SOFR or any then current Successor Rate in accordance with this Section 3.03 at the end of any Interest Period, relevant interest payment date or

payment period for interest calculated, as applicable, with an alternative benchmark rate giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated credit facilities syndicated and agented in the United States for such alternative benchmark, and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated credit facilities syndicated and agented in the United States for such benchmark, which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated. Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to such amendment.

(c) Replacement of Daily Simple SOFR. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Company) that the Borrower or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining Daily Simple SOFR, including, without limitation, because the Daily Simple SOFR Published Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the Federal Reserve Bank of New York or any successor administrator of the Daily Simple SOFR Published Rate or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator with respect to its publication of Daily Simple SOFR, in each case acting in such capacity, has made a public statement identifying a specific date after which Daily Simple SOFR or the Daily Simple SOFR Published Rate shall or will no longer be made available, or permitted to be used for determining the interest rate of U.S. dollar denominated syndicated loans, or shall or will otherwise cease, provided that, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide Daily Simple SOFR after such specific date (the latest date on which Daily Simple SOFR or the Daily Simple SOFR Published Rate is no longer available permanently or indefinitely, the "Daily Simple SOFR Scheduled Unavailability Date");

then, on a date and time determined by the Administrative Agent (any such date, the "Daily Simple SOFR Replacement Date"), which date shall be on the relevant interest payment date, as applicable, for interest calculated and, solely with respect to clause (ii) above, no later than the Daily Simple SOFR Scheduled Unavailability Date, the Administrative Agent and the Borrower may amend this Agreement solely for the purpose of replacing Daily Simple SOFR in accordance with this Section 3.03 at the relevant interest payment date or payment period for interest calculated, as applicable, with an alternative benchmark rate giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated credit facilities syndicated and agented in the United States for such alternative benchmark, and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated credit facilities syndicated and agented in the United States for such benchmark, which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated. Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted

such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to such amendment.

The Administrative Agent will promptly (in one or more notices) notify the Borrower and each Lender of the implementation of any Successor Rate.

Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be less than zero%, the Successor Rate will be deemed to be zero% for the purposes of this Agreement and the other Loan Documents.

In connection with the implementation of a Successor Rate, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Borrower and the Lenders reasonably promptly after such amendment becomes effective.

For purposes of this Section 3.03, those Lenders that either have not made, or do not have an obligation under this Agreement to make, the relevant Loans in Dollars shall be excluded from any determination of Required Lenders.

#### 3.04 Increased Costs.

##### (a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve (including pursuant to regulations issued from time to time by the Federal Reserve Board for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D)), special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender or any Issuing Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any Issuing Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Term SOFR Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such Issuing Lender of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such Issuing Lender hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or such Issuing Lender, the Borrower will pay to such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any Issuing Lender determines that any Change in Law affecting such Lender or such Issuing Lender or any Lending Office of such Lender or such Lender's or such Issuing Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuing Lender's capital or on the capital of such Lender's or such Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swing Line Loans held by, such Lender, or the Letters of Credit issued by such Issuing Lender, to a level below that which such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Lender's policies and the policies of such Lender's or such Issuing Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender or such Lender's or such Issuing Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an Issuing Lender setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or such Issuing Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Lender, as the case may be, the amount shown as due on any such certificate within 15 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Lender to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or such Issuing Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an Issuing Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender or such Issuing Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

3.05 Compensation for Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan or a Swing Line Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan or a permitted revocation of the applicable prepayment notice) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan or a Swing Line Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a Term SOFR Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

3.06 Mitigation Obligations; Replacement of Lenders. (a) Designation of a Different Lending Office. Each Lender may make any Credit Extension to the Borrower through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Borrower to repay the Credit Extension in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender, any Issuing Lender, or any Governmental Authority for the account of any Lender or any Issuing Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Borrower such Lender or such Issuing Lender shall, as applicable, use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or such Issuing Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or such Issuing Lender, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or such Issuing Lender, as the case may be. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender or any Issuing Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, and in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 3.06(a), the Borrower may replace such Lender in accordance with Section 10.13.

3.07 Survival. All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.

#### ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4.01 Conditions of Initial Credit Extension. The effectiveness of the amendment and restatement of the Existing Agreement is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or telecopies or copies sent by electronic transmission (followed promptly by originals) unless otherwise specified, each properly executed by a Senior Officer of the signing Loan Party (where applicable), each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) (where applicable) and each in form and substance reasonably satisfactory to the Administrative Agent and each of the Lenders:

(i) executed counterparts of this Agreement, the Disclosure Letter, the Guaranty and affirmation to the Interco Subordination Agreement;

(ii) a Note executed by the Borrower in favor of each Lender requesting a Note;

(iii) executed counterparts of the Security Agreement and the Pledge Agreement, together with:

(A) searches of UCC filings in the jurisdiction of incorporation or formation, as applicable, of each Loan Party and each jurisdiction where any Collateral is located or where a filing would need to be made in order to perfect the Administrative Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens and tax lien and judgment searches;

(B) to the extent not on file, completed UCC financing statements for each appropriate jurisdiction as is necessary, in the Administrative Agent's sole discretion, to perfect the Administrative Agent's security interest in the Collateral;

(C) to the extent not on file, certificates and instruments representing the Pledged Interests (as defined in the Pledge Agreement) referred to therein accompanied by undated stock powers or instruments of transfer executed in blank;

(D) to the extent not on file and required to be delivered, filed, registered or recorded pursuant to the terms and conditions of the Security Documents, all instruments, documents and chattel paper in the possession of any of the Loan Parties, together with allonges or assignments as may be necessary or appropriate to create and perfect the Administrative Agent's security interest in the Collateral;

(E) to the extent not on file, Qualifying Control Agreements (as defined in the Security Agreement) satisfactory to the Administrative Agent to the extent required to be delivered pursuant to the Security Agreement; and

(F) evidence that all other actions, recordings and filings that the Administrative Agent may deem necessary or desirable in order to perfect the Liens created under the Security Documents have been taken (including receipt of duly executed payoff letters and UCC-3 termination statements);

(iv) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Senior Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Senior Officer thereof authorized to act as a Senior Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(v) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in its jurisdiction of organization and, except to the extent that failure to do so could not reasonably be expected to

have a Material Adverse Effect, each other jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification;

(vi) a favorable opinion of Wilson Sonsini Goodrich & Rosati, P.C., counsel to the Loan Parties, addressed to the Administrative Agent, each Lender and each Issuing Lender, as to such matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request;

(vii) (A) a favorable opinion of Verrill Dana LLP, local counsel to the Loan Parties in Massachusetts, and (B) a favorable opinion of Phelps Dunbar LLP, local counsel to the Loan Parties in Alabama, in each case addressed to the Administrative Agent, each Lender and each Issuing Lender, as to such matters concerning the Loan Parties and the Loan Documents as the Administrative Agent may reasonably request;

(viii) a certificate signed by a Senior Officer of the Borrower certifying (A) that the conditions specified in Sections 4.02(a) and (b) have been satisfied and (B) that there has been no event or circumstance since the date of the Audited Financial Statements that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect;

(ix) forecasts prepared by management of the Borrower, of consolidated balance sheets and statements of income or operations and cash flows of the Borrower and its Subsidiaries on a quarterly basis for the 2022 Fiscal Year and on an annual basis for each Fiscal Year thereafter through the 2027 Fiscal Year;

(x) subject to Section 6.15, evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect, together with the certificates of insurance and separate endorsements naming the Administrative Agent, on behalf of the Secured Parties, as an additional insured or lender loss payee, as the case may be, under all insurance policies maintained with respect to the assets and properties of the Loan Parties that constitute Collateral; and

(xi) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, the Issuing Lenders, the Swing Line Lender or any Lender reasonably may require.

(b) (i) All fees required to be paid to the Administrative Agent and the Arrangers on or before the Closing Date shall have been paid and (ii) all fees required to be paid to the Lenders on or before the Closing Date shall have been paid.

(c) Unless waived by the Administrative Agent, the Borrower shall have paid all reasonable and documented fees, charges and disbursements of counsel to the Administrative Agent (including one local counsel in each jurisdiction) (directly to such counsel if requested by the Administrative Agent) to the extent invoiced one (1) Business Day prior to the Closing Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

(d) Upon the request of any Lender made at least five (5) days prior to the Closing Date, the Loan Parties shall have provided to such Lender, and such Lender shall be reasonably satisfied with, such documentation and other information that is reasonably requested in connection with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the Act, in each case at least three (3) days prior to the Closing Date and (y) at least three (3) days prior to the Closing Date, any Loan Party that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation shall have delivered, to each Lender that so requests, a Beneficial Ownership Certification in relation to such Loan Party.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

**4.02 Conditions to All Credit Extensions.** The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Term SOFR Loans) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower contained in Article V or any other Loan Document shall be true and correct in all material respects (or, to the extent any such representation and warranty is modified by materiality or Material Adverse Effect, in all respects) on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects (or, to the extent any such representation and warranty is modified by materiality or Material Adverse Effect, in all respects) as of such earlier date, and except that for purposes of this Section 4.02, (i) the representations and warranties contained in the first two sentences of Section 5.06 shall be deemed to refer to the most recent statements furnished pursuant to Sections 6.02(a) and (b), respectively, and (ii) the representations and warranties contained in Section 5.14, Section 5.27 and in the last sentence of Section 5.06 shall be excluded during any Collateral Release Period.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Administrative Agent and, if applicable, the applicable Issuing Lender or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Term SOFR Loans) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Credit Extension.

## ARTICLE V REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

**5.01 Organization and Qualification.** The Borrower and each Subsidiary is duly organized, validly existing and in good standing (or in the case of any Foreign Subsidiary, the equivalent status, if any, in such foreign jurisdiction) under the laws of the jurisdiction of its organization and, except where the failure to be in good standing could not reasonably be expected to have a Material Adverse Effect, each other jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification. The Borrower and each Subsidiary is duly qualified, authorized to do business and in good standing as a foreign corporation, company or other entity, as applicable, in each jurisdiction where failure to be so qualified could reasonably be expected to have a Material Adverse Effect.

**5.02 Power and Authority.** Each Loan Party has all requisite power and authority to execute, deliver and perform the Loan Documents to which it is a party. The execution, delivery and performance by each Loan Party of the Loan Documents to which it is a party have been duly authorized by all necessary action on the part of such Loan Party, and do not (a) require any consent or approval of any holders of Equity Interests of any Loan Party, any Governmental Authority or any other Person, other

than those already obtained; (b) contravene the Organic Documents of any Loan Party; (c) violate or cause a default under any Applicable Law or Material Contract; or (d) result in or require the imposition of any Lien (other than Permitted Liens) on any Property of any Loan Party.

5.03 Enforceability. Each Loan Document is a legal, valid and binding obligation of each Loan Party thereto, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and by equitable principles (regardless of whether enforcement is sought in equity or at law).

5.04 Capital Structure. Schedule 5.04 to the Disclosure Letter shows as of the Closing Date, for the Borrower and each Subsidiary, its name, its jurisdiction of organization, the holders of its Equity Interests (excluding the Borrower) and whether such Subsidiary is a Guarantor and/or an Insignificant Subsidiary. Each Loan Party has good title to its Equity Interests in its direct Subsidiaries, subject only to the Administrative Agent's Lien and Liens permitted under Section 7.02(dd) and 7.02(ff), and all such Equity Interests are duly issued, fully paid and non-assessable (to the extent applicable). As of the Closing Date, there are no outstanding purchase options, warrants, subscription rights, agreements to issue or sell, convertible interests, phantom rights or powers of attorney (other than those granted under any Loan Document or pursuant to any agreement, document or instrument related to Debt permitted under Section 7.01) relating to Equity Interests of any Subsidiary.

5.05 Title to Properties; Priority of Liens. The Borrower and each Subsidiary has good title to (or valid leasehold interests in) all of its Real Estate, and good title to all of its personal Property, including all Property reflected in any financial statements delivered to the Administrative Agent or the Lenders, in each case free of Liens except Permitted Liens. The Borrower and each Subsidiary has paid and discharged all lawful claims that, if unpaid, could become a Lien on its Properties, other than Permitted Liens. All Liens of the Administrative Agent in the Collateral are duly perfected (except to the extent that perfection with respect to such Collateral is not required under any Loan Document), first priority Liens, subject only to Permitted Liens.

5.06 Financial Statements. The consolidated balance sheets, and related statements of income, cash flow and shareholder's equity, of the Borrower and its Subsidiaries that have been and are hereafter delivered to the Administrative Agent and Lenders, are prepared in accordance with GAAP (subject to changes from audit and year-end adjustments and the absence of footnotes in the case of unaudited financial statements), and fairly present in all material respects the consolidated financial position and consolidated results of operations of the Borrower and its Subsidiaries at the dates and for the periods indicated. All projections delivered from time to time by the Borrower to the Administrative Agent and the Lenders in connection with this Agreement have been prepared in good faith, based on reasonable assumptions in light of the circumstances at such time (it being understood that projections are not to be viewed as facts and that actual results during the period or periods covered by the projections may differ from the projections and that such differences may be material). Since October 2, 2021, there has been no change in the condition, financial or otherwise, of the Borrower and its Subsidiaries, taken as a whole, that could reasonably be expected to have a Material Adverse Effect.

5.07 Borrower ERISA Status. On and as of the Closing Date, the Borrower is not and will not be using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments.

5.08 Taxes. The Borrower and each Subsidiary has filed all material federal, state, provincial, territorial, municipal, local and foreign tax returns and other tax reports that it is required by law to file, and has paid and remitted, or made provision for the payment and remittance of, all its material Taxes that

are due and payable, except to the extent being Properly Contested. The provision for Taxes on the books of the Borrower and each Subsidiary has been established in accordance with GAAP for all years not closed by applicable statutes, and for its current Fiscal Year.

5.09 Intellectual Property. The Borrower and each Subsidiary owns or has the lawful right to use all material Intellectual Property necessary for the conduct of its business, without conflict in any material respect with any Intellectual Property rights of others. There is no pending or, to the Borrower's knowledge, threatened (in writing) Intellectual Property Claim with respect to the Borrower, any Subsidiary or any of their Property (including any Intellectual Property) which could reasonably be expected to have a Material Adverse Effect.

5.10 Governmental Approvals. The Borrower and each Subsidiary has, is in compliance with, and is in good standing with respect to, all material Governmental Approvals necessary to conduct its business and to own, lease and operate its Properties. All necessary import, export or other licenses, permits or certificates for the import or handling of any goods have been procured and are in effect, and the Borrower and its Subsidiaries have complied with all foreign and domestic laws with respect to the shipment and importation of any goods, except where noncompliance could not reasonably be expected to have a Material Adverse Effect.

5.11 Compliance with Laws. Except as disclosed on Schedule 5.11 to the Disclosure Letter, the Borrower and each Subsidiary has duly complied, and its Properties and business operations are in compliance, in all respects with all Applicable Law, except where noncompliance could not reasonably be expected to have a Material Adverse Effect. Neither the Borrower nor any Subsidiary has received any citations, notices or orders of material noncompliance under any Applicable Law which, either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No Inventory produced or assembled by the Borrower or any Subsidiary has been produced in violation in any material respect of the FLSA and, to the knowledge of the Borrower and each Subsidiary, no other Inventory has been produced in violation in any material respect of the FLSA.

5.12 Compliance with Environmental Laws. Except as disclosed on Schedule 5.12 to the Disclosure Letter, to the knowledge of the Borrower and its Subsidiaries, no real property owned or leased by the Borrower or any of its Subsidiaries is subject to any federal, state, provincial, territorial, local or foreign order or other applicable legal requirement requiring the Borrower or any of its Subsidiaries to undertake (a) any remedial action to address or (b) any investigation to determine whether any remedial action is needed to address any environmental pollution, hazardous material or environmental clean-up except where such remedial action or investigation would not reasonably be expected to have a Material Adverse Effect. Neither the Borrower nor any Subsidiary has received any Environmental Notice in respect of any material real properties of such Person that would reasonably be expected to result in a Material Adverse Effect.

5.13 Burdensome Contracts. Neither the Borrower nor any Subsidiary is a party or subject to any contract, agreement or charter restriction that could reasonably be expected to have a Material Adverse Effect. Neither the Borrower nor any Subsidiary is party or subject to any Restrictive Agreement, except as shown on Schedule 5.13 to the Disclosure Letter or as permitted by Section 7.11. No such Restrictive Agreement prohibits the execution, delivery or performance of any Loan Document by any Loan Party.

5.14 Litigation. Except as shown on Schedule 5.14 to the Disclosure Letter, there are no proceedings or investigations pending or, to the Borrower's knowledge, threatened in writing against the Borrower or any Subsidiary, or any of their businesses, operations or Properties, that (a) relate to any Loan Documents or transactions contemplated thereby; or (b) could reasonably be expected to have a

Material Adverse Effect. Neither the Borrower nor any Subsidiary is in default with respect to any order, injunction or judgment of any Governmental Authority binding on it.

5.15 No Defaults. No event or circumstance has occurred or exists that constitutes a Default or Event of Default. Neither the Borrower nor any Subsidiary is in material default, and no event or circumstance has occurred or exists that with the passage of time or giving of notice would constitute a material default, under any Material Contract. To the Borrower's knowledge, there is no basis upon which any party (other than the Borrower or a Subsidiary) could terminate a Material Contract prior to its scheduled termination date.

5.16 ERISA. Except as disclosed on Schedule 5.16 to the Disclosure Letter:

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code, and other federal and state laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the knowledge of the Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification. Each Loan Party and ERISA Affiliate has made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) There are no pending or, to the knowledge of the Borrower, threatened (in writing) claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted in or could reasonably be expected to have a Material Adverse Effect.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) no Loan Party or ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) no Loan Party or ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) no Loan Party or ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA.

(d) With respect to any Foreign Plan, (i) all employer and employee contributions required by law or by the terms of the Foreign Plan have been made, or, if applicable, accrued, in accordance with normal accounting practices; (ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance, or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations with respect to all current and former participants in such Foreign Plan according to the actuarial assumptions and valuations most recently used to account for such obligations in accordance with applicable generally accepted accounting principles; and (iii) it has been registered as required and has been maintained in good standing with applicable regulatory authorities.

(e) The Borrower represents and warrants as of the Closing Date that the Borrower is not and will not be using "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments.

5.17 Trade Relations. There exists no actual or threatened (in writing) termination, limitation or modification of any business relationship between the Borrower or any Subsidiary and any customer or supplier, or any group of customers or suppliers where such termination, limitation or modification could reasonably be expected to have a Material Adverse Effect. There exists no condition or circumstance that could reasonably be expected to impair the ability of the Borrower or any Subsidiary to conduct its business at any time hereafter in substantially the same manner as conducted on the Closing Date where such impairment could reasonably be expected to have a Material Adverse Effect.

5.18 Labor Relations. Except as described on Schedule 5.18 to the Disclosure Letter, as of the Closing Date neither the Borrower nor any Subsidiary is party to or bound by any collective bargaining agreement or management agreement. Except as described on Schedule 5.18 to the Disclosure Letter, there are no grievances, disputes or controversies with any union or other organization of the Borrower's or any Subsidiary's employees, or, to the Borrower's knowledge, any asserted or threatened (in writing) strikes, work stoppages or demands for collective bargaining, in each case, that could reasonably be expected to have a Material Adverse Effect.

5.19 EEA Financial Institutions. No Loan Party is an EEA Financial Institution.

5.20 Not a Regulated Entity. No Loan Party (a) is required to be registered as an "investment company" within the meaning of the Investment Company Act of 1940; or (b) is subject to regulation under the Federal Power Act, the Interstate Commerce Act, any public utilities code or any other Applicable Law regarding its authority to incur Debt.

5.21 Margin Stock. Neither the Borrower nor any Subsidiary is engaged, principally or as one of its important activities, in the business of purchasing or carrying, or extending credit for the purpose of purchasing or carrying, any Margin Stock. No Loan proceeds or Letters of Credit will be used by the Borrower or any Subsidiary to purchase or carry, or to extend credit for the purpose of purchasing or carrying, or to reduce or refinance any Debt incurred to purchase or carry, any Margin Stock or for any related purpose governed by Regulations T, U or X of the FRB.

5.22 Insurance. The insurance coverage of the Loan Parties as in effect on the Closing Date complies with the requirements of Section 6.07 as of the Closing Date and is outlined as to carrier, policy number, expiration date, type, amount and deductibles on Schedule 5.22 to the Disclosure Letter.

5.23 Solvency. The Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

5.24 Complete Disclosure. No Loan Document, when taken as a whole with the other Loan Documents and together with the Borrower's filings with the SEC, contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make the statements contained therein not materially misleading. Except as disclosed on Schedule 5.11 to the Disclosure Letter, there is no fact or circumstance that any Loan Party has failed to disclose to the Administrative Agent in writing or that is not disclosed in the Borrower's filings with the SEC that could reasonably be expected to have a Material Adverse Effect.

5.25 OFAC. Neither the Borrower, nor any of its Subsidiaries, nor, to the knowledge of the Borrower and its Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by one or more individuals or entities that are (a) currently the subject or target of any Sanctions, (b) included on OFAC's List of Specially Designated Nationals, HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (c) located, organized or resident in a Designated Jurisdiction. The Borrower and its Subsidiaries have conducted their businesses in compliance in all material respects with all applicable Sanctions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such Sanctions.

5.26 Anti-Corruption Laws. The Borrower and its Subsidiaries have conducted their businesses in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other applicable anti-corruption legislation in other jurisdictions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

5.27 Security Documents. If a Collateral Period is in effect, the provisions of the Security Documents are effective to create in favor of the Administrative Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority Lien (subject to Permitted Liens) on all right, title and interest of the respective Loan Parties in the Collateral described therein. Except for filings completed on or prior to the Closing Date and as contemplated hereby and by the Security Documents, if a Collateral Period is in effect no filing or other action will be necessary to perfect or protect such Liens to the extent perfection thereof is required by the Security Documents.

5.28 Beneficial Ownership. As of the Closing Date, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all respects.

5.29 Not an Affected Financial Institution. Neither the Borrower nor any Guarantor is an Affected Financial Institution.

5.30 Covered Entities. No Loan Party is a Covered Entity.

## ARTICLE VI AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than (i) contingent obligations for which no claim has been made and (ii) obligations and liabilities under Bank Products) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the applicable Issuing Lender shall have been made) shall remain outstanding, the Borrower shall, and shall cause each Subsidiary to:

6.01 Inspections; Appraisals.

(a) Permit the Administrative Agent, subject (except when a Default or Event of Default exists) to reasonable notice and normal business hours, to visit and inspect the Properties of the Borrower or any Subsidiary and to inspect, audit and make extracts from the Borrower's or any Subsidiary's books and records, and discuss with its officers, employees, agents, advisors and independent accountants the Borrower's or such Subsidiary's business, financial condition, assets, prospects and results of operations. The Lenders may participate in any such visit or inspection, at their own expense. Neither the Administrative Agent nor any Lender shall have any duty to the Borrower to make any inspection, nor to share any results of any inspection, appraisal or report with the Borrower. The Borrower acknowledges that all inspections, appraisals and reports are prepared by the Administrative Agent and the Lenders for their purposes, and the Borrower shall not be entitled to rely upon them. Notwithstanding anything to the contrary herein, neither the Borrower nor any Subsidiary will be required to disclose, permit the inspection, examination or making of extracts, or discussion of, any document, information or other matter that (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or its designated representative) is then prohibited by Applicable Law or any agreement binding on the Borrower or any Subsidiary which agreement was not entered into in contemplation of this Agreement and does not apply to the Collateral or (iii) is subject to attorney-client or similar privilege or constitutes attorney work product.

(b) Reimburse the Administrative Agent for all reasonable and documented charges, costs and expenses of the Administrative Agent in connection with any inspections described in Section 6.01(a).

up to one time per Loan Year; provided, however, that if an examination is initiated during the existence of a Default or Event of Default, all reasonable and documented charges, costs and expenses therefor shall be reimbursed by the Borrower without regard to such limits. Subject to and without limiting the foregoing, the Borrower specifically agrees to pay the Administrative Agent's then standard charges for each day that an employee of the Administrative Agent or its Affiliates is engaged in any examination activities.

6.02 Financial and Other Information. Keep adequate records and books of account with respect to its business activities, in which proper entries are made that are sufficient to prepare financial statements in accordance with GAAP; and furnish to the Administrative Agent (for distribution to the Lenders in accordance with customary practice):

(a) as soon as available, and in any event within 90 days after the end of each Fiscal Year (commencing with the Fiscal Year ended on or about October 1, 2022), a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and stockholders' equity for such Fiscal Year, on a consolidated basis for the Borrower and its Subsidiaries, which consolidated statements shall be audited and certified (without qualification as to going concern or scope of audit and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of the Borrower and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP and that the audit by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards in the United States) by a firm of independent certified public accountants of recognized standing selected by the Borrower and reasonably acceptable to the Administrative Agent (it being understood that PricewaterhouseCoopers LLP is acceptable to the Administrative Agent), and shall set forth in comparative form corresponding figures for the preceding Fiscal Year;

(b) as soon as available, and in any event within 45 days after the end of each of the first three Fiscal Quarters in any Fiscal Year (commencing with the Fiscal Quarter ended on or about December 31, 2022), an unaudited balance sheet as of the end of such Fiscal Quarter and the related statements of income and cash flow for such Fiscal Quarter and for the portion of the Fiscal Year then elapsed, on a consolidated basis for the Borrower and its Subsidiaries, setting forth in comparative form corresponding figures for the preceding Fiscal Year and certified by the chief financial officer of the Borrower as prepared in accordance with GAAP and fairly presenting in all material respects the financial position and results of operations for the Borrower and its Subsidiaries for such Fiscal Quarter and period, subject to normal year-end adjustments and the absence of footnotes;

(c) concurrently with delivery of financial statements under clauses (a) and (b) above, or more frequently if requested by the Administrative Agent while a Default or Event of Default exists, a Compliance Certificate executed by the chief financial officer or treasurer of the Borrower;

(d) concurrently with delivery of financial statements under clause (a) above, copies of all management letters and other material reports submitted to the Borrower by its accountants in connection with such financial statements;

(e) not later than 75 days after the end of each Fiscal Year, projections of the Borrower's consolidated balance sheets, results of operations and cash flow for the next Fiscal Year, quarter by quarter;

(f) [reserved];

(g) promptly after the sending or filing thereof, copies of any proxy statements, financial statements or reports that any Loan Party has made generally available to its shareholders; and copies of any regular, periodic and special reports or registration statements or prospectuses that any Loan Party files with the SEC or any other Governmental Authority, or any securities exchange (excluding listing applications and other routine reports filed with any securities exchange);

(h) promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable “know your customer” and anti-money-laundering rules and regulations, including, without limitation, the Act and, to the extent applicable, the Beneficial Ownership Regulation; and

(i) such other reports and information (financial or otherwise) as the Administrative Agent may request from time to time in connection with any Collateral or the Borrower’s, any Subsidiary’s or other Loan Party’s financial condition or business.

Documents required to be delivered pursuant to Section 6.02(a), Section 6.02(b) or Section 6.02(g) (to the extent such documents are included in materials otherwise filed with the SEC) may be delivered electronically, shall be deemed to have been delivered on the date on which such documents are posted on the Borrower’s behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that the Borrower shall notify the Administrative Agent (by telecopier or electronic mail) of the posting of any such documents and, upon request, shall deliver paper copies of such documents to (i) the Administrative Agent and (ii) any Lender.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Arrangers may, but shall not be obligated to, make available to the Lenders and the Issuing Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, “Borrower Materials”) by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar, or a substantially similar electronic transmission system (the “Platform”) and (b) certain of the Lenders (each, a “Public Lender”) may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons’ securities. The Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof; (x) by marking Borrower Materials “PUBLIC,” the Borrower shall be deemed to have authorized the Administrative Agent, the Arrangers, the Issuing Lenders and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrower or its securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information;” and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information.”

6.03 Notices. Notify the Administrative Agent (for distribution to the Lenders) in writing, promptly after any Senior Officer or other executive officer of the Borrower obtaining knowledge thereof, of any of the following that affects a Loan Party:

- (a) the non-frivolous threat in writing or commencement of any proceeding or investigation, whether or not covered by insurance, that if adversely determined could reasonably be expected to have a Material Adverse Effect;
- (b) any pending or threatened in writing labor dispute, strike or walkout, or the expiration of any material labor contract, in each case involving employees of a Loan Party or any of its Subsidiaries and that could reasonably be expected to have a Material Adverse Effect;
- (c) any default under or termination (other than at the end of its term in accordance with such Material Contract) of a Material Contract that could reasonably be expected to have a Material Adverse Effect;
- (d) the existence of any Default or Event of Default;
- (e) any judgment in an amount exceeding \$50,000,000;
- (f) the assertion of any Intellectual Property Claim, if an adverse resolution could reasonably be expected to have a Material Adverse Effect;
- (g) any notice of violation or asserted violation of any Applicable Law (including ERISA, OSHA, FLSA, or any Environmental Laws) given by any Governmental Authority to the Borrower or any Loan Party, if an adverse resolution could reasonably be expected to have a Material Adverse Effect;
- (h) the occurrence of any ERISA Event in an amount exceeding \$25,000,000 or similar occurrence in respect of a Foreign Plan;
- (i) [reserved];
- (j) the discharge of or any withdrawal or resignation by the Borrower's independent accountants or any material change in accounting treatment or reporting practices other than those disclosed in the Borrower's Current Report on Form 8-K, Quarterly Reports on Form 10-Q or Annual Reports on Form 10-K filed with the SEC;
- (k) at any time during a Collateral Release Period, any announcement by Moody's or S&P of any change in or loss of, or any possible change in or loss of, the Moody's Rating or the S&P Rating; or
  - (l) to the extent applicable, of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in such certification.

6.04 Use of Proceeds. Use the proceeds of all Credit Extensions for working capital, capital expenditures and other lawful general corporate purposes not in contravention of any Law or of any Loan Document.

6.05 Compliance with Laws. Comply with all Applicable Laws, including ERISA, Environmental Laws, FLSA, OSHA, Anti-Terrorism Laws and laws regarding collection, payment and remittance of Taxes, and maintain all Governmental Approvals necessary to the ownership of its Properties or conduct of its business, unless failure to comply (other than failure to comply with applicable Anti-Terrorism Laws) or maintain could not reasonably be expected to have a Material Adverse Effect.

6.06 Taxes. Pay, remit and discharge all material Taxes prior to the date on which they become delinquent or penalties attach, unless such Taxes are being Properly Contested; provided that Taxes that are determined to have been due as a result of a subsequent audit notwithstanding a good faith determination by the Loan Parties that such Taxes were not payable at the time such Taxes are determined to have been due shall not be deemed to be delinquent for purposes of this Section 6.06 so long as such Taxes are paid and discharged promptly following the auditor's determination that the Taxes were due, unless such determination is being Properly Contested.

6.07 Insurance. In addition to the insurance required under any Security Document with respect to Collateral, maintain insurance with insurers (with a Best Rating of at least A7, unless otherwise approved by the Administrative Agent, which approval shall not be unreasonably withheld, delayed or conditioned) reasonably satisfactory to the Administrative Agent, (a) with respect to the Properties and business of the Borrower and its Subsidiaries of such type (including product liability, workers' compensation, larceny, embezzlement, or other criminal misappropriation insurance), in such amounts, and with such coverages and deductibles as are customary for companies similarly situated; and (b) business interruption insurance in such amounts, and with such coverages and deductibles as are customary for companies similarly situated.

6.08 Anti-Corruption Laws; Sanctions. Conduct its businesses in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other applicable anti-corruption legislation in other jurisdictions and with all applicable Sanctions, and maintain policies and procedures designed to promote and achieve compliance with such laws and Sanctions.

6.09 Covenant to Guarantee Obligations and Give Security.

(a) Additional Domestic Subsidiaries. Promptly (and, in any event, within thirty (30) days, as such time period may be extended by the Administrative Agent in its sole discretion) after (i) the creation or Acquisition of any Domestic Subsidiary (other than an Excluded Subsidiary or an Insignificant Subsidiary) (including, without limitation, upon the formation of any Subsidiary that is a Division Successor that is not an Excluded Subsidiary or an Insignificant Subsidiary), (ii) a Domestic Subsidiary (other than an Excluded Subsidiary) ceases to be an Insignificant Subsidiary or (iii) the date any Person otherwise qualifies as a Domestic Subsidiary (other than an Excluded Subsidiary or an Insignificant Subsidiary), in each case, cause such Person to (A) become a Guarantor by delivering to the Administrative Agent a duly executed Guaranty Joinder Agreement or such other document as the Administrative Agent shall reasonably request and deem appropriate for such purpose, (B) except during a Collateral Release Period, grant a security interest in all Collateral (subject to the exceptions specified in the applicable Security Documents) owned by such Subsidiary by delivering to the Administrative Agent a duly executed Security Joinder Agreement, Pledge Joinder Agreement or such other document as the Administrative Agent shall reasonably request and deem appropriate for such purpose and comply with the terms of each applicable Security Document, (C) deliver to the Administrative Agent such opinions, certificates and other documents referred to in Section 4.01 with respect to such Domestic Subsidiary as may be reasonably requested by the Administrative Agent, (D) except during a Collateral Release Period, deliver to the Administrative Agent original certificates evidencing the Equity Interests of such Domestic Subsidiary and the Equity Interests of any other Subsidiaries held by such Domestic Subsidiary and required to be pledged pursuant to the Loan Documents, together with appropriate undated stock or other transfer powers for each certificate duly executed in blank by the registered owner thereof, and (E) deliver to the Administrative Agent such other documents as may be reasonably requested by the Administrative Agent in connection with such Person becoming a Guarantor, all in form, content and scope reasonably satisfactory to the Administrative Agent.

(b) Additional Foreign Subsidiaries. If a Collateral Period is in effect, promptly (and, in any event, within thirty (30) days, as such time period may be extended by the Administrative Agent in its sole discretion) after any Person becomes a First Tier Foreign Subsidiary or a FSHCO owned by any Loan Party, cause (i) the applicable Loan Party to deliver to the Administrative Agent a Pledge Joinder Agreement or Pledge Agreement Supplement, as applicable, pledging sixty-five percent (65%) of the total outstanding voting Equity Interests (and one hundred percent (100%) of the non-voting Equity Interests) of any such new First Tier Foreign Subsidiary or FSHCO, as applicable, and such original certificates evidencing such Equity Interests (or the equivalent thereof pursuant to the Applicable Laws and practices of any relevant foreign jurisdiction) together with an appropriate undated stock or other transfer power for each certificate duly executed in blank by the registered owner thereof, and (ii) such Person to deliver to the Administrative Agent such other legal opinions and documents as may be reasonably requested by the Administrative Agent, all in form, content and scope reasonably satisfactory to the Administrative Agent. Notwithstanding anything to the contrary in this Agreement or any Loan Document, no Loan Party shall be required to take any action to perfect the security interest in the pledged Equity Interests under the law of any jurisdiction outside of the United States of America.

6.10 Existence. Except as otherwise permitted hereunder, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business; provided, no Loan Party or any of its Subsidiaries shall be required to preserve any such existence, right or franchise, licenses and permits if the preservation thereof is no longer desirable in the conduct of the business of such Person and that the loss thereof is not disadvantageous in any material respect to such Person or to Lenders.

6.11 Further Assurances. At any time or from time to time upon the request of the Administrative Agent, at the expense of the Loan Parties, promptly execute, acknowledge and deliver such further documents and do such other acts and things as the Administrative Agent may reasonably request in order to effect fully the purposes of the Loan Documents. In furtherance and not in limitation of the foregoing, each Loan Party shall take such actions as the Administrative Agent may reasonably request from time to time to ensure that the Obligations are guaranteed by the Guarantors and, except during a Collateral Release Period, are secured by the Collateral of the Loan Parties. Notwithstanding anything to the contrary contained herein, if an Event of Default has occurred and is continuing, the Administrative Agent shall have the right to require any Loan Party to execute and deliver documentation, consents, authorizations, approvals and orders in form and substance reasonably satisfactory to the Administrative Agent and, except during a Collateral Release Period, as the Administrative Agent shall deem necessary to grant to the Administrative Agent, for the benefit of the Secured Parties, a valid and perfected first priority lien (subject only to Permitted Liens) on any Collateral not otherwise required hereunder, except to the extent such requirements are prohibited by other agreements binding on such Loan Party or illegal under Applicable Law, and no reasonable alternative structure can be devised having substantially the same effect as such actions that would not be prohibited or illegal under Applicable Law.

6.12 Payment of Obligations. Pay and discharge as the same shall become due and payable, all its material obligations and liabilities, including all lawful material claims which, if unpaid, would by law become a Lien upon its Property unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves to the extent required in accordance with GAAP are being maintained by the Borrower or such Subsidiary.

6.13 Maintenance of Properties. (a) Maintain, preserve and protect all of their respective material Properties and Equipment necessary to the operation of their respective businesses in good working order and condition, ordinary wear and tear excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof; in each of the foregoing clauses (a) and (b), except where the

failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.14 Compliance with Material Contracts. Perform and observe all of the terms and conditions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, and enforce each such Material Contract in accordance with its terms, except, in each case, where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

6.15 Post-Closing Matters. By October 31, 2022 (or such later date as agreed to by the Administrative Agent in its sole discretion), the Administrative Agent shall have received, in form and substance reasonably satisfactory to the Administrative Agent, insurance endorsements and certificates evidencing the insurance required to be maintained by the Security Documents and Section 6.07.

## ARTICLE VII NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than (i) contingent obligations for which no claim has been made and (ii) obligations and liabilities under Bank Products) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the applicable Issuing Lender shall have been made) shall remain outstanding, the Borrower shall not, nor shall it permit any Subsidiary to, directly or indirectly:

7.01 Permitted Debt. Create, incur, Guarantee or suffer to exist any Debt, except:

(a) the Obligations;

(b) Subordinated Debt;

(c) Permitted Purchase Money Debt;

(d) Debt (other than the Obligations and Permitted Purchase Money Debt), but only to the extent outstanding on the Closing Date or permitted to be drawn pursuant to commitments existing on the Closing Date (as such commitments may be extended or renewed from time to time; provided that the amount of such commitments is not increased and the direct or any contingent obligor with respect thereto is not changed, as a result of or in connection with such extension or renewal) and, in each case, listed on Schedule 7.01 to the Disclosure Letter (and other Debt of the Borrower or any Subsidiary existing on the Closing Date in an aggregate principal amount not to exceed \$5,000,000);

(e) (i) Hedging Agreements entered into by any Loan Party or Subsidiary and (ii) Debt arising under any Permitted Call Spread Swap Agreement;

(f) Debt that is in existence when a Person becomes a Subsidiary or that is secured by an asset when acquired by the Borrower or a Subsidiary, as long as such Debt was not incurred in contemplation of such Person becoming a Subsidiary or such acquisition, and all such Debt incurred pursuant to this clause (f) does not exceed \$50,000,000 in an aggregate principal amount at any time outstanding;

(g) Permitted Contingent Obligations;

(h) Refinancing Debt as long as each Refinancing Condition is satisfied;

(i) (i) Intercompany Debt of any Loan Party payable to another Loan Party or a Non-Guarantor Subsidiary, provided that, simultaneously with the incurrence of such Debt, the Borrower shall cause (A) all such Intercompany Debt to be unsecured and (B) all such Intercompany Debt of any Loan Party to be subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the Interco Subordination Agreement; (ii) Intercompany Debt of any Non-Guarantor Subsidiary payable to any Loan Party, provided, that (A) the aggregate outstanding principal amount of such Debt (exclusive of Debt listed on Schedule 7.01 to the Disclosure Letter, together with any refinancing of such Intercompany Debt listed on Schedule 7.01 so long as each Refinancing Condition is satisfied) shall not exceed the greater of (1) \$50,000,000 and (2) 5% of Consolidated Tangible Assets and (B) simultaneously with the incurrence of such Debt the Borrower shall cause all such Intercompany Debt to be unsecured; (iii) Intercompany Debt of any Non-Guarantor Subsidiary payable to any other Non-Guarantor Subsidiary; and (iv) Intercompany Debt outstanding on the date hereof and listed on Schedule 7.01 to the Disclosure Letter (including any extensions, replacements, refinancings, amendments, and amendment and restatements thereof, so long as the principal amount of such Intercompany Debt is not increased and the direct or any contingent obligor with respect thereto is not changed); provided that all such Intercompany Debt of any Loan Party shall be subordinated in right of payment to the payment in full of the Obligations pursuant to the terms of the Interco Subordination Agreement;

(j) Guarantees in the Ordinary Course of Business of the obligations owed to or of suppliers, customers, franchisees and licensees of the Borrower and its Subsidiaries;

(k) (i) unsecured Guarantees by a Loan Party of Debt of another Loan Party or Guarantees by a Subsidiary of Debt of the Borrower or a Loan Party with respect, in each case, to Debt otherwise permitted to be incurred pursuant to this Section 7.01, (ii) unsecured Guarantees by a Loan Party of Debt of a Non-Guarantor Subsidiary (A) which Debt of Non-Guarantor Subsidiaries exists on the Closing Date and is listed on Schedule 7.01 to the Disclosure Letter and (B) in an aggregate principal amount not to exceed at any time outstanding \$50,000,000 in the case of Debt incurred after the Closing Date, and (iii) Guarantees by any Non-Guarantor Subsidiary of Debt of any other Non-Guarantor Subsidiary permitted to be incurred pursuant to this Section 7.01;

(l) Debt with respect to Capital Leases entered into after the Closing Date in an aggregate principal amount not to exceed at any time outstanding \$100,000,000 plus any amount permitted by and not utilized pursuant to Section 7.01(c), but in no event shall the aggregate outstanding principal amount of Debt under this Section 7.01(l) and Section 7.01(c) exceed at any time \$200,000,000; provided that the sum of the amount of Debt of Foreign Subsidiaries under either such Section guaranteed by a Loan Party and the amount of Debt under Section 7.01(k)(ii) shall not exceed \$200,000,000;

(m) Debt secured solely by the Corporate Head Office Campus in a principal amount not to exceed the greater of (a) \$75,000,000 and (b) the fair market value of the Corporate Head Office Campus;

(n) Debt of Foreign Subsidiaries in an aggregate principal amount not to exceed at any time outstanding 10% of Consolidated Tangible Assets;

(o) reimbursement obligations in respect of letters of credit, bank guaranties and banker's acceptances and obligations in respect of performance or return-of-money bonds, surety or appeal bonds or other obligations of a like nature in an aggregate face amount not to exceed \$50,000,000 at any time;

(p) customary indemnification obligations pursuant to factoring or similar arrangements permitted under Section 7.05(e) or Section 7.05(f) hereof;

(q) Debt incurred by the Borrower or any Subsidiary arising from agreements providing for indemnification, adjustment of purchase price, earnouts or similar obligations, or from guaranties or letters of credit, surety bonds or performance bonds securing the performance of the Borrower or any such Subsidiary pursuant to such agreements, in connection with Permitted Acquisitions or permitted dispositions of any business, assets or Subsidiary of the Borrower or any of its Subsidiaries;

(r) Debt of any Loan Party or any Domestic Subsidiary to any Person other than a Loan Party or a Subsidiary that is not included in any of the preceding clauses of this Section, so long as at the time the original principal amount of such Debt is incurred and after giving Pro Forma Effect thereto, the Borrower is in Pro Forma Compliance with the financial covenants set forth in Section 7.16, and any Guarantees by any Loan Party or any Domestic Subsidiary in respect of such Debt;

(s) [reserved];

(t) Debt of any Securitization Subsidiary in respect of any Permitted Securitization Facility and any indemnity in respect thereof described in clause (b) of the definition of “Permitted Securitization Facility”;

(u) Debt arising as a result of, or pursuant to, Cash Management Agreements (entered into in the Ordinary Course of Business) and other Debt arising from the honoring by a bank or other financial institution of a check, draft or other similar instrument drawn against insufficient funds in the Ordinary Course of Business; and

(v) Debt of the Borrower or any Subsidiary so long as at the time the original principal amount of such Debt is incurred and after giving Pro Forma Effect thereto, the Consolidated Leverage Ratio would be no greater than 2.50 to 1.00, and any Guarantees by the Borrower or any Subsidiary in respect of such Debt.

7.02 Permitted Liens. Create or suffer to exist any Lien upon any of its Property, except the following (collectively, “Permitted Liens”):

(a) Liens in favor of the Administrative Agent;

(b) Purchase Money Liens securing Permitted Purchase Money Debt and Liens securing Debt permitted under Section 7.01(l);

(c) Liens for Taxes not yet due or being Properly Contested;

(d) statutory, common law or contractual Liens of landlords, creditor depository institutions or institutions holding securities accounts (including rights of set-off or similar rights and remedies), carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law (other than Liens for Taxes or imposed under ERISA) arising in the Ordinary Course of Business, but only if (i) payment of the obligations secured thereby is not yet due or is being Properly Contested, and (ii) such Liens do not materially impair the value or use of the Property or materially impair operation of the business of the Borrower or any Subsidiary;

(e) Liens incurred or deposits made in the Ordinary Course of Business to secure the performance of tenders, bids, leases, contracts (except those relating to Debt), statutory obligations and other similar obligations, or arising as a result of progress payments under government contracts or arising in connection with grants from any Governmental Authority;

- (f) Liens arising in the Ordinary Course of Business that are subject to Lien Waivers;
- (g) Liens arising by virtue of a judgment or judicial order against the Borrower or any Subsidiary, or any Property of the Borrower not constituting an Event of Default under Section 8.01(g), provided that such Liens are (i) in existence for less than 20 days or being Properly Contested, and (ii) at all times junior to the Administrative Agent's Liens;
- (h) easements, rights-of-way, servitudes, restrictions, covenants or other agreements of record, and other similar charges or encumbrances on Real Estate, that do not secure any monetary obligation and do not interfere in any material respect with the Ordinary Course of Business;
- (i) Liens of a collecting bank on Payment Items in the course of collection;
- (j) any interest or title of a lessor or sublessor under any lease of real estate not prohibited hereby;
- (k) Liens solely on any cash earnest money deposits made by the Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;
- (l) purported Liens evidenced by the filing of precautionary UCC or PPSA financing statements relating solely to operating leases of personal property entered into in the Ordinary Course of Business;
- (m) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;
- (n) any zoning or similar law or right reserved to or vested in any governmental office or agency to control or regulate the use of any real property;
- (o) licenses or sublicenses of patents, trademarks, copyrights and other Intellectual Property rights granted by the Borrower or any of its Subsidiaries in the Ordinary Course of Business and not interfering in any material respect with the ordinary conduct of the business of the Borrower or such Subsidiary;
- (p) Liens described in Schedule 7.02 to the Disclosure Letter (or other non-material Liens of the Borrower and its Subsidiaries existing on the Closing Date and not described in such Schedule securing obligations in an aggregate principal amount not to exceed at any time \$2,000,000) and any renewals or extensions thereof, provided that the property covered thereby is not increased and any renewal or extension of the obligations secured or benefited thereby constitutes Refinancing Debt that satisfies each Refinancing Condition;
- (q) Liens securing Debt permitted pursuant to Section 7.01(m); provided, any such Lien shall encumber only the Corporate Head Office Campus and such other property relating thereto as is normally described in a mortgage or deed of trust;
- (r) Liens encumbering assets of Foreign Subsidiaries securing Debt permitted pursuant to Section 7.01(n) or other obligations not permitted hereby in an aggregate principal amount for all such Debt and other obligations not to exceed at any time outstanding 10% of Consolidated Tangible Assets; provided that if such Lien is granted or created during a Collateral Release Period, the aggregate principal amount for all such Debt and other obligations combined with amounts permitted under Section 7.02(bb).

shall not at the time such Lien is granted or created exceed at any time outstanding 10% of Consolidated Tangible Assets and such Lien shall continue to be permitted for all purposes hereunder and under the Loan Documents if such Collateral Release Period subsequently terminates;

(s) Liens securing the performance or return-of-money bonds, surety or appeal bonds, letters of credit, bank guarantees, banker's acceptances and other obligations of a like nature and incurred in the Ordinary Course of Business in an aggregate amount permitted under Section 7.01(o);

(t) Liens on Property at the time the Borrower or any Subsidiary acquired such Property in a transaction permitted by Section 7.04, including any acquisition by means of a merger, amalgamation or consolidation with or into the Borrower or any Subsidiary; provided, however, that such Lien may not extend to any other Property of the Borrower or any Subsidiary; provided further that such Liens shall not have been created in anticipation of or in connection with the transaction or series of transactions pursuant to which such Property was acquired by the Borrower or any Subsidiary;

(u) Liens on the Property of a Person existing at the time such Person becomes a Subsidiary of the Borrower in a transaction permitted by Section 7.04; provided, however that any such Lien may not extend to any other Property of the Borrower or any other Subsidiary that is not a direct Subsidiary of such Person; provided further that any such Lien was not created in anticipation of or in connection with the transaction or series of transactions pursuant to which such Person became a Subsidiary of the Borrower;

(v) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of bankers' acceptances issued or credited for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

(w) Liens arising under consignment or similar arrangements for the sale of goods in the Ordinary Course of Business;

(x) Liens on insurance proceeds securing the payment of financed insurance premiums;

(y) leases or subleases granted to others in the Ordinary Course of Business which do not interfere in any material respect with the business operations of the Borrower and its Subsidiaries taken as a whole;

(z) customary Liens granted in favor of a trustee to secure fees and other amounts owing to such trustee under an indenture or other agreement pursuant to which Debt permitted by Section 7.01 is issued;

(aa) the interest of a purchaser (or an agent for such purchaser) of receivables and Related Assets sold pursuant to any factoring or similar arrangement referred to in Section 7.05(e) or Section 7.05(f) acquired pursuant to such other factoring or similar arrangement;

(bb) other Liens on assets, other than Collateral and any Real Estate, securing Debt or other obligations in an aggregate amount not to exceed, (i) for all such Liens incurred during a Collateral Period, \$10,000,000 at any time outstanding and (ii) for all such Liens incurred during a Collateral Release Period, combined with amounts permitted under Section 7.02(r), 10% of Consolidated Tangible Assets at the time outstanding and tested at the time any such Lien is granted or created, it being understood that any such Lien shall continue to be permitted for all purposes hereunder and under the Loan Documents if such Collateral Release Period subsequently terminates;

(cc) deposits made (and the Liens thereon) in the Ordinary Course of Business in connection with workers' compensation, unemployment insurance and other types of social security or similar legislation;

(dd) [reserved];

(ee) customary encumbrances or restrictions (including put and call arrangements) with respect to the Equity Interests of any joint venture in favor of the other parties to such joint venture;

(ff) [reserved];

(gg) Liens on Related Assets of a Securitization Subsidiary in connection with the sale or financing of such Related Assets pursuant to a Permitted Securitization Facility;

(hh) Liens on assets securing Debt permitted by Section 7.01(y) so long as, in the case of Liens on the Collateral, such Liens are subject to an intercreditor agreement in form and substance reasonably satisfactory to the Administrative Agent; and

(ii) licenses of Intellectual Property to the Sanmina India Joint Venture pursuant to Sanmina India Joint Venture Documents and not interfering in any material respect with the ordinary conduct of business of the Borrower and its Subsidiaries.

#### 7.03 Distributions; Upstream Payments.

(a) Declare or make any Distributions, other than:

(i) Distributions, so long as (A) no Default or Event of Default has occurred and is continuing or would result therefrom and (B) after giving Pro Forma Effect thereto, the Borrower is in Pro Forma Compliance with the financial covenants set forth in Section 7.16;

(ii) Upstream Payments;

(iii) acquisitions of Equity Interests of the Borrower in connection with the exercise of stock options, restricted stock units or stock appreciation rights by way of cashless exercise or Distributions in connection with the satisfaction of withholding tax obligations;

(iv) purchases or payments in lieu of fractional shares of the Equity Interests of the Borrower arising out of stock dividends, splits or combinations, business combinations or conversion or exercise of convertible securities (including Convertible Debt Securities), options or warrants;

(v) so long as no Default or Event of Default has occurred and is continuing or would result therefrom, purchases, repurchases, redemptions, defeasances, acquisitions or retirements for value of (A) Equity Interests of the Borrower or any of its Subsidiaries from any officer, director, employee or consultant of the Borrower or its Subsidiaries in an aggregate amount not to exceed \$10,000,000 during any year and (B) any non-cash rights distributed in connection with any stockholder rights plan;

(vi) in connection with any acquisition permitted pursuant to Section 7.04, (A) receive or accept the return to the Borrower or any of its Subsidiaries of Equity Interests of the Borrower or any of its Subsidiaries constituting a portion of the purchase price consideration in

settlement of indemnification claims or as a result of purchase price adjustments or (B) make payments or distributions to dissenting stockholders pursuant to Applicable Law;

(vii) payments or distributions to dissenting stockholders pursuant to Applicable Law;

(viii) the Borrower may enter into, terminate, exercise its rights and perform its obligations under Permitted Call Spread Swap Agreements;

(ix) the Borrower may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issuance of its Equity Interests; and

(x) the Borrower may repurchase Equity Interests pursuant to any structured share purchase arrangement (including, without limitation, through any accelerated stock repurchase, prepaid put option or other similar equity derivative transaction) so long as at the time such purchase arrangement is entered into (A) no Default or Event of Default has occurred and is continuing or would result therefrom and (B) after giving Pro Forma Effect thereto, the Borrower is in Pro Forma Compliance with the financial covenants set forth in Section 7.16.

(b) Create or suffer to exist any encumbrance or restriction on the ability of a Subsidiary to make any Upstream Payment, except for restrictions (i) under the Loan Documents, (ii) permitted under Section 7.11, (iii) under Applicable Law or (iv) in effect on the Closing Date as shown on Schedule 5.13 to the Disclosure Letter.

7.04 Restricted Investments. Make any Investment, except:

(a) (i) equity Investments in Foreign Subsidiaries to the minimum extent required to comply with the local minimum capitalization requirements of foreign jurisdictions and (ii) conversions of Intercompany Debt between any Loan Party and Foreign Subsidiary into equity not to exceed, when taken together with all Investments outstanding pursuant to Section 7.04(b)(iii), an aggregate amount equal to the greater of (x) \$50,000,000 and (y) 10% of Consolidated Total Assets;

(b) (i) equity investments owned as of the Closing Date in any Subsidiary, (ii) Investments made after the Closing Date by a Loan Party in any other Loan Party, (iii) Investments made by any Loan Party in any Non-Guarantor Subsidiary not to exceed (at the time such Investment is made), when taken together with all conversions of Intercompany Debt made pursuant to Section 7.04(a)(ii), an aggregate amount equal to the greater of (x) \$50,000,000 and (y) 10% of Consolidated Total Assets and (iv) Investments from a Non-Guarantor Subsidiary into another Non-Guarantor Subsidiary;

(c) Investments (i) in any Equity Interests or other securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors (whether in connection with a foreclosure, bankruptcy, workout, judgment or otherwise) and (ii) deposits, prepayments and other credits to suppliers made in the Ordinary Course of Business;

(d) Consolidated Capital Expenditures;

(e) loans and advances to employees, officers and directors of the Borrower and its Subsidiaries made in the Ordinary Course of Business and to the extent permitted by the Sarbanes-Oxley Act of 2002, in an aggregate principal amount at any time outstanding not to exceed \$10,000,000 in the aggregate;

- (f) Intercompany Debt permitted by Section 7.01;
- (g) Investments described in Schedule 7.04 to the Disclosure Letter;
- (h) the Borrower and its Subsidiaries may enter into, terminate and perform their respective obligations under (i) Hedging Agreements permitted hereunder and entered into in the Ordinary Course of Business and (ii) Permitted Call Spread Swap Agreements;
  - (i) Investments consisting of extensions of credit in the nature of accounts receivable, prepaid royalties or expenses or notes receivable arising from the sale or lease of goods or services in the Ordinary Course of Business, or lease, utility, workers compensation, performance or similar deposits arising in the Ordinary Course of Business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary to prevent or limit loss;
  - (j) guaranty and similar obligations permitted by Section 7.01;
  - (k) commission, entertainment, relocation, payroll, travel, indemnity and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the Ordinary Course of Business;
  - (l) Investments acquired by the Borrower or any of its Subsidiaries (i) in exchange for any other Investments held by the Borrower or such Subsidiary in connection with or as a result of bankruptcy, workout, reorganization or recapitalization of the issuer of such Investment or (ii) as a result of a foreclosure by the Borrower or any of its Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;
  - (m) Investments representing the non-cash portion of the consideration received in connection with any issuance of Equity Interests by a Subsidiary of the Borrower to the Borrower or to another Subsidiary of the Borrower not prohibited hereunder;
  - (n) equity Investments in Subsidiaries solely to the extent made to effect transactions permitted pursuant to Section 7.05(d) hereof;
  - (o) Investments constituting or made in connection with Permitted Acquisitions, so long as (i) no Default or Event of Default exists or would result therefrom and (ii) after giving Pro Forma Effect thereto, the Borrower is in Pro Forma Compliance with the financial covenants set forth in Section 7.16;
  - (p) Permitted Pool Transactions;
  - (q) Investments of any Person that becomes a Subsidiary after the Closing Date, as long as such Investments were not made in contemplation of such Person becoming a Subsidiary and such Investments existed at the time that such Person became a Subsidiary, and the aggregate amount of all such Investments incurred pursuant to this clause (g) does not exceed \$50,000,000 at any time;
  - (r) Investments that consist of or result from any merger or consolidation permitted by Section 7.07;
  - (s) cash and Cash Equivalents; provided that if such cash and Cash Equivalents are owned by a Loan Party, such cash and Cash Equivalents are subject to the Administrative Agent's Lien and

control to the extent required by the Security Documents, pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent;

(t) Investments made in accordance with the Borrower's investment policy, as approved by the Board of Directors of the Borrower (or a committee thereof) and as in effect from time to time;

(u) Investments, other than Investments by any Loan Party in any Non-Guarantor Subsidiary of the Borrower, in an aggregate amount not to exceed at any time outstanding \$50,000,000;

(v) Investments in the Sanmina India Joint Venture in connection with the consummation of the transactions contemplated by Sanmina India Joint Venture Documents on or before the later to occur of (i) the Long Stop Date as defined in the SSPA, (ii) the Closing as defined in the SSPA, (iii) the termination of the SSPA and (iv) 18 months after the Execution Date as defined in the SSPA;

(w) Investments pursuant to the exercise of put and call obligations under the Sanmina India Joint Venture Documents; and

(x) Additional Investments in the Sanmina India Joint Venture in an aggregate amount not to exceed \$50,000,000, so long as (i) no Default or Event of Default exists or would result therefrom and (ii) after giving Pro Forma Effect thereto, the Borrower is in Pro Forma Compliance with the financial covenants set forth in Section 7.16.

provided that in no event shall any Loan Party make any Investment which results in or facilitates in any manner any Distribution not otherwise permitted under the terms of Section 7.03. For purposes of determining compliance with the provisions of this Section 7.04, equity Investments made by the Borrower or any of its Subsidiaries (the "contributor") in any Subsidiary that are effected pursuant to one or more equity contributions made contemporaneously or in prompt succession by the contributor and/or any of its Subsidiaries shall be deemed one Investment by the contributor.

7.05 Disposition of Assets. Make any Asset Disposition, except:

(a) a Permitted Asset Disposition;

(b) Investments made in accordance with Section 7.04;

(c) a sale, conveyance, lease, transfer or other disposition of Property by (i) a Subsidiary to a Loan Party, (ii) a Loan Party to another Loan Party, (iii) a Domestic Subsidiary that is a Non-Guarantor Subsidiary to the Borrower or any of its Subsidiaries and (iv) a Loan Party to a Domestic Subsidiary that is not a Loan Party to the extent that the gross fair market value of all such property and assets conveyed, sold, leased, transferred or otherwise disposed of during the term hereof pursuant to this clause (iv) shall not exceed an amount equal to \$25,000,000;

(d) all or any part of the business, property or assets of any Foreign Subsidiary of the Borrower may be conveyed, sold, leased, transferred or otherwise disposed of in one transaction or a series of transactions, (i) in the case of a Foreign Subsidiary that is a First Tier Foreign Subsidiary, (A) to any other First Tier Foreign Subsidiary (so long as such First Tier Foreign Subsidiary is owned by a Loan Party if the transferor is owned by a Loan Party) or any Loan Party and (B) to any non-First Tier Foreign Subsidiary or any First Tier Foreign Subsidiary not owned by a Loan Party to the extent only that the gross fair market value of all such property and assets conveyed, sold, leased, transferred or otherwise disposed of during the term hereof pursuant to this clause (B) to all other such Foreign Subsidiaries shall not exceed an amount equal to \$100,000,000 in the aggregate, and (ii) in the case of any non-First Tier

Foreign Subsidiary, to any other Subsidiary or any Loan Party (either directly or indirectly, including through any First Tier Foreign Subsidiary, pursuant to transactions occurring contemporaneously or in prompt succession involving another Subsidiary or the Borrower);

(e) sales of receivables and Related Assets by any Loan Party pursuant to nonrecourse (other than limited, customary provisions for recourse) factoring or similar arrangements; provided that the cash consideration for any such sale shall be for an amount equal to at least 90% of the face amount of such receivables; and provided, further that the face amount of all receivables sold and outstanding at any time pursuant to this Section 7.05(e) together with the face amount of all receivables sold and outstanding at any time pursuant to Section 7.05(f) and Section 7.05(g) shall not exceed in the aggregate 50% of the total aggregate receivables of the Borrower and its Subsidiaries (measured as of the end of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 6.02); and provided, further that no Default or Event of Default exists or would result therefrom at the time of any such sale and the Borrower from time to time shall provide the Administrative Agent upon the Administrative Agent's request with a current list of receivables that are sold pursuant to any such arrangement;

(f) sales of receivables and Related Assets by any Non-Guarantor Subsidiary of the Borrower pursuant to nonrecourse (other than limited, customary provisions for recourse) factoring or similar arrangement; provided that (1) the face amount of all receivables sold and outstanding at any time pursuant to this Section 7.05(f) together with the face amount of all receivables sold and outstanding at any time pursuant to Section 7.05(e) and Section 7.05(g) shall not exceed in the aggregate 40% of the total aggregate receivables of the Borrower and its Subsidiaries (measured as of the end of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 6.02) and (2) at the time of any such sale, no Default or Event of Default exists or would result therefrom;

(g) sales of receivables and Related Assets by the Borrower or any Subsidiary to any Securitization Subsidiary; provided that (1) the face amount of all receivables sold and outstanding at any time pursuant to this Section 7.05(g) together with the face amount of all receivables sold and outstanding at any time pursuant to Section 7.05(e) and Section 7.05(f) shall not exceed in the aggregate 40% of the total aggregate receivables of the Borrower and its Subsidiaries (measured as of the end of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to Section 6.02) and (2) at the time of any such sale, no Default or Event of Default exists or would result therefrom;

(h) the sale, assignment or transfer of Intellectual Property assets by any Loan Party to any First Tier Foreign Subsidiary owned by a Loan Party with an aggregate value of up to \$125,000,000;

(i) sales of assets (whether or not such assets constitute Collateral pursuant to Section 10.21 or otherwise) after the Closing Date for fair market value and for aggregate consideration of less than \$100,000,000 during the term hereof;

(j) the granting of Permitted Liens;

(k) the licensing of Intellectual Property on commercially reasonable terms in the Ordinary Course of Business;

(l) the sublease of facilities of the Borrower or any Subsidiary or the lease by the Borrower or any Subsidiary of facilities under any operating lease, in each case in the Ordinary Course of Business;

(m) the sale of real property (including all buildings, fixtures or other improvements located thereon) comprising the Corporate Head Office Campus in connection with a sale and leaseback transaction;

(n) sales of Real Estate owned by any Loan Party or any Subsidiary; provided that the aggregate consideration for all such sales does not exceed \$250,000,000;

(o) Permitted Pool Transactions;

(p) Asset Dispositions of the Property listed on Schedule 7.05 to the Disclosure Letter;

(q) Asset Dispositions in connection with transactions permitted by Section 7.03 or 7.07;

(r) the issuance of directors' qualifying shares and nominal shares issued to foreign nationals to the extent required by Applicable Law;

(s) the sale or discount, in each case without recourse, of defaulted or past due account receivables arising in the Ordinary Course of Business and not undertaken as part of an accounts receivable financing transaction;

(t) the termination or unwinding of Hedging Agreements or Permitted Call Spread Swap Agreements permitted hereunder pursuant to their terms;

(u) Asset Dispositions in respect of fixed assets (which, for the avoidance of doubt, shall not include any intellectual property) to the extent that (i) such fixed assets are exchanged for credit against the purchase price of similar replacement fixed assets or (ii) the proceeds of such Asset Disposition are promptly applied to the purchase price of such replacement fixed assets;

(v) Asset Dispositions of Sanmina-SCI India Private Limited in connection with the consummation of the Sanmina India Joint Venture Documents; and

(w) Asset Dispositions pursuant to the exercise of put and call options under the Sanmina Joint Venture Documents.

**7.06 Restrictions on Payment of Subordinated Debt.** During any Collateral Period, make any payments (whether voluntary or mandatory, or a prepayment, redemption, retirement, defeasance or acquisition) with respect to any Subordinated Debt, except (a) regularly scheduled payments of principal, interest and fees and payments upon mandatory redemption or prepayment, but only to the extent permitted under any subordination agreement relating to such Debt (and a Senior Officer of the Borrower shall certify to the Administrative Agent, not less than five Business Days prior to the date of payment (or such later date as may be agreed by the Administrative Agent), that all conditions under such agreement have been satisfied) and (b) payments of Intercompany Debt so long as such payment is not prohibited by the Interco Subordination Agreement.

**7.07 Fundamental Changes.** (a) With respect to any Loan Party, change its name or conduct business under any fictitious name; change its tax or other organizational identification number; change its form or jurisdiction of organization or (b) with respect to the Borrower or any Subsidiary, merge, amalgamate, combine or consolidate with any Person, or liquidate, wind up its affairs or dissolve itself, in each case whether in a single transaction or in a series of related transactions (including, in each case, pursuant to a Division), except in each case (i) for mergers, amalgamations or consolidations of a wholly-owned Subsidiary with another wholly-owned Subsidiary or into a Loan Party, (ii) any Non-Guarantor

Subsidiary of the Borrower may be merged, consolidated or amalgamated with or into any other Non-Guarantor Subsidiary or be liquidated, wound up or dissolved; (iii) in connection with a Permitted Acquisition (including a “squeeze out” merger); and (iv) changes in its name, tax or other organizational identification number or form of jurisdiction of organization upon 30 days prior written notice to the Administrative Agent (or such shorter period of time as may be agreed by the Administrative Agent) and provided that as a result of any such change no Lien granted to the Administrative Agent hereunder ceases to be a valid, perfected Lien with the priority required hereunder.

7.08 Sanctions. Directly or indirectly, use the proceeds of any Credit Extension, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as a Lender, an Arranger, Administrative Agent, an Issuing Lender, Swing Line Lender, or otherwise) of Sanctions.

7.09 Anti-Corruption Laws. Directly or indirectly use the proceeds of any Credit Extension for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions.

7.10 Accounting Changes. Make any material change in accounting treatment or reporting practices, except as required by GAAP or Applicable Law and in accordance with Section 1.03; or change its Fiscal Year; provided that any Subsidiary of the Borrower may change its fiscal year to coincide with the Borrower’s Fiscal Year.

7.11 Restrictive Agreements. Become a party to any Restrictive Agreement, other than restrictions (i) in agreements evidencing Debt permitted by Section 7.01(c) or Section 7.01(l) that impose restrictions on the property so acquired; (ii) by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, joint venture agreements and other agreements entered into in the Ordinary Course of Business; (iii) that are or were created by virtue of any transfer of, agreement to transfer or option or right with respect to any property, assets or Equity Interests not otherwise prohibited under this Agreement; (iv) contained in agreements or documents evidencing Debt or other obligations permitted by Section 7.01(n) so long as any such encumbrance or restriction applies only to the Foreign Subsidiary issuing such Debt or other obligation and its Subsidiaries; (v) imposed on a Subsidiary and existing at the time it became a Subsidiary if such restrictions were not created in connection with or in anticipation of the transaction or series of transactions pursuant to which such Subsidiary became a Subsidiary or was acquired by the Borrower and only to the extent applying to such Subsidiary; (vi) under or in connection with any joint venture agreements, partnership agreement, stock sale agreements and other similar agreements; provided that (A) any such agreements are entered into in the Ordinary Course of Business and in good faith, and (B) such restrictions are reasonably customary for such agreements; (vii) under any agreement, instrument or contract affecting property or a Person at the time such property or Person was acquired by the Borrower or any of its Subsidiaries, so long as such restriction relates solely to the property or Person so acquired and was not created in connection with or in anticipation of such acquisition; (viii) existing by virtue of, or arising under, applicable law, regulation, order, approval, license, permit, grant or similar restriction, in each case issued or imposed by a Governmental Authority; (ix) that result from any Refinancing Debt of Debt referred to in clause (iv), (v), (vi) or (vii) of this Section 7.11; provided that the restrictions existing under or by reason of any such agreement, instrument or contract are not materially less favorable, taken as a whole, to the Lenders than those under the agreement evidencing the Debt being refinanced, replaced, renewed or extended; (x) customary subrogation waivers in guaranties permitted under this Agreement; (xi) contained in agreements or documents entered into in connection with sales of receivables and Related Assets permitted by Section 7.05(e), Section 7.05(f), Section 7.05(g) or any Permitted Securitization Facility; (xii) specific property encumbered to secure payment of particular Debt or to be sold pursuant to an

executed agreement with respect to a Disposition permitted under Section 7.05; (xiii) restrictions in agreements entered into in connection with the incurrence of Permitted Liens, to the extent they condition, prohibit or limit the ability of the Administrative Agent or the Lenders from obtaining a Lien only on the property, rights and assets subject to such Permitted Lien (but excluding any of the Collateral); (xiv) arising in connection with grants from any Governmental Authority; (xv) under any customary provisions with respect to cash or other deposit or net worth requirements under agreement, instruments or contracts entered into in the Ordinary Course of Business; (xvi) on cash or other deposits imposed by customers of the Borrower or any Subsidiary under contracts entered into in the Ordinary Course of Business; (xvii) existing on the Closing Date and set forth in Schedule 7.11 to the Disclosure Letter and any extension or renewal thereof so long as such extension or renewal does not expand the scope of such restrictions in any material respect; (xviii) in agreements, documents or instruments entered into by the Borrower or its Subsidiaries in connection with Subordinated Debt; and (xix) contained in the Sanmina India Joint Venture Documents with respect to Sanmina-SCI India Private Limited and Sanmina-SCI Technology India Private Limited or the pledge of the shares thereof.

7.12 Hedging Agreements. During any Collateral Period, enter into any Hedging Agreement, except (i) to hedge risks arising in the Ordinary Course of Business and not for speculative purposes and (ii) Permitted Call Spread Swap Agreements.

7.13 Conduct of Business. Engage in any business, other than its business as conducted on the Closing Date or any Permitted Business, and in each case any activities incidental, or reasonably related, thereto.

7.14 Affiliate Transactions. Enter into or be party to any transaction with an Affiliate, except (a) transactions contemplated or permitted by the Loan Documents; (b) payment of reasonable compensation to officers and employees for services actually rendered, benefit plans for officers and employees entered into or maintained and established in the Ordinary Course of Business, and loans and advances permitted by Section 7.04; (c) payment of customary directors' fees and indemnities; (d) transactions between the Borrower and any of its Subsidiaries or between any Subsidiaries; (e) transactions with Affiliates that were consummated prior to the Closing Date, as shown on Schedule 7.14 to the Disclosure Letter; and (f) transactions with Affiliates upon fair and reasonable terms no less favorable than would be obtained in a comparable arm's-length transaction with a non-Affiliate.

7.15 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry Margin Stock or to extend credit to others for the purpose of purchasing or carrying Margin Stock or to refund indebtedness originally incurred for such purpose.

7.16 Financial Covenants.

(a) Minimum Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio as of the end of any Fiscal Quarter ending after the Closing Date to be less than 3.00 to 1.00.

(b) Maximum Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio at any time on or after the Closing Date to be greater than 4.00 to 1.00.

7.17 Amendments of Organic Documents. During any Collateral Period, amend any of its Organic Documents, except for amendments that (a) do not affect (i) the Borrower or such Subsidiary's right and authority to enter into and perform its obligations under the Loan Documents to which it is a party, (ii) the perfection of the Administrative Agent's Lien in any of the Collateral or (iii) the authority and obligation of the Borrower or such Subsidiary to perform and pay the Obligations and (b) are not

otherwise materially adverse to the rights and interests of the Administrative Agent or any Lender in any manner.

## ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default. Any of the following shall constitute an event of default (each, an “Event of Default”):

(a) Non-Payment. Any Loan Party fails to (i) pay the principal of, or premium on, any Loan or any L/C Obligation or deposit any funds as Cash Collateral in respect of L/C Obligations when due (whether at stated maturity, on demand, upon acceleration or otherwise); or (ii) pay any interest on any Loan or on any L/C Obligation or any fee or other amount due hereunder within two (2) Business Days after the date due;

(b) Representations and Warranties. Any representation, warranty or other written statement of any Loan Party made in connection with any Loan Document or transactions contemplated thereby is incorrect or misleading in any material respect when given;

(c) Specific Covenants. Any Loan Party breaches or fails to perform any covenant contained in Section 6.01, 6.02 (other than clauses (a) and (b) thereof), 6.07, 6.11, 6.15, 10.21(b) or Article VII;

(d) Other Defaults. Any Loan Party (i) breaches or fails to perform any covenant contained in Section 6.02(a) or Section 6.02(b) and such breach or failure is not cured within 15 days after a Senior Officer of any Loan Party has knowledge thereof or receives notice thereof from the Administrative Agent, whichever is sooner, or (ii) breaches or fails to perform any other covenant contained in any Loan Document (not covered by clause (a), (b), (c) or (d)(i) of this Section 8.01), and such breach or failure is not cured within 30 days after a Senior Officer any Loan Party has knowledge thereof or receives notice thereof from the Administrative Agent, whichever is sooner;

(e) Invalidity of Loan Documents. A Guarantor repudiates, revokes or attempts to revoke the Guaranty (or its liabilities or obligations thereunder); any Loan Party denies or contests the validity or enforceability of any Loan Documents or Obligations, or the perfection or priority of any Lien granted to the Administrative Agent; or any Loan Document or Guaranty ceases to be in full force or effect for any reason or any Lien ceases to be a valid, perfected Lien with the priority required hereunder (in each case other than as expressly permitted hereby or pursuant to a waiver or release by the Administrative Agent and the Lenders);

(f) Cross-Default. Any breach or default of any Loan Party or any Subsidiary occurs under any document, instrument or agreement to which it is a party or by which it or any of its Properties is bound, relating to any Debt (other than the Obligations) in excess of \$75,000,000, if the maturity of or any payment with respect to such Debt may be accelerated or demanded due to such breach, or failure to pay the principal of any such Debt at its final stated maturity (it being understood that the amount of Debt in respect of any Hedging Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that would be required to be paid if such Hedging Agreement were terminated at such time); provided that this clause (f) shall not apply to (i) Debt secured by a Permitted Lien that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Debt in a sale or transfer permitted under this Agreement, so long as such Debt is repaid when required under the documents providing for such Debt, (ii) any redemption, repurchase, conversion or settlement of any Convertible Debt Security pursuant to its terms unless such redemption, repurchase, conversion or settlement results from a default thereunder or an event of the type that constitutes an Event of Default or

(iii) any early payment requirement or unwinding or termination with respect to any Permitted Call Spread Swap Agreement not resulting from an event of default thereunder;

(g) Judgments. Any judgment or order for the payment of money is entered against any Loan Party or any Subsidiary in an amount that exceeds, individually or cumulatively with all unsatisfied judgments or orders against all Loan Parties and Subsidiaries, \$75,000,000 (net of any insurance coverage therefor acknowledged in writing by the insurer), unless, in each case, no later than 60 days after the entry thereof, a stay of enforcement of such judgment or order is in effect, by reason of a pending appeal or otherwise, or such judgment is satisfied, discharged, vacated or bonded;

(h) Interruption of Business; Voluntary Dissolution, Etc. The Borrower and its Subsidiaries, taken as a whole, are enjoined, restrained or in any way prevented by any Governmental Authority from conducting any material part of its business for any material period of time; there is a cessation of any material part of the business of the Borrower and its Subsidiaries, taken as a whole for a material period of time; any material portion of the Collateral of any Loan Party is taken or impaired through condemnation; except as expressly permitted under any Loan Document, any Subsidiary agrees to or commences any liquidation, dissolution or winding up of its affairs;

(i) Insolvency Proceedings, Etc. An Insolvency Proceeding is commenced by any Loan Party or any Subsidiary (except an Insignificant Subsidiary); any Loan Party or any Subsidiary (except an Insignificant Subsidiary) makes an offer of settlement, extension, arrangement, proposal (or notice of intention to make a proposal) or composition to its unsecured creditors generally; a trustee, receiver, interim receiver, receiver-manager, monitor or similar official or custodian is appointed to take possession of any substantial Property of or to operate any of the business of any Loan Party or any Subsidiary (except an Insignificant Subsidiary); or an Insolvency Proceeding is commenced against any Loan Party or any Subsidiary (except an Insignificant Subsidiary) and such Loan Party or such Subsidiary consents to institution of the proceeding, the petition commencing the proceeding is not timely contested by such Loan Party or such Subsidiary, the proceeding is not dismissed within 60 days after filing or institution, or an order for relief is entered in the proceeding; or any Loan Party or any Subsidiary (except an Insignificant Subsidiary) becomes unable or admits in writing its inability or fails generally to pay its debts as they become due;

(j) ERISA. An ERISA Event (excluding a “standard termination” of a Pension Plan, within the meaning of Title IV of ERISA, or any contributions to a Pension Plan required to complete a standard termination of the Pension Plan) occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of any Loan Party to a Pension Plan, Multiemployer Plan or PBGC in excess of \$40,000,000, or that constitutes grounds for appointment of a trustee for or termination by the PBGC of any Pension Plan or Multiemployer Plan; any Loan Party or ERISA Affiliate fails to pay when due any installment payment in excess of \$5,000,000 with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or any event similar to the foregoing occurs or exists with respect to a Foreign Plan;

(k) Change of Control. There occurs any Change of Control; or

(l) Collateral Documents. Subject to Section 10.21, any Collateral Document after delivery thereof pursuant to Section 4.01 or 6.09 shall for any reason (other than pursuant to the terms thereof) cease to create a valid and perfected first priority Lien (subject to Permitted Liens) on the Collateral purported to be covered thereby.

8.02 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:

- (a) declare the commitment of each Lender to make Loans and any obligation of any Issuing Lender to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;
- (b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;
- (c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto); and
- (d) exercise on behalf of itself, the Lenders and the Issuing Lenders all rights and remedies available to it, the Lenders and the Issuing Lenders under the Loan Documents;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans and any obligation of any Issuing Lender to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.15 and 2.16, be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

Second, to payment of that portion of the Obligations arising under the Loan Documents constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the Issuing Lenders (including fees, charges and disbursements of counsel to the respective Lenders and the Issuing Lenders arising under the Loan Documents and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, L/C Borrowings and other Obligations arising under the Loan Documents, ratably among the Lenders and the Issuing Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, L/C Borrowings and Obligations then owing under Bank Products, ratably among the Lenders, the Issuing Lenders, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the Administrative Agent for the account of the applicable Issuing Lenders, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrower pursuant to Sections 2.03 and 2.15; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law; provided that Excluded Swap Obligations with respect to any Loan Party shall not be paid with amounts received from such Loan Party or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section.

Subject to Sections 2.03 and 2.15, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

Notwithstanding the foregoing, Obligations arising under Bank Products shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Cash Management Bank or Hedge Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX hereof for itself and its Affiliates as if a “Lender” party hereto.

## ARTICLE IX ADMINISTRATIVE AGENT

**9.01 Appointment and Authority.** (a) Each of the Lenders and the Issuing Lenders hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Lenders, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank and a potential Cash Management Bank) and each of the Issuing Lenders hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and such Issuing Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Article IX and Article X (including Section 10.04(c)), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

**9.02 Rights as a Lender.** The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

**9.03 Exculpatory Provisions.** The Administrative Agent or the Arrangers, as applicable, shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent or the Arrangers, as applicable:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or Applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, to any Lender or any Issuing Lender, any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their Affiliates, that is communicated to, obtained by or in the possession of, the Administrative Agent, Arrangers or any of their Related Parties in any capacity, except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein;

(d) shall not be liable for any action taken or not taken by it (A) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (B) in the absence of its own gross negligence or willful misconduct, as determined by a court of competent jurisdiction by a final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Borrower, a Lender or any Issuing Lender; and

(e) shall not be responsible for or have any duty to ascertain or inquire into (A) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (B) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (D) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (E) the value or the sufficiency of any Collateral, or (F) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

9.04 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or such Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or such Issuing Lender prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

9.05 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

9.06 Resignation of Administrative Agent. (a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the Issuing Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) With effect from the Resignation Effective Date, (1) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments or other amounts then owed to the retiring Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each Issuing Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent (other than as provided in Section 3.01(h) and

other than any rights to indemnity payments or other amounts owed to the retiring Administrative Agent as of the Resignation Effective Date), and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring Administrative Agent was acting as Administrative Agent and (ii) after such resignation for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (a) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Lenders and (b) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.

(c) Any resignation by Bank of America as Administrative Agent pursuant to this Section shall also constitute its resignation as an Issuing Lender and Swing Line Lender. If Bank of America resigns as an Issuing Lender, it shall retain all the rights, powers, privileges and duties of an Issuing Lender hereunder with respect to all Letters of Credit issued by Bank of America and outstanding as of the effective date of its resignation as an Issuing Lender and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment by the Borrower of a successor Issuing Lender or Swing Line Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Lender or Swing Line Lender, as applicable, (b) the retiring Issuing Lender and Swing Line Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the successor Issuing Lender shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring Issuing Lender to effectively assume the obligations of the retiring Issuing Lender with respect to such Letters of Credit.

**9.07 Non-Reliance on Administrative Agent, the Arrangers and Other Lenders.** Each Lender and each Issuing Lender expressly acknowledges that none of the Administrative Agent nor any Arranger has made any representation or warranty to it, and that no act by the Administrative Agent or any Arranger hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent or any Arranger to any Lender or each Issuing Lender as to any matter, including whether the Administrative Agent or any Arranger have disclosed material information in their (or their Related Parties') possession. Each Lender and each Issuing Lender represents to the Administrative Agent and the Arrangers that it has, independently and without reliance upon the Administrative Agent, the Arrangers, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender and each Issuing Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, any

Arranger, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Each Lender and each Issuing Lender represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial loans in the ordinary course and is entering into this Agreement as a Lender or Issuing Lender for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or Issuing Lender, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender and each Issuing Lender agrees not to assert a claim in contravention of the foregoing. Each Lender and each Issuing Lender represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or such Issuing Lender, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

9.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the arranger(s), bookrunner(s), co-syndication agent(s) or co-documentation agent(s) listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Lender hereunder.

9.09 Administrative Agent May File Proofs of Claim; Credit Bidding. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Lenders and the Administrative Agent under Sections 2.03(h) and (i), 2.09 and 10.04) allowed in such judicial proceeding, and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Lender to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.

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

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any Applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles; provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (h) of Section 10.01 of this Agreement and (iii) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

9.10 Collateral and Guaranty Matters. Without limiting the provision of Section 9.09, each of the Lenders (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) and each of the Issuing Lenders irrevocably authorize the Administrative Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Administrative Agent under any Loan Document (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (A) contingent obligations for which no claim has been made and (B) obligations and liabilities under Bank Products) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the applicable Issuing Lender shall have been made), (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted hereunder or under any other Loan Document to a Person that is not a Loan Party, (iii) if approved, authorized or ratified in writing in accordance with Section 10.01, or (iv) upon any Collateral Release Event as provided herein or pursuant to the Security Documents;

(b) to release any Guarantor from its obligations under the Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents; and

(c) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Purchase Money Lien or holder of Debt permitted under Section 7.01(l) on such property that is permitted by Section 7.02(b).

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.10. In each case as specified in this Section 9.10, the Administrative Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the security interest granted under the Security Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.10.

The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

9.11 Bank Products. No Cash Management Bank or Hedge Bank that obtains the benefits of Section 8.03, the Guaranty or any Collateral by virtue of the provisions hereof or of the Guaranty or any Security Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) (or to notice of or to consent to any amendment, waiver or modification of the provisions hereof or of the Guaranty or any Security Document) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Bank Products unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

9.12 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset

managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of subsections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) clause (i) in the immediately preceding subsection (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with clause (iv) in the immediately preceding subsection (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

9.13 Recovery of Erroneous Payments. Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Lender Recipient Party, whether or not in respect of an Obligation due and owing by the Borrower at such time, where such payment is a Rescindable Amount, then in any such event, each Lender Recipient Party receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Lender Recipient Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Lender Recipient Party irrevocably waives any and all defenses, including any "discharge for value" (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Lender Recipient Party promptly upon determining that any payment made to such Lender Recipient Party comprised, in whole or in part, a Rescindable Amount.

ARTICLE X  
MISCELLANEOUS

10.01 Amendments, Etc. Subject to Section 3.03 and except as otherwise expressly provided herein, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (or by the Administrative Agent with the consent of the Required Lenders) and the Borrower or the applicable Loan Party, as the case may be, and acknowledged and agreed by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

- (a) waive any condition set forth in Section 4.01 (other than Section 4.01(b)(i) or (c)), or, on the Closing Date, Section 4.02, without the written consent of each Lender;
- (b) without limiting the generality of clause (a) above, waive any condition set forth in Section 4.02 as to any Credit Extension under a particular Facility without the written consent of the Required Revolving Lenders or the Required Term Lenders, as applicable;
- (c) extend or increase any Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written consent of such Lender;
- (d) postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under such other Loan Document without the written consent of each Lender affected thereby;
- (e) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iv) of the second proviso to this Section 10.01) any interest, fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender affected thereby; provided, however, that only the consent of the Required Lenders shall be necessary (i) to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate or (ii) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or L/C Borrowing or to reduce any fee payable hereunder;
- (f) change (i) Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby or the order of application of payments required thereby without the written consent of each Lender or (ii) the order of application of any reduction in the Commitments or any prepayment of Loans among the Facilities from the application thereof set forth in the applicable provisions of Section 2.05(a) or 2.06(b), respectively, in any manner that materially and adversely affects the Lenders under a Facility without the written consent of (i) if such Facility is the Term Facility, the Required Term Lenders and (ii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders;
- (g) change (i) any provision of this Section 10.01 or the definition of "Required Lenders" or "Required Class Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender or (ii) the definition of "Required Revolving Lenders," or "Required Term Lenders" without the written consent of each Lender under the applicable Facility;

(h) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender (other than pursuant to Section 10.21(a));

(i) release all or substantially all of the value of the Guaranty, without the written consent of each Lender, except to the extent the release of any Subsidiary from the Guaranty is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone);

(j) without the prior written consent of each Lender directly affected thereby, subordinate, or have the effect of subordinating, the Obligations hereunder to any other Debt or other obligation;

(k) impose any greater restriction on the ability of any Lender under a Facility to assign any of its rights or obligations hereunder without the written consent of (i) if such Facility is the Term Facility, the Required Term Lenders and (ii) if such Facility is the Revolving Credit Facility, the Required Revolving Lenders; or

(l) directly and materially adversely affect the rights of Lenders holding Commitments or Loans of one Class differently from the rights of Lenders holding Commitments or Loans of any other Class without the written consent of the applicable Required Class Lenders;

and provided, further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the Issuing Lenders in addition to the Lenders required above, affect the rights or duties of the Issuing Lenders under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iv) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended and the maturity date of any of its Loans may not be extended, the rate of interest on any of its Loans may not be reduced and the principal amount of any of its Loans may not be forgiven, in each case without the consent of such Defaulting Lender and (y) any waiver, amendment, consent or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding any provision herein to the contrary, if the Administrative Agent and the Borrower acting together identify any ambiguity, omission, mistake, typographical error or other defect in any provision of this Agreement or any other Loan Document (including the schedules and exhibits thereto), then the Administrative Agent and the Borrower shall be permitted to amend, modify or supplement such provision to cure such ambiguity, omission, mistake, typographical error or other defect, and such amendment shall become effective without any further action or consent of any other party to this Agreement.

10.02 Notices; Effectiveness; Electronic Communications. (a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or electronic mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, Bank of America in its capacity as an Issuing Lender or the Swing Line Lender, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and

(ii) if to any other Lender or Issuing Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrower).

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the Issuing Lenders hereunder may be delivered or furnished by electronic communication (including e-mail, FpML messaging, and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any Issuing Lender pursuant to Article II if such Lender or such Issuing Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, the Swing Line Lender, the Issuing Lenders or the Borrower may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM

THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Borrower, any other Loan Party, any Lender, any Issuing Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower’s, any Loan Party’s or the Administrative Agent’s transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party.

(d) Change of Address, Etc. Each of the Borrower, the Administrative Agent, the Issuing Lenders and the Swing Line Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the Issuing Lenders and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and Applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Administrative Agent, Issuing Lenders and Lenders. The Administrative Agent, the Issuing Lenders and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic notices, Committed Loan Notices, Letter of Credit Applications and Swing Line Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify the Administrative Agent, each Issuing Lender, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance in good faith by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

10.03 No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender, any Issuing Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other

Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders and the Issuing Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) any Issuing Lender or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Lender or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

**10.04 Expenses; Indemnity; Damage Waiver.** (a) Costs and Expenses. The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable and documented fees, charges and disbursements of McGuireWoods LLP, as counsel to the Administrative Agent, one local counsel, as necessary, in each appropriate jurisdiction and one specialty counsel for each relevant specialty), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses incurred by the Issuing Lenders in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all documented out-of-pocket expenses incurred by the Administrative Agent, any Lender or any Issuing Lender (including the documented fees, charges and disbursements of one firm of counsel for the Administrative Agent, the Lenders and the Issuing Lenders, taken as a whole, one local counsel, as necessary, in each appropriate jurisdiction, one specialty counsel for each relevant specialty and, solely in the case of an actual or perceived conflict of interest, of another firm of counsel for each such affected Person; provided that, in the case of an actual or perceived conflict of interest, one additional counsel in each relevant jurisdiction to each group of affected Lenders similarly situated (taken as a whole)) in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Issuing Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable and documented fees, charges and disbursements of one firm of counsel for the Indemnitees, taken as a whole, one local counsel, as necessary, in each appropriate jurisdiction, one

specialty counsel for each relevant specialty and, solely in the case of an actual or perceived conflict of interest, of another firm of counsel for each such affected Indemnitee; provided that, in the case of an actual or perceived conflict of interest, one additional counsel in each relevant jurisdiction to each group of affected Indemnitees similarly situated (taken as a whole) incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrower or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby (including, without limitation, the Indemnitee's reliance on any Communication executed using an Electronic Signature, or in the form of an Electronic Record), the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 3.01), (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Environmental Release of Hazardous Materials at, on, under or emanating from any property owned, leased or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party or any of the Borrower's or such Loan Party's directors, shareholders or creditors, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (i) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from (x) the gross negligence or willful misconduct of such Indemnitee or (y) a breach in bad faith by such Indemnitee of its obligations under this Agreement or (ii) arise out of any investigation, litigation or proceeding (or preparation of a defense in connection therewith) solely between or among Indemnitees not arising from any act or omission by the Borrower or any of its Subsidiaries or Affiliates (other than any proceeding against any Indemnitee in its capacity or fulfilling its role as the Administrative Agent, an Arranger, arranger, bookrunner, syndication agent, documentation agent or similar role, or the Swing Line Lender or an Issuing Lender, in its capacity as such). Without limiting the provisions of Section 3.01, this Section 10.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), any Issuing Lender, the Swing Line Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the applicable Issuing Lender, the Swing Line Lender or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), the applicable Issuing Lender or the Swing Line Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), such Issuing Lender or the Swing Line Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).

(d) **Waiver of Consequential Damages, Etc.** To the fullest extent permitted by Applicable Law, the Borrower shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) **Payments.** All amounts due under this Section shall be payable not later than ten Business Days after written demand therefor.

(f) **Survival.** The agreements in this Section and the indemnity provision of Section 10.02(e) shall survive the resignation of the Administrative Agent, any Issuing Lender and the Swing Line Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

**10.05 Payments Set Aside.** To the extent that any payment by or on behalf of the Borrower is made to the Administrative Agent, any Issuing Lender or any Lender, or the Administrative Agent, any Issuing Lender or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such Issuing Lender or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each Issuing Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the Issuing Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

**10.06 Successors and Assigns.** (a) **Successors and Assigns Generally.** The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of Section 10.06(d) (and any other attempted assignment or transfer by any party hereto shall be null and void) or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.06(e). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Lenders and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans (including for purposes of this Section 10.06(b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and/or the Loans (in each case with respect to any Facility) at the time owing to it or contemporaneous assignments to related Approved Funds (determined after giving effect to such Assignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000, in the case of any assignment in respect of the Revolving Credit Facility, or \$1,000,000, in the case of any assignment in respect of the Term Facility, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof; and provided, further, that the Borrower's consent shall not be required during the primary syndication of the Facilities;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of (i) any Revolving Credit Commitment if such assignment is to a Person that is not a Lender with a Commitment in respect of the applicable Facility, an Affiliate of such Lender or an

Approved Fund with respect to such Lender or (ii) any Term Loan to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consents of each Issuing Lender and the consent of the Swing Line Lender (such consents not to be unreasonably withheld or delayed) shall be required for any assignment in respect of the Revolving Credit Facility.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500 payable by the assigning Lender; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to the Borrower or any of the Borrower's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural Person (or to a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person).

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or sub-participations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, any Issuing Lender or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swing Line Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(vii) Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05 and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any

party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders and the Issuing Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.04(c) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(f) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 10.13 as if it were an assignee under subsection (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; provided that such Participant agrees to be

subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) Resignation as an Issuing Lender or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, (i) if at any time Bank of America assigns all of its Commitment and Loans pursuant to Section 10.06(b), Bank of America may, (A) upon 30 days' notice to the Borrower and the Lenders, resign as an Issuing Lender and/or (B) upon 30 days' notice to the Borrower, resign as Swing Line Lender, and (ii) if at any time any other Lender acting as an Issuing Lender assigns all of its Commitment and Loans pursuant to Section 10.06(b), such Lender may, upon 30 days' notice to the Borrower and the Lenders, resign as an Issuing Lender. In the event of any such resignation as an Issuing Lender or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor Issuing Lender or Swing Line Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of Bank of America as an Issuing Lender or Swing Line Lender, as the case may be, or any other Lender as an Issuing Lender. If Bank of America or any other Lender resigns as an Issuing Lender, it shall retain all the rights, powers, privileges and duties of an Issuing Lender hereunder with respect to all Letters of Credit issued by it outstanding as of the effective date of its resignation as an Issuing Lender and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(f)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor Issuing Lender and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Lender or Swing Line Lender, as the case may be, and (b) the successor Issuing Lender shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America or such other retiring Issuing Lender, as the case may be, to effectively assume the obligations of Bank of America or such other retiring Issuing Lender, as the case may be, with respect to such Letters of Credit issued by it.

10.07 Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Lenders and the Issuing Lenders agree to maintain the confidentiality of the Information (as defined

below), except that Information may be disclosed (a) to its Affiliates, its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential in accordance with this Section 10.07) and its auditors, (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners) (in which case the Administrative Agent, the Lender or the Issuing Lender, as applicable, shall use commercially reasonable efforts to promptly notify the Borrower to the extent permitted by Applicable Law), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process (in which case the Administrative Agent, the Lender or the Issuing Lender, as applicable, shall use commercially reasonable efforts to promptly notify the Borrower to the extent permitted by Applicable Law), (d) to any other party hereto, (e) to the extent necessary in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or any Eligible Assignee invited to be a Lender pursuant to Section 2.14 or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the application, issuance, publishing and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Borrower, or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any Issuing Lender or any of their respective Affiliates on a non-confidential basis from a source other than the Borrower or (z) is independently discovered or developed by a party hereto without utilizing any Information received from the Borrower or violating the terms of this Section 10.07. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments.

For purposes of this Section, “Information” means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Lender on a non-confidential basis prior to disclosure by the Borrower or any Subsidiary, provided that, in the case of information received from the Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Lenders and the Issuing Lenders acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with Applicable Law, including United States Federal and state securities Laws.

10.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all

deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such Issuing Lender or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Lender, irrespective of whether or not such Lender or such Issuing Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch or office or Affiliate of such Lender or such Issuing Lender different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Lenders and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each Issuing Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Lender or their respective Affiliates may have. Each Lender and each Issuing Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

10.09 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 Integration; Effectiveness. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent or any Issuing Lender, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

10.11 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

10.12 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and

(b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, the Issuing Lenders or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

10.13 Replacement of Lenders. If the Borrower is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (a) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 10.06(b);
- (b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
- (c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;
- (d) such assignment does not conflict with Applicable Laws; and
- (e) in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Each party hereto agrees that (a) an assignment required pursuant to this Section 10.13 may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee and (b) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided that, following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; provided, further that any such documents shall be without recourse to or warranty by the parties thereto.

Notwithstanding anything in this Section 10.13 to the contrary, (i) any Lender that acts as an Issuing Lender may not be replaced hereunder at any time it has any Letter of Credit outstanding

hereunder unless arrangements satisfactory to such Lender (including the furnishing of a backstop standby letter of credit in form and substance, and issued by an issuer, reasonably satisfactory to such Issuing Lender or the depositing of Cash Collateral into a Cash Collateral account in amounts and pursuant to arrangements reasonably satisfactory to such Issuing Lender) have been made with respect to such outstanding Letter of Credit and (ii) the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 9.06.

10.14 GOVERNING LAW; JURISDICTION; ETC.

(a) GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER, ANY ISSUING LENDER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY ISSUING LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) WAIVER OF VENUE. THE BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

(d) SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

10.15 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

10.16 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arrangers, the Issuing Lenders and the Lenders are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Administrative Agent, the Arrangers, the Issuing Lenders and the Lenders, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, the Arrangers, the Issuing Lenders and the Lenders each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or any other Person and (B) neither the Administrative Agent, nor any Arranger, nor any Issuing Lender, nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Arrangers, the Issuing Lenders, the Lenders, and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Administrative Agent, nor any Arranger, nor any Issuing Lender, nor any Lender has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against the Administrative Agent, any Arranger, any Issuing Lender or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

10.17 Electronic Execution; Electronic Records; Counterparts. This Agreement, any Loan Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties and each of the Administrative Agent and each Lender Party agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same

Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of a manually signed paper Communication which has been converted into electronic form (such as scanned into .pdf format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent and each of the Lender Parties may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, neither the Administrative Agent, any Issuing Lender nor Swing Line Lender is under any obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent, any Issuing Lender and/or Swing Line Lender has agreed to accept such Electronic Signature, the Administrative Agent and each of the Lender Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party and/or any Lender Party without further verification and (b) upon the request of the Administrative Agent or any Lender Party, any Electronic Signature shall be promptly followed by such manually executed counterpart.

Neither the Administrative Agent, any Issuing Lender nor Swing Line Lender shall be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent's, any Issuing Lender's or Swing Line Lender's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Administrative Agent, any Issuing Lender and Swing Line Lender shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any Communication (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution or signed using an Electronic Signature) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

Each of the Loan Parties and each Lender Party hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement and any other Loan Document based solely on the lack of paper original copies of this Agreement and/or such other Loan Document, and (ii) any claim against the Administrative Agent, each Lender Party and each Related Party for any liabilities arising solely from the Administrative Agent's and/or any Lender Party's reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Loan Parties to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

10.18 USA PATRIOT Act. Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the Act. The Borrower shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act.

10.19 Keepwell. The Borrower hereby absolutely, unconditionally and irrevocably undertakes to provide such funds or other support to each Specified Loan Party as may be needed by such Specified

Loan Party from time to time to honor all of its obligations under the Guaranty and the other Loan Documents to which it is a party in respect of Swap Obligations that would, in absence of the agreement in this Section 10.19, otherwise constitute Excluded Swap Obligations (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering the Borrower's obligations and undertakings under this Section 10.19 voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations and undertakings of the Borrower under this Section 10.19 shall remain in full force and effect until the date as of which all of the following shall have occurred: (a) the Aggregate Commitments have terminated, (b) all Obligations have been paid in full (other than (x) contingent obligations for which no claim has been made and (y) obligations and liabilities under Bank Products), and (c) all Letters of Credit have terminated or expired (other than Letters of Credit as to which other arrangements with respect thereto satisfactory to the Administrative Agent and the applicable Issuing Lender shall have been made). The Borrower intends this Section 10.19 to constitute, and this Section 10.19 shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support, or other agreement" for the benefit of, each Specified Loan Party for all purposes of the Commodity Exchange Act.

**10.20 Acknowledgment and Consent to Bail-In of Affected Financial Institutions.** Solely to the extent any Lender or any Issuing Lender that is an Affected Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender or any Issuing Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender or Issuing Lender that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
  - (i) a reduction in full or in part or cancellation of any such liability;
  - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or
  - (iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

**10.21 Release and Reinstatement of Collateral.**

(a) Notwithstanding anything to the contrary herein or in any other Loan Document (but subject to clause (b) below), if at any time after the Closing Date (including after a Collateral Trigger Event shall have previously occurred) there occurs a Collateral Release Event, all Collateral (other than Cash Collateral) shall, upon the occurrence of such Collateral Release Event, be automatically released from the Liens granted thereon in favor of the Administrative Agent pursuant to the Security Documents, without further action, and no Loan Party shall be required to comply with any of the covenants, terms or provisions of, or make any representation or warranty under, the Security Documents (other than any

Security Documents solely in respect of Cash Collateral). In connection with the foregoing, the Administrative Agent shall, at the sole cost and expense of the Borrower, promptly take such actions as are reasonably requested by the Borrower to evidence such release. For the avoidance of doubt, all of the Collateral described in the Security Documents shall remain “Collateral,” as that term is defined herein, for purposes of the representations, warranties and covenants in the Loan Documents that remain operative while any Collateral Release Period is in effect.

(b) Notwithstanding clause (a) above, if at any time during a Collateral Release Period a Collateral Trigger Event occurs, the Collateral Release Period shall automatically expire and all of the Liens granted under the Loan Documents to the Administrative Agent, for the benefit of the holders of the Obligations, on the Collateral described therein shall be automatically reinstated upon the occurrence of such Collateral Trigger Event. In connection with the foregoing, the Loan Parties shall promptly take such actions as are required under Sections 6.09 and 6.11 herein, under the Security Documents and as are otherwise reasonably requested by the Administrative Agent to provide the Administrative Agent, for the benefit of the holders of the Obligations, with valid, perfected, first priority Liens (subject only to Permitted Liens) on the Collateral described in, and to the extent required by, the Security Documents within forty-five (45) days of the occurrence of such Collateral Trigger Event (which forty-five (45) day period may be extended by the Administrative Agent in its sole discretion after consultation with the Borrower).

10.22 Amendment and Restatement. This Agreement constitutes an amendment and restatement of the Existing Agreement, effective from and after the Closing Date. The execution and delivery of this Agreement shall not constitute a novation of any indebtedness or other obligations owing to the Lenders or the Administrative Agent under the Existing Agreement based on facts or events occurring or existing prior to the execution and delivery of this Agreement. On the Closing Date, the revolving credit facility and delayed draw term loan facility described in the Existing Agreement shall be amended, supplemented, modified and restated in their entirety by the credit facilities described herein, and all loans and other obligations of the Borrower outstanding as of such date under the Existing Agreement shall be deemed to be loans and obligations outstanding under the credit facilities described herein, without any further action by any Person, except that (a) the Borrower shall deliver to the Administrative Agent a Committed Loan Notice, detailing the conversion of the loans under the Existing Agreement and (b) the Administrative Agent shall make such transfers of funds or other reallocations as are necessary in order that the outstanding balance of the Loans hereunder reflect the respective Commitments of the Lenders hereunder. The parties hereto hereby (a) agree that, as of the Closing Date, the Commitments and Applicable Percentages of each of the Lenders shall be as set forth on Schedule 2.01, (b) consent to the transfer of funds or other reallocations as are necessary in order that the outstanding balance of the Loans hereunder reflect the respective Commitments of the Lenders hereunder (c) waive any costs or expenses it would otherwise have been entitled to under Section 3.05 of the Existing Agreement due to the conversion of the existing loans on the Closing Date and (d) waive any requirement for any other document or instrument, including any Assignment and Acceptance (as defined in the Existing Agreement) under the Existing Agreement or any Assignment and Assumption hereunder, necessary to give effect to the allocations set forth on Schedules 2.01 or such transfer of funds or other reallocation.

10.23 California Judicial Reference. If any action or proceeding is filed in a court of the State of California by or against any party hereto in connection with any of the transactions contemplated by this Agreement or any other Loan Document, (a) the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee (who shall be a single active or retired judge) to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision; provided that, at the option of any party to such proceeding, any such issues pertaining to a “provisional remedy” as defined in California Code of Civil

Procedure Section 1281.8 shall be heard and determined by the court and (b) without limiting the generality of Section 10.04, the Borrower shall be solely responsible to pay all fees and expenses of any referee appointed in such action or proceeding.

10.24 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any swap contract or any other agreement or instrument that is a QFC (such support, “QFC Credit Support”, and each such QFC, a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.24, the following terms have the following meanings:

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

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

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

[Signature Pages Follow]

*IN WITNESS WHEREOF*, the parties hereto have caused this Fifth Amended and Restated Credit Agreement to be duly executed as of the date first above written.

SANMINA CORPORATION,  
as the Borrower

By: /S/ Brian Wszolek  
Name: Brian Wszolek  
Title: Vice President and Treasurer

Sanmina Corporation  
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Signature Page

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BANK OF AMERICA, N.A.  
as the Administrative Agent

By: /S/ Christine Trotter  
Name: Christine Trotter  
Title: Vice President

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Sanmina Corporation  
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BANK OF AMERICA, N.A.,  
as a Lender, Swing Line Lender and an Issuing Lender

By: /S/ Erhlich Bautista  
Name: Erhlich Bautista  
Title: Vice President

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BANK OF THE WEST,  
as a Lender and an Issuing Lender

By: /S/ Scott Bruni  
Name: Scott Bruni  
Title: Director

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TRUIST BANK,  
as a Lender and an Issuing Lender

By: /S/ Carlos Cruz  
Name: Carlos Cruz  
Title: Director

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INDUSTRIAL AND COMMERCIAL BANK OF CHINA LIMITED, NEW YORK BRANCH,  
as a Lender

By: /S/ Tony Huang  
Name: Tony Huang  
Title: Director

By: /S/ Yuanyuan  
Name: Yuanyuan Peng  
Title: Executive Director

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U.S. BANK NATIONAL ASSOCIATION,  
as a Lender

By: /S/ Brian Seipke  
Name: Brian Seipke  
Title: Senior Vice President

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PNC BANK NATIONAL ASSOCIATION,  
as a Lender

By: /S/ Diane Truong  
Name: Diane Truong  
Title: Vice President

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DBS BANK LTD.,  
as a Lender

By: /S/ Josephine Lim  
Name: Josephine Lim  
Title: Senior Vice President

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KEYBANK NATIONAL ASSOCIATION,  
as a Lender

By: /S/ Suzannah Valdivia  
Name: Suzannah Valdivia  
Title: Senior Vice President

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CITY NATIONAL BANK,  
as a Lender

By: /S/ Brian R. Jones  
Name: Brian R. Jones  
Title: Senior Vice President

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CHINA CONSTRUCTION BANK CORPORATION, NEW YORK BRANCH,  
as a Lender

By: /S/ Qi Feng  
Name: Qi Feng  
Title: Deputy General Manager

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CITIBANK N.A.,  
as a Lender

By: /S/ Carmen-Christina Kelleher  
Name: Carmen-Christina Kelleher  
Title: Vice President

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**EXHIBIT 10.41****SECOND AMENDED AND RESTATED SECURITY AGREEMENT**

**THIS SECOND AMENDED AND RESTATED SECURITY AGREEMENT** dated as of September 27, 2022 (as amended, restated, supplemented or otherwise modified from time to time, this “Agreement”), is being entered into among **SANMINA CORPORATION**, a Delaware corporation (the “Borrower” and a “Grantor”), **EACH OF THE UNDERSIGNED SUBSIDIARIES OF THE BORROWER AND EACH OTHER PERSON THAT SHALL BECOME A PARTY HERETO BY EXECUTION OF A SECURITY JOINDER AGREEMENT** (each a “Guarantor” and a “Grantor” and, together with the Borrower, collectively, the “Grantors”), and **BANK OF AMERICA, N.A.**, as Administrative Agent (in such capacity, the “Administrative Agent”) for each of the Secured Parties (as defined in the Credit Agreement referenced below).

**RECITALS:**

**WHEREAS**, pursuant to that certain Fifth Amended and Restated Credit Agreement dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the “Credit Agreement”), among the Borrower, the Administrative Agent, Bank of America, N.A., as Swing Line Lender and an Issuing Lender, and the lenders now or hereafter party thereto (the “Lenders”) and the other Issuing Lenders now or hereafter party thereto, the Lenders are, among other things, providing a term loan facility and a revolving credit facility to the Borrower; and

**WHEREAS**, the Borrower, certain Subsidiaries of the Borrower party thereto (together with the Borrower, the “Existing Grantors”) and the Administrative Agent have entered into that certain Amended and Restated Security Agreement dated as of June 3, 2019 (as amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the “Existing Agreement”), pursuant to which the Existing Grantors have granted liens and security interests in certain of their respective assets to the Administrative Agent securing, among other things, the obligations under the Credit Agreement; and

**WHEREAS**, the parties desire to amend and restate the Existing Agreement with the effect that the Existing Agreement as so amended and restated is hereby continued into this Agreement, and this Agreement shall constitute neither a release nor novation of any obligation or liability arising under the Existing Agreement; and

**WHEREAS**, a material part of the consideration given in connection with and as an inducement to the execution and delivery of the Credit Agreement by the Administrative Agent and the Lenders is the obligation of the Grantors to enter into this Agreement, and the Secured Parties are unwilling to extend and maintain the credit facilities provided under the Credit Agreement and the other Loan Documents unless the Grantors enter into this Agreement; and

**WHEREAS**, certain additional extensions of credit may be made from time to time for the benefit of the Grantors pursuant to certain Secured Cash Management Agreements and Secured Hedge Agreements.

**NOW, THEREFORE**, in order to induce the Secured Parties to from time to time make and maintain extensions of credit under the Credit Agreement and under the Secured Cash Management Agreements and Secured Hedge Agreements, the parties hereto agree that the Existing Agreement is hereby amended and restated in this Agreement, with the effect that the Existing Agreement as so amended and restated is hereby continued into this Agreement, and this Agreement shall constitute

neither a release nor novation of any liens and security interests arising under the Existing Agreement nor a refinancing of any indebtedness or obligations arising thereunder or under any related documents, but rather the liens and security interests in effect under the Existing Agreement shall continue in effect on the terms hereof, as follows:

AGREEMENT:

1. Certain Definitions. All capitalized terms used but not otherwise defined herein shall have the meanings assigned thereto in the Credit Agreement. Terms used in this Agreement that are not otherwise expressly defined herein or in the Credit Agreement, and for which meanings are provided in the Uniform Commercial Code of the State of New York (the “UCC”), shall have such meanings unless the context requires otherwise. In addition, for purposes of this Agreement, the following terms have the following definitions:

“Excluded Assets” means (1) (x) any interests in real property held by a Grantor as a lessee under a lease and (y) any owned real property of any Grantor; (2) any lease, license, permit, contract or agreement to which a Grantor is party if the grant of security interest therein to the Administrative Agent shall constitute or result in a breach, termination or default under such lease, license, permit, contract or agreement, other than to the extent that any such term would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) of any relevant jurisdiction or any other applicable law (including the Bankruptcy Code) or principles of equity; (3) any intent to use trademark application filed pursuant to Section 1(b) of the Lanham Act to the extent and until a statement of use or amendment to allege use is filed in connection therewith and accepted by the U.S. Patent and Trademark Office and only if inclusion of such intent to use application in the Collateral prior to such time would result in the cancellation or invalidation of the alleged trademark; (4) (i) any voting Equity Interests representing more than 65% of the outstanding voting Equity Interests of any Foreign Subsidiary or FSHCO and (ii) any Equity Interests in Sanmina-SCI Australia Holdings Pty Ltd.; (5) any motor vehicles and other assets subject to certificates of title; (6) assets and personal property for which a pledge thereof or a security interest therein is prohibited by applicable laws (including any legally effective requirement to obtain the consent of any governmental authority) after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code of any applicable jurisdiction; and (7) any specific assets that are subject to a Lien permitted by clause (b), (s), (t), (u), (v) or (aa) of Section 7.02 of the Credit Agreement to the extent that a Lien on such assets to secure the Secured Obligations is prohibited by or requires consent under the documentation relating to the obligations secured by such Lien.

“Excluded Deposit Account” means, collectively, (a) all Deposit Accounts established or held (including sub-accounts) for the exclusive purpose of (i) funding payroll, payroll or employment taxes or employee benefits, or (ii) maintaining cash collateral subject to Liens permitted by Section 7.02(s), (b) a “zero balance account” or (c) an account containing not more than \$1,000,000 at any time unless such a Deposit Account is subject to a control agreement for the benefit of the Administrative Agent.

“Facility Termination Date” means the date as of which all of the following shall have occurred: (a) the Aggregate Commitments have terminated, (b) all Obligations have been paid in full (other than (x) contingent obligations for which no claim has been made and (y) obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements), and (c) all Letters of Credit have terminated or expired (other than Letters of Credit as to which other arrangements with respect thereto satisfactory to the Administrative Agent and the applicable Issuing Lender shall have been made).

“Qualifying Control Agreement” means an agreement reasonably satisfactory to the Administrative Agent among any Grantor, a banking institution holding such Grantor’s funds, and the

Administrative Agent with respect to collection and control of all deposits and balances held in a Deposit Account maintained by any Grantor with such banking institution granting control over such Deposit Accounts to the Administrative Agent.

“Secured Obligations” means (a) as to the Borrower, all of the Obligations, including, the payment and performance of the obligations and liabilities (whether now existing or hereafter arising) of each Loan Party under (i) the Credit Agreement and each of the other Loan Documents (including this Agreement) to which such Loan Party is now or hereafter becomes a party, and (ii) any Secured Cash Management Agreement and Secured Hedge Agreement to which such Loan Party is now or hereafter becomes a party and (b) as to each Guarantor, the payment and performance of its obligations and liabilities (whether now existing or hereafter arising) under (i) the Guaranty and each of the other Loan Documents (including this Agreement) to which it is now or hereafter becomes a party, and (ii) any Secured Cash Management Agreement and Secured Hedge Agreement to which it is now or hereafter becomes a party. Notwithstanding the foregoing, Secured Obligations shall exclude all Excluded Swap Obligations.

2. Grant of Security Interest. Each Grantor hereby grants as collateral security for the payment, performance and satisfaction of the Secured Obligations to the Administrative Agent for the benefit of the Secured Parties a continuing first priority security interest in and to all of the assets of such Grantor or in which such Grantor has or may have or acquire an interest or the power to transfer rights therein, whether now owned or existing or hereafter created, acquired or arising and wheresoever located (collectively, the “Collateral”), including the following:

- (a) all Accounts, all Supporting Obligations, letters of credit, Letter-of-Credit Rights, Chattel Paper, Documents and Instruments;
- (b) all Deposit Accounts and all amounts credited thereto;
- (c) all Inventory;
- (d) all Intercompany Debt at any time owing to such Grantor, and all of such Grantor’s rights with respect thereto;
- (e) all money and cash held or maintained by such Grantor at any time, whether or not in the possession or under the control of the Administrative Agent, a Lender, or a bailee or Affiliate of the Administrative Agent or a Lender, including any Cash Collateral;
- (f) all Equipment;
- (g) all General Intangibles (including Payment Intangibles);
- (h) all Investment Property;
- (i) all Commercial Tort Claims;
- (j) all Goods;
- (k) all Fixtures;
- (l) all books and records (including customer lists, files, correspondence, tapes, computer programs, printouts and computer records) pertaining to the foregoing; and

(m) all accessions to, substitutions for, and all replacements, products, and cash and non-cash Proceeds of the foregoing, including Proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral.

3. Perfection. As of the date of execution of this Agreement or Security Joinder Agreement by each Grantor, as applicable (with respect to each Grantor, its "Applicable Date"), such Grantor shall have:

(a) if the Administrative Agent requests such Grantor to prepare such financing statements, furnished the Administrative Agent with duly authorized financing statements in form, number and substance suitable for filing in each Grantor's jurisdiction of organization or as otherwise required by the Uniform Commercial Code in such jurisdiction of organization, sufficient under Applicable Law, and satisfactory to the Administrative Agent in order that upon the filing of the same the Administrative Agent, for the benefit of the Secured Parties, shall have a duly perfected security interest in all Collateral in which a security interest can be perfected by the filing of such financing statements;

(b) to the extent expressly required by the terms hereof or of the Credit Agreement, or otherwise as the Administrative Agent may reasonably request, furnished the Administrative Agent with Qualifying Control Agreements or other control agreements (in form and substance reasonably satisfactory to Administrative Agent), and use commercially reasonable efforts to furnish to the Administrative Agent issuer acknowledgments of the Administrative Agent's interest in Letter-of-Credit Rights, and evidence of the placement of a restrictive legend on tangible chattel paper (and the tangible components of electronic Chattel Paper), and taken appropriate action acceptable to the Administrative Agent sufficient to establish the Administrative Agent's control of electronic Chattel Paper (and the electronic components of hybrid Chattel Paper), as appropriate, with respect to Collateral in which a security interest can be perfected only by control or such restrictive legending, in each case in form and substance reasonably acceptable to the Administrative Agent and sufficient under Applicable Law so that the Administrative Agent, for the benefit of the Secured Parties, shall have a security interest in all such Collateral perfected by control; and

(c) to the extent expressly required by the terms hereof or of the Credit Agreement, or otherwise as the Administrative Agent may reasonably request, delivered to the Administrative Agent or, if the Administrative Agent shall specifically consent in each instance, an agent or bailee of the Administrative Agent that has acknowledged such status in a properly executed control agreement (in form and substance reasonably satisfactory to Administrative Agent) possession of all Collateral with respect to which a security interest can be perfected only by possession, and including in the case of Instruments, Documents, and Investment Property that are in the form of certificated securities, duly executed endorsements or stock powers in blank, as the case may be, affixed thereto in form and substance acceptable to the Administrative Agent and sufficient under Applicable Law so that the Administrative Agent, for the benefit of the Secured Parties, shall have a security interest in all such Collateral perfected by possession;

with the effect that the Liens conferred in favor of the Administrative Agent shall be and remain duly perfected and of first priority subject only, to the extent applicable, to Permitted Liens. All financing statements (including all amendments thereto and continuations thereof), control agreements, certificates, acknowledgments, stock powers and other documents, electronic identification, restrictive legends, and instruments furnished in connection with the creation, enforcement, protection, perfection or priority of the Administrative Agent's security interest in Collateral, including such items as are described above in this Section 3, are sometimes referred to herein as "Perfection Documents". The delivery of possession of items of or evidencing Collateral, causing other Persons to execute and deliver Perfection Documents as

appropriate, the filing or recordation of Perfection Documents, the establishment of control over items of Collateral, and the taking of such other actions as may be necessary or advisable in the determination of the Administrative Agent to create, enforce, protect, perfect, or establish or maintain the priority of, the security interest of the Administrative Agent for the benefit of the Secured Parties in the Collateral is sometimes referred to herein as "Perfection Action".

Notwithstanding anything to the contrary in this Agreement or any Loan Documents, no Grantor shall be required to take any action to perfect the security interest in Collateral under the laws of any jurisdiction outside the United States of America.

For the avoidance of doubt, (i) the grant of a security interest herein shall not be deemed to be an assignment of intellectual property rights owned by any Grantor and (ii) the security interest granted under this Agreement shall not extend to, and the definition of "Collateral" and definitions of and references to asset categories in the definition of Collateral and elsewhere in this Agreement or any agreement entered into or pursuant to this Agreement shall not include, Excluded Assets and, for the avoidance of doubt, no provision of this Agreement including, without limitation, any representation, warranty or covenant shall apply to any such Excluded Assets.

#### 4. Maintenance of Security Interest; Further Assurances.

(a) Each Grantor will from time to time at its own expense, deliver Perfection Documents, and take such other or additional Perfection Action, as may be required by the terms of the Loan Documents or, subject to the limitations set forth in the Loan Documents, as the Administrative Agent may reasonably request in connection with the administration or enforcement of this Agreement or related to the Collateral or any part thereof in order to carry out the terms of this Agreement, to perfect, protect, maintain the priority of or enforce the Administrative Agent's security interest in the Collateral, subject only to Permitted Liens, or otherwise to better assure and confirm unto the Administrative Agent its rights, powers and remedies for the benefit of the Secured Parties hereunder. Without limiting the foregoing, but subject to the limitations set forth in the Loan Documents, each Grantor hereby irrevocably authorizes the Administrative Agent to file (with, or to the extent permitted by applicable law, without the signature of the applicable Grantor appearing thereon) financing statements (including amendments thereto and initial financing statements in lieu of continuation statements) or other Perfection Documents (including copies thereof) showing such Grantor as "debtor" at such time or times and in all filing offices as the Administrative Agent may from time to time determine to be necessary or advisable to perfect or protect the rights of the Administrative Agent and the Secured Parties hereunder, or otherwise to give effect to the transactions herein contemplated. Each Grantor hereby irrevocably ratifies and acknowledges the Administrative Agent's authority to have effected filings of Perfection Documents made by the Administrative Agent prior to its Applicable Date.

(b) With respect to any and all Collateral, each Grantor shall promptly pay upon written demand therefor by the Administrative Agent of all fees and expenses (including documentary stamp, excise or intangibles taxes) incurred in connection with the preparation, delivery, or filing of any Perfection Document or the taking of any Perfection Action to perfect, protect or enforce a security interest in Collateral in favor of the Administrative Agent for the benefit of the Secured Parties, subject only to Permitted Liens. All amounts not so paid when due shall constitute additional Secured Obligations and (in addition to other rights and remedies resulting from such nonpayment) shall bear interest from the date of demand until paid in full at the Default Rate.

(c) Each Grantor agrees to maintain among its books and records appropriate notations or evidence of, and to the extent required by GAAP to make or cause to be made appropriate disclosure

upon its financial statements of, the security interest granted hereunder to the Administrative Agent for the benefit of the Secured Parties.

5. Receipt of Payment. In the event an Event of Default shall occur and be continuing and a Grantor (or any of its Affiliates, subsidiaries, stockholders, directors, officers, employees or agents) shall receive any proceeds of Collateral, including without limitation monies, checks, notes, drafts or any other items of payment, each Grantor shall hold all such items of payment in trust for the Administrative Agent for the benefit of the Secured Parties, and as the property of the Administrative Agent for the benefit of the Secured Parties, separate from the funds and other property of such Grantor, and no later than the first Business Day following the receipt thereof, at the election of the Administrative Agent, such Grantor shall cause such Collateral to be forwarded to the Administrative Agent for its custody, possession and disposition on behalf of the Secured Parties in accordance with the terms hereof and of the other Loan Documents.

6. Preservation and Protection of Collateral.

(a) The Administrative Agent shall be under no duty or liability with respect to the collection, protection or preservation of the Collateral, or otherwise, beyond the use of reasonable care in the custody and preservation thereof while in its possession or as otherwise required by the UCC. Each Grantor shall be responsible for the safekeeping of its Collateral, and, except to the extent determined by a final nonappealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Administrative Agent, the Administrative Agent shall not have any responsibility for (i) any loss or damage thereto or destruction thereof occurring or arising in any manner or fashion from any cause, (ii) any diminution in the value thereof or (iii) any act or default of any carrier, warehouseman, bailee or forwarding agency thereof or other Person in any way dealing with or handling such Collateral.

(b) Each Grantor agrees to (i) keep and maintain its tangible personal property Collateral as required pursuant to Section 6.13 of the Credit Agreement, (ii) to pay when due all taxes, charges and assessments against the Collateral as required pursuant to Section 6.06 of the Credit Agreement and (iii) promptly upon a Senior Officer or other executive officer of Borrower obtaining knowledge thereof, to cause to be terminated and released all Liens (other than Permitted Liens) on the Collateral. Upon the failure of any Grantor to so pay or contest such taxes, charges, or assessments, or cause such Liens to be terminated, the Administrative Agent at its option may pay or contest any of them or amounts relating thereto (the Administrative Agent having the sole right to determine the legality or validity and the amount necessary to discharge such taxes, charges, Liens or assessments) but shall not have any obligation to make any such payment or contest. All sums so disbursed by the Administrative Agent, including all reasonable and documented out-of-pocket fees and expenses of counsel (collectively, "Attorneys' Costs"), court costs, reasonable expenses and other charges related thereto, shall be payable on demand by the applicable Grantor to the Administrative Agent and shall be additional Secured Obligations secured by the Collateral, and any amounts not so paid on demand (in addition to other rights and remedies resulting from such nonpayment) shall bear interest from the date of demand until paid in full at the Default Rate.

7. Status of Grantors and Collateral Generally. Each Grantor represents and warrants to, and covenants with, the Administrative Agent for the benefit of the Secured Parties, with respect to itself and the Collateral as to which it has or acquires any interest, that:

(a) It is at its Applicable Date (or as to Collateral acquired after its Applicable Date will be upon the acquisition of the same) and, except as permitted by the Credit Agreement and subsection (b) of this Section 7, will continue to be, the owner of the Collateral, free and clear of all Liens, other than the

security interest hereunder in favor of the Administrative Agent for the benefit of the Secured Parties and Permitted Liens, and that it will at its own cost and expense defend such Collateral and any products and proceeds thereof against all claims and demands of all Persons (other than holders of Permitted Liens) to the extent of their claims permitted under the Credit Agreement at any time claiming the same. Upon the failure of any Grantor to so defend, the Administrative Agent may do so at its option but shall not have any obligation to do so. All sums so disbursed by the Administrative Agent, including reasonable and documented Attorneys' Costs, court costs, expenses and other charges related thereto, shall be payable on demand by the applicable Grantor to the Administrative Agent and shall be additional Secured Obligations secured by the Collateral, and any amounts not so paid on demand (in addition to other rights and remedies resulting from such nonpayment) shall bear interest from the date of demand until paid in full at the Default Rate.

(b) It shall not (i) sell, assign, transfer, lease, license or otherwise dispose of any of, or grant any option with respect to, the Collateral, except as permitted under the Credit Agreement or (ii) create or suffer to exist any Lien upon or with respect to any of the Collateral except for the security interests created by this Agreement and Permitted Liens.

(c) It has full power, legal right and lawful authority to enter into this Agreement (and any Security Joinder Agreement applicable to it) and to perform its terms, including the grant of the security interests in the Collateral herein provided for.

(d) No authorization, consent, approval or other action by, and no notice to or filing with, any Governmental Authority or any other Person which has not been given or obtained, as the case may be, is required either (i) for the grant by such Grantor of the security interests granted hereby or for the execution, delivery or performance by such Grantor of this Agreement (or any Security Joinder Agreement) by such Grantor, or (ii) for the perfection of or the exercise by the Administrative Agent, on behalf of the Secured Parties, of its rights and remedies hereunder, except for action required by the Uniform Commercial Code to perfect and exercise remedies with respect to the security interest conferred hereunder.

(e) No effective financing statement or other Perfection Document similar in effect, nor any other Perfection Action, covering all or any part of the Collateral purported to be granted or taken by or on behalf of such Grantor (or by or on behalf of any other Person and which remains effective as against all or any part of the Collateral) has been filed in any recording office, delivered to another Person for filing (whether upon the occurrence of a contingency or otherwise), or otherwise taken, as the case may be, except such as pertain to Permitted Liens and such as may have been filed for the benefit of, delivered to, or taken in favor of, the Administrative Agent for the benefit of the Secured Parties in connection with the security interests conferred hereunder.

(f) Schedule 7(f) to the Disclosure Letter contains true and complete information as to each of the following: (i) the exact legal name of each Grantor as it appears in its Organic Documents as of its Applicable Date and at any time during the five (5) year period ending as of its Applicable Date (the "Covered Period"), (ii) the jurisdiction of formation and form of organization of each Grantor, and the identification number of such Grantor in its jurisdiction of formation (if any) as of its Applicable Date and at any time during the Covered Period, (iii) each address of the chief executive office of each Grantor as of its Applicable Date and at any time during the Covered Period, (iv) all trade names or trade styles used by such Grantor as of its Applicable Date and at any time during the Covered Period, (v) the address of each location of such Grantor at which any tangible personal property Collateral (including Account Records and Account Documents) is located at its Applicable Date, (vi) with respect to each location described in clause (v) that is not owned beneficially and of record by such Grantor, the name and address of the owner thereof and such owner's relationship to such Grantor (e.g. lessor, warehousemen) as of its

Applicable Date and (vii) the name of each Person other than such Grantor and the address of such Person at which any tangible personal property Collateral of such Grantor is held under any warehouse, consignment, bailment or other arrangement as of its Applicable Date. No Grantor shall change its name, change its jurisdiction of formation (whether by reincorporation, merger or otherwise), or change the location of its chief executive office, except in each case upon giving not less than thirty (30) days' prior written notice to the Administrative Agent (or such shorter period of time as may be agreed by the Administrative Agent) and taking or causing to be taken at such Grantor's expense all such Perfection Action, including the delivery of such Perfection Documents, as may be reasonably requested by the Administrative Agent to perfect or protect, or maintain the perfection and priority of, the Lien of the Administrative Agent for the benefit of the Secured Parties in the Collateral contemplated hereunder.

(g) No Grantor shall engage in any consignment transaction in respect of any of the Collateral with a book or replacement value in excess of \$5,000,000 as consignor, without prior notice to the Administrative Agent in each instance.

(h) No Grantor shall cause or permit any of the tangible personal property Collateral with a book or replacement value in excess of \$5,000,000 (i) to be evidenced by any document of title (except for shipping documents as necessary or customary to effect the receipt of raw materials or components or the delivery of inventory to customers, in each case in the Ordinary Course of Business) or (ii) to be in the possession, custody or control of any warehouseman or other bailee without prior notice to the Administrative Agent in each instance.

(i) No tangible personal property Collateral, other than Inventory in transit, is or shall be located at any location that is leased in the United States by such Grantor from any other Person other than Inventory the value of which, when aggregated with all other Inventory kept at any location which is leased by all Grantors in the United States, is less than \$5,000,000, unless (i) such location and lessor is set forth on Schedule 7(f) to the Disclosure Letter or such Grantor provides not less than thirty (30) days' prior written notice thereof to the Administrative Agent (or such shorter period of time as may be agreed by the Administrative Agent), (ii) to the extent requested by the Administrative Agent for locations not set forth on Schedule 7(f) to the Disclosure Letter and disclosed to the Administrative Agent after the date hereof, such Grantor has used commercially reasonable efforts to obtain from such lessor an acknowledgment of the Lien in favor of the Administrative Agent for the benefit of the Secured Parties conferred hereunder and a waiver of its statutory and consensual liens and rights with respect to such Collateral in form and substance reasonably acceptable to the Administrative Agent and delivered in writing to the Administrative Agent prior to any Collateral being located at any such location, and (iii) subject to the limitations set forth herein, such Grantor shall have caused at its expense to be prepared and executed such additional Perfection Documents and to be taken such other Perfection Action as the Administrative Agent may deem necessary or advisable to carry out the transactions contemplated by this Agreement.

8. [Reserved.]

9. Specific Collateral.

(a) Accounts. With respect to the Accounts of such Grantor whether now existing or hereafter created or acquired and wheresoever located, each Grantor represents, warrants and covenants to the Administrative Agent for the benefit of the Secured Parties that:

(i) Each Grantor shall keep accurate and complete in all material respects records of its Accounts ("Account Records") and from time to time upon the reasonable request of the Administrative Agent such Grantor shall provide the Administrative Agent with a schedule of

Accounts in form and substance acceptable to the Administrative Agent describing all Accounts created or acquired by such Grantor ("Schedule of Accounts"); provided, however, that such Grantor's failure to provide any such Schedule of Accounts shall not affect or limit the Administrative Agent's security interest or other rights in and to any Accounts for the benefit of the Secured Parties. If reasonably requested by the Administrative Agent, each Grantor shall furnish the Administrative Agent with copies of proof of delivery and other documents relating to the Accounts so scheduled, including without limitation repayment histories and present status reports (collectively, "Account Documents") and such other matter and information relating to the status of then existing Accounts as the Administrative Agent shall request.

(ii) All Account Records and Account Documents are and shall at all times be located only at such Grantor's current chief executive office as set forth on Schedule 7(f) to the Disclosure Letter, such other locations as are specifically identified on Schedule 7(f) to the Disclosure Letter as an "Account Documents location," or as to which such Grantor has given prior written notice to the Administrative Agent.

(iii) The Accounts are genuine, are in all respects what they purport to be, are not evidenced by an instrument or document or, if evidenced by an instrument or document, are only evidenced by one original instrument or document.

(iv) The Accounts cover bona fide sales, leases, licenses or other dispositions of property usually dealt in by such Grantor, or the rendition by such Grantor of services, to an Account Debtor in the Ordinary Course of Business.

(v) The amounts of the face value of any Account shown or reflected on any Schedule of Accounts, invoice statement, or certificate delivered to the Administrative Agent, are actually owing to such Grantor and are not contingent for any reason and there are no setoffs, discounts, allowances, claims, counterclaims or disputes of any kind or description in an amount greater than \$5,000,000 in the aggregate, or greater than \$1,000,000 individually, known to be existing or asserted with respect thereto and such Grantor has not made any agreement with any Account Debtor thereunder for any deduction therefrom, except as may be stated in the Schedule of Accounts and reflected in the calculation of the face value of each respective invoice related thereto.

(vi) Except for conditions generally applicable to such Grantor's industry and markets, there are no facts, events, or occurrences known to such Grantor pertaining particularly to any Accounts which are reasonably expected to materially impair in any way the validity, collectability or enforcement of Accounts that would reasonably be likely, in the aggregate, to be of material economic value, or in the aggregate materially reduce the amount payable thereunder from the amount of the invoice face value shown on any Schedule of Accounts, or on any certificate, contract, invoice or statement delivered to the Administrative Agent with respect thereto.

(vii) The property or services giving rise thereto are not, and were not at the time of the sale or performance thereof, subject to any Lien, claim, encumbrance or security interest, except those of the Administrative Agent for the benefit of Secured Parties and Permitted Liens.

(b) Inventory. With respect to its Inventory whether now existing or hereafter created or acquired and wheresoever located, each Grantor represents, warrants and covenants to the Administrative Agent for the benefit of the Secured Parties that:

(i) Each Grantor shall keep accurate and complete in all material respects records of its Inventory, and shall furnish to the Administrative Agent from time to time upon the reasonable request of the Administrative Agent, a current schedule of Inventory ("Schedule of Inventory") based upon its most recent physical inventory and its daily inventory records.

(ii) All Inventory in the United States, other than Inventory in transit and Inventory having a value of less than \$5,000,000 in the aggregate, is and shall at all times be located only at such Grantor's locations as set forth on Schedule 7(f), attached hereto or at such other locations as to which such Grantor has given prior written notice to the Administrative Agent. No Grantor shall, other than Inventory in transit and in the Ordinary Course of Business in connection with its sale, lease, license or other dispositions of Collateral in accordance with Section 7.05 of the Credit Agreement, remove any Inventory having an aggregate value in excess of that stated in the preceding sentence from such locations.

(c) Deposit Accounts. With respect to its Deposit Accounts (other than any Excluded Deposit Account) whether now existing or hereafter created or acquired and wheresoever located, each Grantor represents, warrants and covenants to the Administrative Agent for the benefit of the Secured Parties that:

(i) Schedule 9(c) to the Disclosure Letter contains a true and complete description of each Deposit Account (other than any Excluded Deposit Account) of such Grantor.

(ii) Except with the express prior written consent of the Administrative Agent in each instance, all Deposit Accounts (other than any Excluded Deposit Account) shall be maintained at all times with depositary institutions as to which the Administrative Agent shall have received a Qualifying Control Agreement. Without limiting the generality of the foregoing, no Grantor shall cause, or permit (x) any deposit to be evidenced by a certificate of deposit unless such certificate of deposit is a negotiable instrument and immediately upon receipt thereof such certificate shall have been delivered to the Administrative Agent, together with a duly executed undated assignment in blank affixed thereto, or (y) any Deposit Account (other than any Excluded Deposit Account) not listed on Schedule 9(c) to the Disclosure Letter to be opened or maintained except in each case upon giving not less than thirty (30) days' prior written notice to the Administrative Agent (or such shorter period of time as may be agreed by the Administrative Agent) and taking or causing to be taken at such Grantor's expense all such Perfection Action, including the delivery of such Perfection Documents, as may be reasonably requested by the Administrative Agent to perfect or protect, or maintain the perfection and priority of, the Lien of the Administrative Agent for the benefit of the Secured Parties in such Deposit Account contemplated hereunder.

(d) Instruments. With respect to its Instruments constituting Collateral whether now existing or hereafter created or acquired and wheresoever located, each Grantor represents, warrants and covenants to the Administrative Agent for the benefit of the Secured Parties that:

(i) Each Grantor shall promptly (and in any event within 30 days after the acquisition by the Grantor thereof) deliver to the Administrative Agent the originals of all Instruments constituting Collateral having a face amount payable in excess of \$5,000,000, in each case together with duly executed undated endorsements in blank affixed thereto and such other documentation and information as may be necessary to enable the Administrative Agent to realize upon such Instruments in accordance with their respective terms or transfer such Instruments as may be permitted under the Loan Documents or by Applicable Law; provided that if the aggregate face amount of all Instruments not required to be delivered pursuant to this clause (i)

exceeds \$10,000,000, then the Grantors shall be required to deliver Instruments and related endorsements in accordance with this clause (i) in an amount equal to such excess.

(ii) Other than in the Ordinary Course of Business and as the applicable Grantor may determine in its reasonable business judgment, no Grantor shall amend, modify, waive or terminate any provision of, or fail to exercise promptly and diligently each material right or remedy conferred under or in connection with, any Instrument constituting Collateral, in any case in such a manner as could reasonably be expected to materially adversely affect the value of such affected Instrument as Collateral.

10. Insurance Requirements. Each Grantor shall maintain insurance covering the Collateral in accordance with the provisions of Section 6.07 of the Credit Agreement. From time to time upon request, the Grantors shall deliver to the Administrative Agent copies of its insurance policies. Unless the Administrative Agent shall agree otherwise, each policy relating to the Collateral shall include satisfactory endorsements (a) showing the Administrative Agent as additional insured or lender loss payee, as applicable and (b) requiring 30 days' prior written notice to the Administrative Agent in the event of cancellation of the policy for any reason whatsoever. If any Grantor fails to provide and pay for any insurance, the Administrative Agent may, at its option, but shall not be required to, procure the insurance and charge the Grantors therefor. Each Grantor agrees to deliver to the Administrative Agent, promptly as rendered, copies of all reports made to insurance companies for claims in respect of the Collateral in excess of \$5,000,000. While no Event of Default exists, the Grantors may settle, adjust or compromise any insurance claim. If an Event of Default exists, only the Administrative Agent shall be authorized to settle, adjust and compromise such claims. Notwithstanding anything to the contrary in this Agreement, the other Loan Documents or the terms of the insurance policies and endorsements obtained pursuant to this Section 10, if an Event of Default exists, Administrative Agent shall only be entitled to receive insurance proceeds in respect of the Collateral.

11. Rights and Remedies Upon Event of Default. Upon and during the continuance of an Event of Default, the Administrative Agent shall have the following rights and remedies on behalf of the Secured Parties in addition to any rights and remedies set forth elsewhere in this Agreement or the other Loan Documents, all of which may be exercised with or, if allowed by law, without notice to a Grantor:

(a) All of the rights and remedies of a secured party under the UCC or under other Applicable Law, all of which rights and remedies shall be cumulative, and none of which shall be exclusive, to the extent permitted by law, in addition to any other rights and remedies contained in this Agreement or any other Loan Document;

(b) The right to foreclose the Liens and security interests created under this Agreement by any available judicial procedure or without judicial process;

(c) The right to (i), to the extent permitted by law, enter upon the premises of a Grantor through self-help and without judicial process, without first obtaining a final judgment or giving such Grantor notice or opportunity for a hearing on the validity of the Administrative Agent's claim and without any obligation to pay rent to such Grantor, or any other place or places where any Collateral is located and kept, and remove the Collateral therefrom to the premises of the Administrative Agent or any agent of the Administrative Agent, for such time as the Administrative Agent may desire, in order effectively to collect or liquidate the Collateral (subject, in the case of any premises that are leased, to any applicable landlord waiver agreements that may be entered into by the Administrative Agent related to such premises), (ii) require such Grantor or any bailee or other agent of such Grantor to assemble the Collateral and make it available to the Administrative Agent at a place to be designated by the Administrative Agent that is reasonably convenient to both parties, and (iii) notify any or all Persons

party to a control agreement or who otherwise have possession of or control over any Collateral of the occurrence of an Event of Default and other appropriate circumstances, and exercise control over and take possession or custody of any or all Collateral in the possession, custody or control of such other Persons;

(d) The right to (i) exercise all of a Grantor's rights and remedies with respect to the collection of any Collateral consisting of Accounts, Chattel Paper, Instruments, Supporting Obligations and General Intangibles (collectively, "Payment Collateral"), including the right to demand payment thereof and enforce payment, by legal proceedings or otherwise; (ii) settle, adjust, compromise, extend or renew all or any Payment Collateral or any legal proceedings pertaining thereto; (iii) discharge and release all or any Payment Collateral; (iv) take control, in any manner, of any item of payment or proceeds referred to in Section 5 above; (v) prepare, file and sign a Grantor's name on any proof of claim in bankruptcy, notice of Lien, assignment or satisfaction of Lien or similar document in any action or proceeding adverse to any obligor under any Payment Collateral or otherwise in connection with any Payment Collateral; (vi) endorse the name of a Grantor upon any chattel paper, document, instrument, invoice, freight bill, bill of lading or similar document or agreement relating to any Collateral; (vii) to the extent permitted by the applicable user agreement or license, use the information recorded on or contained on a Grantor's internet website or otherwise in any data processing equipment and computer hardware and software relating to any Collateral to which a Grantor has access; (viii) open such Grantor's mail relating to Payment Collateral and collect any and all amounts due to such Grantor from any Account Debtors or other obligor in respect of Payment Collateral; (ix) notify any or all Account Debtors or other obligor on any Payment Collateral that such Payment Collateral has been assigned to the Administrative Agent for the benefit of the Secured Parties and that Administrative Agent has a security interest therein for the benefit of the Secured Parties; each Grantor hereby agrees that any such notice, in the Administrative Agent's sole discretion, may (but need not) be sent on such Grantor's stationery, in which event such Grantor shall co-sign such notice with the Administrative Agent if requested to do so by the Administrative Agent; and (x) do all acts and things and execute all documents necessary, in Administrative Agent's sole discretion, to collect the Payment Collateral; and

(e) The right to sell all or any Collateral in its then existing condition, or after any further manufacturing or processing thereof, at such time or times, at public or private sale or sales, with such notice as may be required by law, in lots or in bulk, for cash or on credit, with or without representations and warranties, all as the Administrative Agent, in its sole discretion, may deem advisable. The Administrative Agent shall have the right to conduct such sales on a Grantor's premises or elsewhere and shall have the right to use a Grantor's premises without charge for such sales for such time or times as the Administrative Agent may see fit. The Administrative Agent may, if it deems it reasonable, postpone or adjourn any sale of the Collateral from time to time by an announcement at the time and place of such postponed or adjourned sale, and such sale may, without further notice, be made at the time and place to which it was so adjourned. Each Grantor agrees that the Administrative Agent has no obligation to preserve rights to the Collateral against prior parties or to marshal any Collateral for the benefit of any Person. The Administrative Agent for the benefit of the Secured Parties is hereby granted (to the extent grantable by such Grantor without breaching or violating any agreement applicable thereto) an irrevocable fully paid non-exclusive license (subject, in the case of trademarks, to sufficient rights to quality control and inspection in favor of such Grantor to avoid risk of invalidation of such trademarks, and, in the case of trade secrets, to an obligation of the Administrative Agent to take reasonable steps under the circumstances to keep the trade secrets confidential to avoid the risk of invalidation of such trade secrets) or other right (including each Grantor's rights under any license or any franchise agreement), each of which shall remain in full force and effect until the Facility Termination Date, to use, without charge, each of the labels, patents, copyrights, names, trade secrets, trade names, trademarks and advertising matter, or any property of a similar nature owned or licensed by any Grantor, as it pertains to the Collateral, in completing production of, advertising for sale and selling any Collateral. If any of the Collateral shall require repairs, maintenance, preparation or the like, or is in process or other unfinished

state, the Administrative Agent shall have the right, but shall not be obligated, to perform such repairs, maintenance, preparation, processing or completion of manufacturing for the purpose of putting the same in such saleable form as the Administrative Agent shall deem appropriate, but the Administrative Agent shall have the right to sell or dispose of the Collateral without such processing and no Grantor shall have any claim against the Administrative Agent for the value that may have been added to such Collateral with such processing. In addition, each Grantor agrees that in the event notice is necessary under applicable law, written notice mailed to such Grantor in the manner specified herein ten (10) days prior to the date of public sale of any of the Collateral or prior to the date after which any private sale or other disposition of the Collateral will be made shall constitute commercially reasonable notice to such Grantor. To the extent permitted by law, all notice is hereby waived with respect to any of the Collateral which threatens to decline speedily in value or is of a type customarily sold on a recognized market. The Administrative Agent may purchase all or any part of the Collateral at public or, if permitted by law, private sale, free from any right of redemption which is hereby expressly waived to the extent permitted by law by such Grantor and, in lieu of actual payment of such purchase price, may set off the amount of such price against the Secured Obligations.

The net cash proceeds resulting from the collection, liquidation, sale, or other disposition of the Collateral shall be applied first to the expenses (including all Attorneys' Costs) of retaking, holding, storing, processing and preparing for sale, selling, collecting, liquidating and the like, and then to the satisfaction of all Secured Obligations in accordance with the terms of Section 8.03 of the Credit Agreement. Each Grantor shall be liable to the Administrative Agent, for the benefit of the Secured Parties, and shall pay to the Administrative Agent, for the benefit of the Secured Parties, on demand any deficiency which may remain after such sale, disposition, collection or liquidation of the Collateral (it being understood that no Grantor shall be liable with respect to any such remaining Secured Obligations that constitute Excluded Swap Obligations in respect of such Grantor).

12. Attorney-in-Fact. Each Grantor hereby appoints the Administrative Agent as such Grantor's attorney-in-fact for the purposes of carrying out the provisions of this Agreement and taking any action and executing any instrument which the Administrative Agent may reasonably deem necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest; provided that the Administrative Agent shall have and may exercise rights under this power of attorney only upon the occurrence and during the continuance of an Event of Default and, subject to reinstatement pursuant to Section 13 below, such power of attorney shall terminate on the Facility Termination Date. Without limiting the generality of the foregoing, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent shall have the right and power to: (a) ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral; (b) receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with the foregoing clause (a); (c) endorse such Grantor's name on any checks, notes, drafts or any other payment relating to or constituting proceeds of the Collateral which comes into the Administrative Agent's possession or the Administrative Agent's control, and deposit the same to the account of the Administrative Agent, for the benefit of the Secured Parties, on account and for payment of the Secured Obligations; (d) file any claims or take any action or institute any proceedings that the Administrative Agent may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Administrative Agent, for the benefit of the Secured Parties, with respect to any of the Collateral; and (e) execute, in connection with any sale or other disposition of Collateral provided for herein, any endorsement, assignments, or other instruments of conveyance or transfer with respect thereto.

13. Reinstatement. The granting of a security interest in the Collateral and the other provisions hereof shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Secured Obligations is rescinded or must otherwise be returned by any Secured

Party or is repaid by any Secured Party in whole or in part in good faith settlement of a pending or threatened avoidance claim, whether upon the insolvency, bankruptcy or reorganization of any Grantor or any other Loan Party or otherwise, all as though such payment had not been made. The provisions of this Section 13 shall survive repayment of all of the Obligations and the termination or expiration of this Agreement in any manner, including but not limited to termination upon occurrence of the Facility Termination Date.

14. Certain Waivers by the Grantors. Each Grantor waives to the extent permitted by Applicable Law (a) any right to require any Secured Party or any other obligee of the Secured Obligations to (i) proceed against any Person or entity, including without limitation any Loan Party, (ii) proceed against or exhaust any Collateral or other collateral for the Secured Obligations, or (iii) pursue any other remedy in its power, (b) any defense arising by reason of any disability or other defense of any other Person, or by reason of the cessation from any cause whatsoever of the liability of any other Person or entity, (c) any right of subrogation, and (d) any right to enforce any remedy which any Secured Party or any other obligee of the Secured Obligations now has or may hereafter have against any other Person and any benefit of and any right to participate in any collateral or security whatsoever now or hereafter held by the Administrative Agent for the benefit of the Secured Parties. Each Grantor authorizes each Secured Party and each other obligee of the Secured Obligations without notice (except notice required by applicable law) or demand and without affecting its liability hereunder or under the Loan Documents from time to time to: (i) take and hold security, other than the Collateral herein described, for the payment of such Secured Obligations or any part thereof, and exchange, enforce, waive and release the Collateral herein described or any part thereof or any such other security; and (ii) upon the occurrence and during the continuance of an Event of Default, apply such Collateral or other security and direct the order or manner of sale thereof as such Secured Party or obligee in its discretion may determine.

The Administrative Agent may at any time deliver (without representation, recourse or warranty) the Collateral or any part thereof to a Grantor and the receipt thereof by such Grantor shall be a complete and full acquittance for the Collateral so delivered, and the Administrative Agent shall thereafter be discharged from any liability or responsibility therefor.

15. Continued Powers. Until the Facility Termination Date shall have occurred, the power of sale and other rights, powers and remedies granted to the Administrative Agent for the benefit of the Secured Parties hereunder shall continue to exist and may be exercised by the Administrative Agent at any time and from time to time irrespective of the fact that any of the Secured Obligations or any part thereof may have become barred by any statute of limitations or that any part of the liability of any Grantor may have ceased.

16. Other Rights. The rights, powers and remedies given to the Administrative Agent for the benefit of the Secured Parties by this Agreement shall be in addition to all rights, powers and remedies given to the Administrative Agent or any other Secured Party under any Loan Document or by virtue of any statute or rule of law. Any forbearance or failure or delay by the Administrative Agent in exercising any right, power or remedy hereunder shall not be deemed to be a waiver of such right, power or remedy, and any single or partial exercise of any right, power or remedy hereunder shall not preclude the further exercise thereof; and every right, power and remedy of the Secured Parties shall continue in full force and effect until such right, power or remedy is specifically waived in accordance with the terms of the Credit Agreement.

17. Anti-Marshaling Provisions. The right is hereby given by each Grantor to the Administrative Agent, for the benefit of the Secured Parties, to make releases (whether in whole or in part) of all or any part of the Collateral agreeable to the Administrative Agent without notice to, or the consent, approval or agreement of other parties and interests, including junior lienors, which releases shall

not impair in any manner the validity of or priority of the Liens and security interests in the remaining Collateral conferred hereunder, nor release any Grantor from personal liability for the Secured Obligations. Notwithstanding the existence of any other security interest in the Collateral held by the Administrative Agent, for the benefit of the Secured Parties, the Administrative Agent shall have the right to determine the order in which any or all of the Collateral shall be subjected to the remedies provided in this Agreement. Each Grantor hereby waives any and all right to require the marshaling of assets in connection with the exercise of any of the remedies permitted by Applicable Law or provided herein or in any other Loan Document.

18. Entire Agreement. This Agreement and each Security Joinder Agreement, together with the Credit Agreement and other Loan Documents, constitute and express the entire understanding among the parties hereto with respect to the subject matter hereof, and supersede all prior negotiations, agreements and understandings, inducements, commitments or conditions, express or implied, oral or written, except as contained in the Loan Documents. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof. Neither this Agreement nor any Security Joinder Agreement nor any portion or provision hereof or thereof may be changed, altered, modified, supplemented, discharged, canceled, terminated, or amended orally or in any manner other than as provided in the Credit Agreement.

19. Third Party Reliance. Each Grantor hereby consents and agrees that all issuers of or obligors in respect of any Collateral, and all securities intermediaries, warehousemen, bailees, public officials and other Persons having any interest in, possession of, control over or right, privilege, duty or discretion in respect of, any Collateral shall be entitled to accept the provisions hereof and of the Security Joinder Agreements as conclusive evidence of the right of the Administrative Agent, on behalf of the Secured Parties, to exercise its rights hereunder or thereunder with respect to the Collateral, notwithstanding any other notice or direction to the contrary heretofore or hereafter given by any Grantor or any other Person to any of such Persons.

20. Binding Agreement; Assignment. This Agreement and each Security Joinder Agreement, and the terms, covenants and conditions hereof and thereof, shall be binding upon and inure to the benefit of the parties hereto and thereto, and to their respective successors and assigns, except that no Grantor shall be permitted to assign this Agreement, any Security Joinder Agreement or any interest herein or therein or, except as expressly permitted herein or in the Credit Agreement, in the Collateral or any part thereof or interest therein. Without limiting the generality of the foregoing sentence of this Section 20, any Lender may assign to one or more Persons, or grant to one or more Persons participations in or to, all or any part of its rights and obligations under the Credit Agreement (to the extent permitted by the Credit Agreement); and to the extent of any such assignment or participation such other Person shall, to the fullest extent permitted by law, thereupon become vested with all the benefits in respect thereof granted to such Lender herein or otherwise, subject however, to the provisions of the Credit Agreement, including Article IX thereof (concerning the Administrative Agent) and Section 10.06 thereof (concerning assignments and participations). All references herein to the Administrative Agent shall include any successor thereof.

21. Bank Products. No Cash Management Bank or Hedge Bank that obtains the benefit of this Agreement shall have any right to notice of any action or to consent to, direct or object to any action hereunder or otherwise in respect of the Collateral (including the release or impairment of any Collateral) (or to notice of or to consent to any amendment, waiver or modification of the provisions hereof) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Agreement to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, the Secured Obligations arising under Bank Products unless the Administrative

Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Secured Party not a party to the Credit Agreement that obtains the benefit of this Agreement shall be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of the Credit Agreement, and that with respect to the actions and omissions of the Administrative Agent hereunder or otherwise relating hereto that do or may affect such Secured Party, the Administrative Agent and each of its Related Parties shall be entitled to all the rights, benefits and immunities conferred under Article IX of the Credit Agreement.

22. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

23. Counterparts. This Agreement may be executed in any number of counterparts each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart executed by the Grantor against whom enforcement is sought. Without limiting the foregoing provisions of this Section 23, the provisions of Sections 10.10 and 10.17 of the Credit Agreement shall be applicable to this Agreement.

24. Termination. Subject to the provisions of Section 13, (i) this Agreement and each Security Joinder Agreement, and all obligations of the Grantors hereunder (excluding those obligations and liabilities that expressly survive such termination) shall terminate without delivery of any instrument or performance of any act by any party on the Facility Termination Date and (ii) this Agreement and any applicable Security Joinder Agreement, and all obligations of a Grantor hereunder (excluding those obligations and liabilities that expressly survive such termination) shall terminate as to such Grantor upon the release of such Grantor as a Guarantor by the Administrative Agent. In connection with any Asset Disposition or other transfer or disposition of Collateral permitted under the Credit Agreement, the security interest granted hereby in such Collateral shall automatically terminate upon consummation of such Asset Disposition or other transfer or disposition without delivery of any instrument or performance of any act by any party. Upon any such termination of this Agreement or release of Collateral in connection with any Asset Dispositions or other transfers or dispositions permitted under the Credit Agreement, the Administrative Agent shall, at the request and sole expense of the applicable Grantors, promptly deliver to the applicable Grantors such termination statements and take such further actions as such Grantors may reasonably request to terminate of record, or otherwise to give appropriate notice of the termination of, any Lien conferred hereunder.

25. Notices. Any notice required or permitted hereunder shall be given, (a) with respect to each Grantor, at the address of the Borrower indicated in Schedule 10.02 of the Credit Agreement and (b) with respect to the Administrative Agent or any other Secured Party, at the Administrative Agent's address indicated in Schedule 10.02 of the Credit Agreement. All such addresses may be modified, and all such notices shall be given and shall be effective, as provided in Section 10.02 of the Credit Agreement for the giving and effectiveness of notices and modifications of addresses thereunder.

26. Joinder. Each Person that shall at any time execute and deliver to the Administrative Agent a Security Joinder Agreement substantially in the form attached hereto as Exhibit A shall thereupon irrevocably, absolutely and unconditionally become a party hereto and obligated hereunder as a

Grantor and shall have thereupon pursuant to Section 2 granted a security interest in and collaterally assigned to the Administrative Agent for the benefit of the Secured Parties all Collateral in which it has at its Applicable Date or thereafter acquires any interest or the power to transfer, and all references herein and in the other Loan Documents to the Grantors or to the parties to this Agreement shall be deemed to include such Person as a Grantor hereunder. Each Security Joinder Agreement shall be accompanied by the Supplemental Schedules referred to therein, appropriately completed with information relating to the Grantor executing such Security Joinder Agreement and its property. Each of the applicable Schedules attached hereto shall be deemed amended and supplemented without further action by such information reflected on the Supplemental Schedules.

27. Rules of Interpretation. The rules of interpretation contained in Section 1.02 of the Credit Agreement shall be applicable to this Agreement and each Security Joinder Agreement and are hereby incorporated by reference. All representations and warranties contained herein shall survive the delivery of documents and any extension of credit referred to herein or secured hereby.

28. Governing Law; Jurisdiction; Etc. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. Without limiting the general applicability of the foregoing and the terms of the other Loan Documents to this Agreement and the parties hereto, the terms of Sections 10.14 and 10.15 of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*, with each reference to the “Borrower” therein (whether express or by reference to the Borrower as a “party” thereto) being a reference to the Pledgors, and the parties hereto agree to such terms.

29. Taxes. Any and all payments under this Agreement by any Grantor shall be made free and clear of, and without deduction or withholding for, any Taxes, to the extent required by the Credit Agreement.

30. Amendment and Restatement. Notwithstanding this amendment and restatement of the Existing Agreement, (a) all of the indebtedness, liabilities and obligations owing by the Grantors or any other Person under the Existing Agreement shall continue as obligations hereunder, and shall be and remain secured by this Agreement, (b) the security interest granted under the Existing Agreement shall continue as a security interest hereunder and (c) this Agreement is given as a substitution of, and not as a payment of the indebtedness, liabilities and obligations of the Grantors under, the Existing Agreement and neither the execution and delivery of this Agreement nor the consummation of any other transaction contemplated hereunder is intended to constitute a novation of the Existing Agreement or the security interest created thereunder.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties have duly executed and delivered this Second Amended and Restated Security Agreement on the day and year first written above.

GRANTORS:

SANMINA CORPORATION

By: /S/ Brian Wszolek  
Name: Brian Wszolek  
Title: Vice President and Treasurer

CERTAINSOURCE TECHNOLOGY GROUP, INC.  
CST REAL ESTATE LLC  
HADCO CORPORATION  
HADCO SANTA CLARA, INC.  
PRIMARY SOURCING CORP.  
SCI TECHNOLOGY, INC.  
SENSORWISE, INC.

By: /S/ Christopher K. Sadeghian  
Name: Christopher K. Sadeghian  
Title: Secretary

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Sanmina Corporation  
Second Amended and Restated Security Agreement  
Signature Page

ADMINISTRATIVE AGENT:

BANK OF AMERICA, N.A.,  
as Administrative Agent

By: /S/ Christine Trotter  
Name: Christine Trotter  
Title: Vice President

Sanmina Corporation  
Second Amended and Restated Security Agreement  
Signature Page

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EXHIBIT A

FORM OF SECURITY JOINDER AGREEMENT

THIS SECURITY JOINDER AGREEMENT dated as of \_\_\_\_\_, 20\_\_\_\_ (this “Agreement”), is made by \_\_\_\_\_, a \_\_\_\_\_ (the “Joining Grantor”), in favor of BANK OF AMERICA, N.A., in its capacity as Administrative Agent (in such capacity, the “Administrative Agent”) for the Secured Parties (as defined in the Credit Agreement referenced below; except as provided herein, all capitalized terms used but not defined herein shall have the meanings given to such terms in such Credit Agreement).

RECITALS:

WHEREAS, Sanmina Corporation, a Delaware corporation (the “Borrower”), the lenders and the Issuing Lenders party thereto and the Administrative Agent are party to a Fifth Amended and Restated Credit Agreement dated as of September 27, 2022 (as in effect on the date hereof and as amended, restated, supplemented or otherwise modified from time to time after the date hereof, the “Credit Agreement”);

WHEREAS, the Borrower, certain of its Subsidiaries and the Administrative Agent are party to a Second Amended and Restated Security Agreement dated as of September 27, 2022 (as in effect on the date hereof and as amended, restated, supplemented or otherwise modified from time to time after the date hereof, the “Security Agreement”);

WHEREAS, the Joining Grantor is a Subsidiary of the Borrower and is required by the terms of the Credit Agreement to become a Guarantor and be joined as a party to the Security Agreement as a Grantor (as defined in the Security Agreement); and

WHEREAS, the Joining Grantor will materially benefit directly and indirectly from the making and maintenance of the extensions of credit made from time to time under the Credit Agreement, Secured Cash Management Agreements and Secured Hedge Agreements;

NOW, THEREFORE, for valuable consideration hereby acknowledged, the Joining Grantor hereby agrees as follows:

1. Joinder. The Joining Grantor hereby irrevocably, absolutely and unconditionally becomes a party to the Security Agreement as a Grantor and bound by all the terms, conditions, obligations, liabilities and undertakings of each Grantor or to which each Grantor is subject thereunder, all with the same force and effect as if the Joining Grantor were a signatory to the Security Agreement. Without limiting the generality of the foregoing, the Joining Grantor hereby grants as collateral security for the payment, performance and satisfaction of all of the Secured Obligations (as defined in the Security Agreement), to the Administrative Agent for the benefit of the Secured Parties a first priority security interest in the Collateral (as defined in the Security Agreement) of the Joining Grantor or in which the Joining Grantor has or may have or acquire an interest or the power to transfer rights therein, whether now owned or existing or hereafter created, acquired or arising and wheresoever located.

2. Affirmations. The Joining Grantor hereby acknowledges and reaffirms as of the date hereof with respect to itself, its properties and its affairs, each of the waivers, representations, warranties, acknowledgements and certifications applicable to any Grantor contained in the Security Agreement.

3. Supplemental Schedules. Attached to this Agreement are duly completed schedules (the “Supplemental Schedules”) supplementing as thereon indicated the respective Schedules to the Security Agreement. The Joining Grantor represents and warrants that the information contained on each of the Supplemental Schedules with respect to the Joining Grantor and its properties and affairs is true, complete and accurate as of its Applicable Date.

4. Counterparts. This Agreement may be executed in any number of counterparts each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart executed by the Joining Grantor. Without limiting the foregoing provisions of this Section 4, the provisions of Sections 10.10 and 10.17 of the Credit Agreement shall be applicable to this Agreement.

5. Delivery. The Joining Grantor hereby irrevocably waives notice of acceptance of this Agreement and acknowledges that the Secured Obligations are and shall be deemed to be incurred, and credit extensions under the Loan Documents, Secured Cash Management Agreements and Secured Hedge Agreements made and maintained, in reliance on this Agreement and the Joining Grantor's joinder as a party to the Security Agreement as herein provided.

6. Governing Law; Jurisdiction; Etc. The provisions of Section 28 and Section 29 of the Security Agreement are hereby incorporated by reference as if fully set forth herein.

IN WITNESS WHEREOF, the Joining Grantor has duly executed and delivered this Security Joinder Agreement as of the day and year first written above.

JOINING GRANTOR:

\_\_\_\_\_  
By: \_\_\_\_\_ Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SUPPLEMENTAL  
SCHEDULE 7(f)

Grantor Information

I.	II.	III.	IV.	V.	VI.	VII.
Name	Jurisdiction of Formation/ Form of Equity/I.D. Number	Address of Chief Executive Office	Trade Styles	Collateral Locations (and Type of Collateral)	Name and address of Owner of Collateral Location (If other than Grantor)	Relationship of Persons listed in VI to Grantor (e.g., lessor, warehousemen)

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SUPPLEMENTAL  
SCHEDULE 9(c)

Deposit Accounts

<u>Grantor</u>	<u>Name of Depository Institution</u>	<u>Address of Depository Institution</u>	<u>Account Number</u>

**Exhibit 10.42**

The portions of this exhibit marked with “[\*\*\*]” have been excluded in accordance with Item 601(b)(10)(iv) of Regulation S-K under the Securities Act of 1933 because they are both not material and would likely cause competitive harm to the registrant if publicly disclosed.

### **JOINDER AGREEMENT AND AMENDMENT NO. 7**

This **JOINDER AGREEMENT AND AMENDMENT NO. 7** to the RECEIVABLES PURCHASE AGREEMENT (this “Amendment”), dated as of July 8, 2022, is among each of SANMINA CORPORATION, a Delaware corporation (“Sanmina”), SANMINA-SCI SYSTEMS SINGAPORE PTE. LTD., a Singapore private company limited by shares (“Sanmina Singapore”), SANMINA-SCI SYSTEMS (MALAYSIA) SDN. BHD., (REGISTRATION NO. 199101016030 (226342-D), a private company limited by shares and deemed registered under the Companies Act 2016 of Malaysia (“Sanmina Malaysia” together with Sanmina Singapore, each in such capacity, a “Seller” and collectively, the “Sellers”) and a servicer (each in such capacity, a “Servicer” and collectively, the “Servicers”), Sanmina, as a guarantor (in such capacity, the “Guarantor”), MUFG BANK, LTD. (“MUFG Bank”), WELLS FARGO BANK, N.A. (“Wells”), BANK OF THE WEST (“BOW”) (each a “Buyer” and collectively, the “Buyers”), and MUFG Bank, as administrative agent (in such capacity, the “Administrative Agent”).

#### WITNESSETH:

WHEREAS, Sanmina, as a Seller, Servicer and Guarantor, the Buyers and the Administrative Agent, have previously entered into the Receivables Purchase Agreement, dated as of March 26, 2018 (as amended, restated, supplemented, assigned or otherwise modified from time to time, the “Receivables Purchase Agreement”);

WHEREAS, Sanmina Malaysia desires to be joined as a Seller and Servicer under the Receivables Purchase Agreement; and

WHEREAS, the parties hereto wish to amend the Receivables Purchase Agreement to (i) facilitate the joinder of Sanmina Malaysia as a Seller and a Servicer thereunder and (ii) make certain other modifications thereto as more fully set forth herein.

**NOW, THEREFORE**, in exchange for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged and confirmed), the parties hereto agree as follows:

#### AGREEMENT:

1. **Definitions.** Unless otherwise defined or provided herein, capitalized terms used herein have the meanings attributed thereto in (or by reference in) the Receivables Purchase Agreement.

2. **Joinder of Sanmina Malaysia.** Upon the Amendment Effective Date (as defined below), Sanmina Malaysia shall be a “Seller” and a “Servicer” under the Receivables Purchase Agreement. All references in the Receivables Purchase Agreement and all other Transaction Documents to the term “Seller,” “Sellers,” “Servicer,” or “Servicers” shall be deemed to include Sanmina Malaysia in those respective capacities. Without limiting the generality of the foregoing, Sanmina Malaysia hereby repeats and reaffirms all covenants, agreements, representations and warranties made or given by a Seller or a

Servicer contained in the Receivables Purchase Agreement, and appoints the Administrative Agent as its agent, attorney-in-fact and representative in accordance with Section 5(k) of the Receivables Purchase Agreement.

3. Amendments to Receivables Purchase Agreement. The Receivables Purchase Agreement is hereby amended to incorporate the changes shown on the marked pages of the Receivables Purchase Agreement attached hereto as Exhibit A.

4. Conditions to Effectiveness. This Amendment shall be effective as of the date on which all of the following conditions are satisfied (such date, the “Amendment Effective Date”):

(a) the Administrative Agent receives a counterpart of this Amendment duly executed by each party hereto;

(b) the Administrative Agent receives a fully executed counterpart of the Fourth Amended and Restated MUFG Bank Pricing Letter, dated as of the date hereof duly executed by Sanmina, Sanmina Singapore, Sanmina Malaysia, and MUFG Bank, as a Buyer and Administrative Agent;

(c) the Administrative Agent receives a fully executed counterpart of the Fourth Amended and Restated BOW Pricing Letter, dated as of the date hereof, duly executed by Sanmina, Sanmina Singapore, Sanmina Malaysia, BOW, and the Administrative Agent;

(d) the Administrative Agent receives a certificate of the corporate secretary of Sanmina Malaysia, attaching (i) a copy of the organizational documents of Sanmina Malaysia certified as of a recent date, (ii) signature specimens and incumbency certificate of the officers or other authorized representatives of Sanmina Malaysia executing this Amendment and the other Transaction Documents to be delivered by it hereunder (including each Purchase Request), and (iii) resolutions of the board of directors of Sanmina Malaysia approving and authorizing the execution, delivery and performance hereof and the transactions contemplated hereby;

(e) the Administrative Agent receives, with respect to Sanmina Malaysia, an attestation of company good standing certificate issued by the Registrar of Companies in Malaysia or its local Malaysian equivalent;

(f) the Administrative Agent receives UCC, tax and judgment lien searches, bankruptcy and pending lawsuit searches or equivalent reports or searches in the United States, each of a recent date, as the Administrative Agent deems necessary or appropriate;

(g) the Administrative Agent receives security, bankruptcy and pending lawsuit searches and/or, with respect to Sanmina Malaysia (i) a company search report issued by the Companies Commission of Malaysia; and (ii) a winding-up search report issued by the offices of the Director General of Insolvency of Malaysia, each of a recent date, as the Administrative Agent deems necessary or appropriate;

(h) the Administrative Agent receives all filings or other documents as are necessary to evidence the release of all security interests, ownership and other rights of any Person previously granted by Sanmina Malaysia in the Purchased Receivables;

(i) the Administrative Agent receives properly completed form of UCC-1 financing statement (showing Sanmina Malaysia as “debtor/seller” and Administrative Agent as “secured

party/buyer?) which have been submitted for filing in the Uniform Commercial Code filing offices of the District of Columbia; and

(j) the Administrative Agent receives favorable legal opinions from outside legal counsel to Sanmina Malaysia in form and substance satisfactory to the Administrative Agent and the Buyers, including opinions with respect to due organization and good standing, due authorization, execution and delivery of this Amendment, validity and enforceability of this Amendment and the Receivables Purchase Agreement as amended hereby, non-contravention of organizational documents and law, recognition and enforceability of foreign judgements, no consents, and true sale and such other matters as the Administrative Agent and the Buyers may reasonably request.

5. Certain Representations, Warranties and Covenants. The Sellers, the Servicers and the Guarantor hereby represent and warrant to the Administrative Agent and each Buyer, as of the Amendment Effective Date, that:

(a) the representations and warranties made by it in the Receivables Purchase Agreement and in any other Transaction Document to which it is a party are true and correct in all material respects as of (i) the Amendment Effective Date and (ii) immediately after giving effect to this Amendment on the Amendment Effective Date;

(b) it has the requisite power and authority to enter into and deliver this Amendment and the other Transaction Documents, and it has taken all necessary corporate or other action required to authorize the execution, delivery and performance by such Person of this Amendment and the other Transaction Documents. This Amendment and the other Transaction Documents to which such Person is a party have been duly executed and delivered by such Person; and

(c) no Servicer Termination Event or Insolvency Event with respect to any Seller, Servicer or Guarantor has occurred and is continuing, or would occur as a result of this Amendment or the transactions contemplated hereby.

6. Reference to, and Effect on the Receivables Purchase Agreement and the Transaction Documents.

(a) The Receivables Purchase Agreement (except as specifically amended herein) and the other Transaction Documents shall remain in full force and effect and the Receivables Purchase Agreement and such other Transaction Documents are hereby ratified and confirmed in all respects by each of the parties hereto.

(b) The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Buyer or the Administrative Agent, nor constitute a waiver of any provision of, the Receivables Purchase Agreement or any other Transaction Document.

(c) After this Amendment becomes effective, all references in the Receivables Purchase Agreement or in any other Transaction Document to "the Receivables Purchase Agreement," "this Agreement," "hereof," "herein" or words of similar effect, in each case referring to the Receivables Purchase Agreement, shall be deemed to be references to the Receivables Purchase Agreement as amended by this Amendment.

7. **Reaffirmation of Guaranty.** The Guarantor hereby ratifies and affirms Section 7 of the Receivables Purchase Agreement and acknowledges that its guaranty provided therein has continued and shall continue to be in full force and effect following the effectiveness of this Amendment.

8. **Further Assurances.** Each party hereto agrees at the sole cost and expense of the Sellers to do all such things and execute all such documents and instruments as the other party may reasonably consider necessary or desirable to give full effect to the transaction contemplated by this Amendment and the documents, instruments and agreements executed in connection therewith.

9. **Costs and Expenses.** The Sellers agree to reimburse the Administrative Agent and each Buyer on demand for all reasonable and documented out-of-pocket costs and expenses (including reasonable legal fees) that the Administrative Agent or any Buyer incurs in connection with the preparation, negotiation, documentation and delivery of this Amendment.

10. **Transaction Document.** This Amendment is a Transaction Document for purposes of the Receivables Purchase Agreement.

11. **Successors and Assigns.** This Amendment shall be binding upon and inure to the benefit of the Sellers, the Servicers, the Guarantor, the Administrative Agent and each Buyer, and their respective successors and assigns.

12. **Execution in Counterparts.** This Amendment may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same agreement. Delivery of an executed counterpart of a signature page to this Amendment by electronic mail attachment in portable document format (.pdf) shall be effective as delivery of a manually executed counterpart of this Amendment.

13. **Governing Law.** THIS AMENDMENT, INCLUDING THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO ANY OTHER CONFLICTS OF LAW PROVISIONS THEREOF, EXCEPT TO THE EXTENT THAT THE PERFECTION, THE EFFECT OF PERFECTION OR PRIORITY OF THE INTERESTS OF THE BUYERS IN THE PURCHASED RECEIVABLES IS GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK).

14. **Headings.** Section headings in this Amendment are for purposes of reference only and shall not otherwise affect the meaning or interpretation of any provision hereof.

15. **Severability.** Any provisions of this Amendment which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

16. **Process Agent.** To the fullest extent permitted by applicable law, Sanmina Malaysia hereby irrevocably appoints Sanmina (the "**Process Agent**"), with an office at 2700 North First Street, San Jose, California 95134, as its agent to receive, accept and acknowledge for and on its behalf, and in

respect of its property, service of any and all legal process, summons, notices and documents which may be served in any action or proceeding in the state courts sitting in The City of New York, New York, United States of America or the United States District Court for the Southern District of New York and agrees that service in such manner shall, to the fullest extent permitted by law, be deemed effective service of process upon it in any such suit, action or proceeding. If for any reason such Process Agent shall cease to be available to act as such, Sanmina Malaysia agrees to designate a new Process Agent in The City of New York, on the terms and for the purposes of this provision; provided that, the new Process Agent shall have accepted such designation in writing before the termination of the appointment of the prior Process Agent. Sanmina Malaysia further consents to the service of process or summons by certified or registered mail, postage prepaid, return receipt requested, directed to it at its address specified in Section 9 of the Receivables Purchase Agreement hereof. Nothing herein shall in any way be deemed to limit the ability of any Buyer to serve legal process in any other manner permitted by applicable law. It is understood and acknowledged by the parties hereto that such address of Sanmina is not located in The City of New York. However, Sanmina has agreed that service upon the Agent for Service at its address provided in this Section shall be considered identical to, and just as effective as, actual service within The City of New York. By its signature below, Sanmina accepts its appointment pursuant to this Section 17.

[Signature Pages Follow]

**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized, as of the date first above written.

The Common Seal of

**SANMINA-SCI SYSTEMS (MALAYSIA) SDN. BHD.**  
as a Seller and Servicer

was hereunto affixed in the presence of



/S/ Christopher Kaveh Sadeghian

Director

Name: Christopher Kaveh Sadeghian

Passport/NRIC No.:

/S/ Brian Matthew Wszolek

Authorize Signatory

Name: Brian Matthew Wszolek

Passport/NRIC No.:

#### AUTHENTICATION CERTIFICATE

I, ..... , a Notary Public / Commissioner for Oaths / Advocate and Solicitor of the High Court of Malaya practising at ..... , hereby certify that on this ..... day of ..... , 2022, the common seal of **SANMINA-SCI SYSTEMS (MALAYSIA) SDN. BHD. (Registration No. 199101016030 (226342-D))** was duly affixed to the above written instrument in my presence in accordance with the regulations of the said company.<sup>1</sup>

Witness my hand,

**SANMINA CORPORATION,**  
as Seller and Servicer

By: /S/ Brian Wszolek  
Name: Brian Wszolek  
Title: Vice President and Treasurer

**SANMINA CORPORATION,**

as Guarantor

By: /S/ Brian Wszolek  
Name: Brian Wszolek  
Title: Vice President and Treasurer

**SANMINA-SCI SYSTEMS SINGAPORE PTE. LTD.**

as Seller and Servicer

By: /S/ Christopher K. Sadeghian  
Name: Christopher K. Sadeghian  
Title: Director

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Signature Page to Joinder Agreement and Amendment No. 7

**MUFG BANK, LTD.,**  
as the Administrative Agent

By: /S/ Brian McNany  
Name: Brian McNany  
Title: Managing Director

**MUFG BANK, LTD.,**  
as a Buyer

By: /S/ Brian McNany  
Name: Brian McNany  
Title: Managing Director

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Signature Page to Joinder Agreement and Amendment No. 7

**WELLS FARGO BANK, N.A.**  
as a Buyer

By: /S/ Brian Work  
Name: Brian Work  
Title: Vice President

Signature Page to Joinder Agreement and Amendment No. 7

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**BANK OF THE WEST,**  
as a Buyer

By: /S/ Scott Bruni  
Name: Scott Bruni  
Title: Director

Signature Page to Joinder Agreement and Amendment No. 7

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**RECEIVABLES PURCHASE AGREEMENT**

dated as of

March 26, 2018

by and among

**SANMINA CORPORATION,**  
as Seller, Servicer, and Guarantor

**THE BUYERS DESCRIBED HEREIN**

and

**MUFG BANK, LTD.,**  
as Administrative Agent

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- Annex I: Electronic Services Schedule

## RECEIVABLES PURCHASE AGREEMENT

This RECEIVABLES PURCHASE AGREEMENT (this “Agreement”) is entered into as of March 26, 2018, by and among SANMINA CORPORATION, a Delaware corporation, and any other seller from time to time party hereto (each, in such capacity, a “Seller” and collectively, the “Sellers”), and as servicers (each, in such capacity, a “Servicer” and collectively, the “Servicers”), SANMINA CORPORATION, as guarantor (in such capacity the “Guarantor”), MUFG BANK, LTD. (“MUFG Bank”) and each other buyer from time to time party hereto (each, in such capacity, a “Buyer” and collectively, the “Buyers”), and MUFG Bank, as administrative agent (in such capacity, the “Administrative Agent”).

### RECITALS

WHEREAS, each Seller desires to sell certain of its Receivables from time to time, and the Buyers may be willing to purchase from each Seller such Receivables, in which case the terms set forth herein shall apply to such purchase. Each capitalized term used but not defined herein shall have the meaning set forth in, or by reference in, Exhibit A hereto, and the interpretive provisions set out in Exhibit A hereto shall be applied in the interpretation of this Agreement.

Accordingly, the parties hereto agree as follows:

### AGREEMENT

#### 1. Sale and Purchase.

(a) Sales of Receivables. From time to time during the term of this Agreement, one or more Sellers may submit to the Administrative Agent a request (a “Purchase Request”) via the PrimeRevenue System that the Buyers purchase from such Seller or Sellers the Proposed Receivables described in such Purchase Request on the proposed Purchase Date indicated therein; provided, however, and notwithstanding anything herein to the contrary, if (i) the PrimeRevenue System is not operational or is otherwise offline or (ii) the Administrative Agent has, in its discretion, instructed the Sellers that the PrimeRevenue System is no longer available for use, then such Seller or Sellers may deliver a Purchase Request to the Administrative Agent in substantially the form of Schedule I attached hereto, and this Agreement shall be construed and interpreted accordingly, *mutatis mutandis*.

(b) If received by no later than 1:00 p.m. New York City time (or such later time as agreed to by the Administrative Agent and the Buyers in writing in their sole and absolute discretion) on a Business Day from such Seller, by no later than 2:00 p.m. New York City time (or such later time as agreed to by the Buyers in writing in their sole and absolute discretion) on such date, the Administrative Agent shall transmit such Purchase Request to each Buyer having a Pro Rata Share in any Proposed Receivables described in such Purchase Request, together with an estimate prepared by the Administrative Agent of the Purchase Price for such Proposed Receivables, and the Pro Rata Share of each such Buyer. The applicable Buyers, in their sole and absolute discretion, may elect to accept or reject a Purchase Request. Each Buyer receiving such a Purchase Request shall endeavor to respond to the Administrative Agent as to its willingness to accept such Purchase Request and purchase its respective Pro Rata Share of such Proposed Receivables by no later than 5:00 p.m. New York City time on such Business Day; provided that, for the avoidance of doubt, an affirmative response by such Buyer shall not be deemed to constitute a commitment to complete such purchase on the proposed Purchase Date, which decision shall remain at the discretion of such Buyer. If the applicable Buyers, in their sole and absolute discretion, accept a Purchase Request, then such Buyers shall purchase, and such Seller or Sellers shall sell, all of each applicable Seller’s right, title and interest (but none of such Seller’s underlying obligations to the applicable Account Debtor) with respect to such Proposed Receivables as of the Purchase Date to such Buyers to the extent of each Buyer’s Pro Rata Share of each such Proposed Receivable (all such Proposed Receivables, once sold and purchased hereunder, collectively the “Purchased Receivables”). For the avoidance of doubt, it is acknowledged that a Buyer’s Pro Rata Share of any particular Proposed Receivable may be zero because such Buyer does not have a Designated Percentage with respect to the Account Debtor related to such Proposed Receivable.

(c) **UNCOMMITTED ARRANGEMENT.** EACH SELLER AND THE BUYERS ACKNOWLEDGE THAT THIS IS AN UNCOMMITTED ARRANGEMENT, THAT NO SELLER HAS PAID, OR IS REQUIRED TO PAY, A COMMITMENT FEE OR COMPARABLE FEE TO ANY BUYER. SALES OF PROPOSED RECEIVABLES BY A SELLER SHALL BE AT SUCH SELLER'S SOLE AND ABSOLUTE DISCRETION. PURCHASES OF PROPOSED RECEIVABLES BY ANY BUYER SHALL BE AT SUCH BUYER'S SOLE AND ABSOLUTE DISCRETION.

(d) **Conditions to Effectiveness.** This Agreement shall become effective at such time as each of the conditions precedent set forth on Exhibit B to this Agreement has been satisfied to the satisfaction of each of the Administrative Agent and each Buyer.

(e) **Conditions Precedent to Each Purchase.** Notwithstanding the otherwise uncommitted nature of this Agreement, under no circumstances will any Buyer purchase any portion of any Proposed Receivable unless:

(i)the Administrative Agent has received a Purchase Request via the PrimeRevenue System (or, if applicable, in physical form in substantially the form of Schedule 1 attached hereto) with respect to the Proposed Receivables at least two (2) Business Days (or less, if the Administrative Agent and each Buyer holding a Designated Percentage with respect to each Account Debtor appearing on such Purchase Request, so agrees) prior to the applicable Purchase Date, together with any such additional supporting documentation that the Administrative Agent or any Buyer may have reasonably requested;

(i)the applicable Buyers have accepted such Purchase Request with respect to such Proposed Receivable and notified the Administrative Agent thereof;

(ii)no Servicer Termination Event shall have occurred and no Servicer Termination Event shall exist immediately following the Buyers' purchase of such Proposed Receivables;

(iii)each of the representations and warranties made by each Seller, Servicer and the Guarantor in Exhibit C to this Agreement and each of the other Transaction Documents is true and correct in all material respects as of such Purchase Date or, in the case of any representation or warranty which speaks as to a particular date or period, as of that particular date or period;

(iv)each Proposed Receivable is an Eligible Receivable; and

(v)immediately following the sale and purchase of such Proposed Receivable, (A) the Outstanding Purchase Amount with respect to the Purchased Receivables payable by any Account Debtor will not exceed such Account Debtor's Purchase Sublimit and (B) the Outstanding Purchase Amount with respect to any Buyer will not exceed the Buyer's Facility Share applicable to such Buyer.

Each delivery of a Purchase Request or submission of a Purchase Request via the PrimeRevenue System by any Seller shall be deemed a representation and warranty by each applicable Seller that the foregoing conditions set forth in subclauses (iii)-(vi) of this clause (e) are satisfied and each of the statements set forth on such Purchase Request are true and correct as of the applicable Purchase Date with respect to the Proposed Receivables described therein or submitted onto the PrimeRevenue System, as applicable, with respect to such Purchase Request.

(a) **Purchase Price.** The purchase price for each Purchased Receivable purchased on any Purchase Date shall equal (i) the Net Invoice Amount of such Purchased Receivable, minus (ii) the Discount (such amount herein referred to as the "Purchase Price"). Each Buyer shall transfer its Pro Rata Share of the Purchase Price (the "Funded Amount") with respect to each Purchased Receivable by depositing such Funded Amount into the Administrative Agent's Account in immediately available funds no later than 1:30 p.m. New York City time (or such later time as agreed to in writing by the Administrative Agent in its sole and absolute discretion) on the applicable Purchase Date. Upon receipt of all of the amounts set forth in the foregoing sentence, the Administrative Agent, on behalf of the Buyers, shall pay the Purchase Price for each Purchased Receivable on such Purchase Date to the applicable Seller, less any other amounts owing to the Administrative Agent and the Buyers hereunder on such Purchase Date no later than 3:30 p.m. New York City time. All payments of Purchase Price shall be

paid in the same currency in which the applicable Purchased Receivable is denominated. Upon such payment each such Purchased Receivable shall be automatically sold by the applicable Seller to the applicable Buyers without any further action or notice by any party.

(b) Non-Funding Buyers. Notwithstanding anything herein to the contrary, unless and until the Administrative Agent shall have received a Buyer's Funded Amount in connection with each Proposed Receivable to be funded by such Buyer on any Purchase Date in accordance with clause (f) above when required therein (each such Buyer being a "Non-Funding Buyer"), the purchase of any Proposed Receivables in which such Non-Funding Buyer has a Pro Rata Share shall be deemed automatically be rejected by all applicable Buyers (each, an "Auto Rejected Receivable") ; provided that any Proposed Receivables in which such Non-Funding Buyer has does not have a Pro Rata Share shall not be deemed automatically rejected and shall continue to be funded by the Administrative Agent. In the case of any Proposed Receivables that are also Auto Rejected Receivables, (i) the Administrative Agent shall promptly return any related Funded Amounts delivered by the other Buyers having a Pro Rata Share under such Auto Rejected Receivables to such Buyers and (ii) if mutually agreed among the Sellers, the Administrative Agent and the Modified Designated Percentage Buyers (as defined below), the Sellers may submit a new Purchase Request in accordance with Section 1(a) containing only the Auto Rejected Receivables and such Auto Rejected Receivables may be purchased, according to the applicable Modified Designated Percentages (as defined below), by the Modified Designated Percentage Buyers. For purposes of this Section 1(g), (A) "Modified Designated Percentage Buyers" shall mean, collectively, some or all of the Buyers that have a Pro Rata Share in respect of an Auto Rejected Receivables (other than any Non-Funding Buyers) and (B) "Modified Designated Percentage" shall mean, in connection with any Proposed Receivables that are also Auto Rejected Receivables, the respective Designated Percentages corresponding to the Modified Designated Percentage Buyers from time to time agreed among the Modified Designated Percentage Buyers, the Administrative Agent and the Sellers (but in all cases representing, on an aggregate basis, 100% of each such Proposed Receivable).

(c) True Sale; No Recourse. Except as otherwise provided in this Agreement, each purchase of the Purchased Receivables is made without recourse to any Seller and no Seller shall have liability to the Administrative Agent or any Buyer for the failure of any Account Debtor to pay any Purchased Receivable when it is due and payable under the terms applicable thereto. The parties hereto have structured each transaction contemplated by this Agreement as an absolute and irrevocable sale, and each Buyer, the Guarantor and each Seller agree to treat each such transaction as a "true sale" for all purposes under Applicable Law and accounting principles, including, without limitation, in their respective books, records, computer files, tax returns (federal, state and local), regulatory and governmental filings (and shall reflect such sale in their respective financial statements). Each Seller and the Guarantor will advise all Persons inquiring about the ownership of any Purchased Receivable that all Purchased Receivables have been sold to the Buyers. In the event that, contrary to the mutual intent of the parties hereto, any purchase of Purchased Receivables is not characterized as a sale, each Seller (other than any Seller organized under the laws of Singapore or Malaysia) shall, effective as of the date hereof, be deemed to have granted to the Administrative Agent (for the benefit of the Buyers), and each such Seller hereby does grant to the Administrative Agent (for the benefit of the Buyers), in addition to and not in substitution for the rights and remedies described in Section 6(f) hereof, a first-priority security interest in and to any and all present and future Purchased Receivables and the proceeds thereof to secure the payment of all obligations of such Seller arising in connection with this Agreement and each of the other Transaction Documents, whether now or hereafter existing. Each Seller hereby authorizes the Administrative Agent, on behalf of each Buyer, to file such financing statements (and continuation statements with respect to such financing statements when applicable) as may be necessary to perfect the Administrative Agent's and each Buyer's security interest and ownership under the UCC, with applicable collateral description in any such financing statements designating all Purchased Receivables, together with the rights granted to Administrative Agent hereunder and proceeds thereof. With respect to such grant of a security interest, the Administrative Agent and the Buyers may at its option exercise from time to time any and all rights and remedies available to it hereunder, under the UCC or otherwise. For purposes of this clause (h), each Seller (other than any Seller organized under the laws of Singapore or Malaysia) agrees that ten (10) Business Days shall be reasonable prior notice to such Seller of the date of any public or private sale or other disposition of all or any of the Purchased Receivables.

(d) Pro Rata Shares. Purchases in respect of each Proposed Receivable shall be made by the Buyers simultaneously and proportionately to their respective Pro Rata Shares for such Proposed Receivable.

(e) Several Obligations of Buyers. The obligations of the Buyers hereunder are several and not joint, and no Buyer shall be responsible for the obligations of any other Buyer hereunder. Nothing contained herein or in any other Transaction Document, and no action taken by the Buyers pursuant hereto or thereto, shall be deemed to constitute the Buyers as a partnership, an association, a joint venture or any other kind of entity.

(k) Applicable Benchmark Replacement. Anything in this Agreement to the contrary notwithstanding, if the Administrative Agent determines (which determination shall be binding and conclusive) that quotations of rates for the relevant deposits in the definition of the Applicable Benchmark herein are not being provided in the relevant amounts or for the relevant maturities for purposes of determining the Discount applicable to any Receivables included in any Purchase Request (whether by reason of circumstances affecting the London interbank Eurodollar market or otherwise) or adequate and reasonable means do not exist for ascertaining such Applicable Benchmark, then the Administrative Agent shall give the Sellers prompt notice thereof, and so long as such condition remains in effect, (i) no Purchase Request shall be funded using such Applicable Benchmark as a component of the Account Debtor Discount Rate and (ii) all outstanding and future Purchase Requests shall be funded using an Account Debtor Discount Rate that is calculated based on the Prime Rate plus a margin mutually agreed to by the applicable Buyer and the Sellers in a Buyer Pricing Letter. If (i) the Administrative Agent determines in its sole discretion (which shall be conclusive absent manifest error) that the foregoing unavailability or inadequacy with respect to such Applicable Benchmark is not of a temporary nature or (ii) the Administrative Agent determines that (A) the administrator of such Applicable Benchmark or a Governmental Authority having jurisdiction over such administrator or over the Administrative Agent (or any other Person on behalf of such administrator or Governmental Authority) has made or published a public statement announcing that (1) the administrator of such Applicable Benchmark has ceased or will cease to provide such Applicable Benchmark, permanently or indefinitely (provided that, at the time of such statement or publication, no successor administrator will continue to provide such Applicable Benchmark), or (2) such Applicable Benchmark is no longer representative of the applicable rate or (B) receivable purchase agreements that include similar language to that contained in this Section 1(k) are being executed or amended to incorporate or adopt a new benchmark interest rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein) to replace such Applicable Benchmark, then the Administrative Agent, upon notice to the Sellers, may replace the Applicable Benchmark with a Replacement Rate for calculating the Account Debtor Discount Rate (including any mathematical or other adjustments to such benchmark or the Account Debtor Discount Rate) for any relevant Receivable.

In addition, in the event that the Administrative Agent determines in its sole discretion (which shall be conclusive absent manifest error) to utilize a rate other than the Applicable Benchmark, then the Administrative Agent may replace the Applicable Benchmark with a Replacement Rate for calculating the Account Debtor Discount Rate (including any mathematical or other adjustments to such benchmark or the Account Debtor Discount Rate) for any relevant Receivable.

For purposes of this Section 1(k), (i) the "Applicable Benchmark" means initially, (A) with respect to amounts denominated in USD, the Base Rate and, (B) with respect to amounts denominated in Euro, EURIBOR and the Eurocurrency Rate; provided that if the replacement of then-current Applicable Benchmark has occurred pursuant to this Section 1(k), then the "Applicable Benchmark" means the applicable Replacement Rate and (ii) the "Replacement Rate" means, with respect to amounts denominated in a particular currency, the alternative rate and margin (which may be different to the previously specified rate and may include an adjustment spread) notified to the Sellers by the Administrative Agent and which, in the Administrative Agent's opinion (which shall be conclusive absent manifest error), shall take into account benchmark rates and means of calculating spread adjustments that are being generally accepted in the relevant markets; provided, that, if such alternate benchmark interest rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Each determination by the Administrative Agent pursuant to this Section 1(k) shall be conclusive absent manifest error.

2. **No Administrative Agent or Buyer Liability.** Notwithstanding anything herein to the contrary, each Seller hereby acknowledges and agrees that the Administrative Agent and the Buyers shall not be in any way responsible for the performance of any Contract and such Persons shall not have any obligation to intervene in any Dispute arising out of the performance of any contract giving rise to any Purchased Receivable. All obligations of a Seller as seller of the goods and provider of any related services, including, without limitation, all obligations of such Seller as seller under the such Contract, all representations and warranty obligations, all servicing obligations, all maintenance obligations, and all delivery, transport and insurance obligations, shall be retained by such Seller.

3. **Representations and Warranties.** Each Seller, Servicer and the Guarantor represents and warrants to the Administrative Agent and each Buyer on the date hereof and on each Purchase Date that the representations and warranties set forth on Exhibit C hereto are true and correct as of the date hereof and as of each such Purchase Date or, in the case of any representation or warranty which speaks as to a particular date or period, as of that particular date or period. Each Seller represents and warrants to the Administrative Agent and each Buyer on each Purchase Date that each Proposed Receivable included in the applicable Purchase Request is an Eligible Receivable as of such Purchase Date.

4. **Covenants.** Each Seller, Servicer, and the Guarantor agrees to perform each of the covenants set forth on Exhibit D hereto applicable to it.

5. **Servicing Activities.**

(a) **Appointment of Servicer.** Each Buyer appoints each Seller as its servicer and agent (each, in such capacity, a “Servicer” and collectively, the “Servicers”) for the administration and servicing of its Purchased Receivables sold by such Person to such Buyer hereunder, and each Seller hereby accepts such appointment and agrees to assume the duties and the administration and servicing obligations as a Servicer, and perform all necessary and appropriate commercial servicing and collection activities in arranging the timely payment of amounts due and owing by any Account Debtor (including the identification of the proceeds of the Purchased Receivables and related recordkeeping which shall be made available to the Administrative Agent and/or any Buyer upon its reasonable request) all in accordance with Applicable Laws, with reasonable care and diligence, including, without limitation, diligently and faithfully performing all servicing and collection actions (including, if necessary, acting as party of record in foreign jurisdictions); provided, however, that such appointment as Servicer shall not release a Seller from any of its duties, responsibilities, liabilities and obligations resulting from or arising hereunder. In connection with its servicing obligations, each Servicer will perform its duties under the Contract related to the Purchased Receivables with the same care and applying the same policies as it applies to its own Receivables generally and would exercise and apply if it owned the Purchased Receivables and shall act to maximize Collections thereon.

(b) **Transfer of Collections to and by Administrative Agent.** Subject to Sections 5(c), 5(d), 5(e), and 6(a) below, each Seller and Servicer covenant and agree to deposit in the Administrative Agent’s Account all Collections and other amounts received by any Seller or Servicer (or any of their respective Affiliates) with respect to Purchased Receivables without adjustment, setoff or deduction of any kind or nature no later than the first Settlement Date occurring after such Collections are received and identified as such in accordance with Section 5(e). Until remitted to the Administrative Agent’s Account, such Seller or Servicer will hold such funds in trust as the Buyers’ exclusive property and safeguard such funds for the benefit of the Buyers.

The Administrative Agent shall promptly distribute to each Buyer at such address as such Buyer shall indicate in writing, such Buyer’s applicable Pro Rata Share of all payments due hereunder to such Buyer, together with all other amounts due thereto, including all fees payable with respect thereto, to the extent received by the Administrative Agent. If received prior to 3:00 p.m. New York City time (or such later time as agreed to in writing by the Administrative Agent in its sole and absolute discretion) on any Business Day, such amounts shall be transferred to the Buyers on such Business Day. If received after such time, such amounts shall be transferred to the Buyers on the next Business Day. The Administrative Agent may, at its discretion from time to time, setoff and deduct from such payments the full amount (or any partial amount available thereunder) of the applicable obligations due to the Administrative Agent from the Buyers.

(c) **Ratable Sharing.** If any Buyer shall, by exercising any right of setoff or counterclaim or otherwise for any reason, obtain payment in respect of any Purchased Receivable or other obligations hereunder resulting in such Buyer receiving payment of a proportion of the aggregate amount payable under any Purchased Receivable to such Buyer greater than its Pro Rata Share would warrant as provided herein, then such Buyer receiving such greater proportion shall (i) notify the Administrative Agent of such fact, and (ii) purchase (for cash) participations in the other Buyers' interests in the Purchased Receivables (not in excess of the applicable Purchase Price thereof), or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Buyers ratably in accordance with the aggregate amount owing to them; provided, that: (a) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the Purchase Price restored to the extent of such recovery, without interest; and (b) the provisions of this Section 5(c) shall not be construed to apply to (A) any payment made by a Seller or Servicer pursuant to and in accordance with the express terms hereof, (B) any payment obtained by a Buyer as consideration for the assignment of or sale of a participation in any of its Purchased Receivables to any assignee or participant, or (C) any closing fees payable to the Administrative Agent and documented separately from this Agreement in any Agent Fee Letter or otherwise.

(d) **Misdirected Payments.** If, following receipt by the Administrative Agent or a Buyer of any payment (whether from any Seller, Servicer or Account Debtor) initially deemed a Collection in respect of Purchased Receivable, such payment is later identified as constituting payment in respect of a Receivable which is not a Purchased Receivable, the Administrative Agent or such Buyer, as applicable, will return such payment to the applicable Seller upon receipt of evidence reasonably satisfactory to the Administrative Agent or the applicable Buyer that such amounts do not constitute Collections on Purchased Receivables.

(e) **Identifying Collections.** Pursuant to its servicing obligations under Section 5(a) hereof, each Servicer shall be responsible for identifying, matching and reconciling any payments received from Account Debtors with the Receivable associated with such payment. If any payment is received from an Account Debtor, and such payment is not identified by such Account Debtor in its remittance instructions as relating to a particular Receivable and such payment cannot otherwise be reasonably identified by the applicable Servicer as relating to a particular Receivable within five (5) Business Days of receipt thereof, then such payment shall be applied against unpaid Purchased Receivables of such Account Debtor and the unpaid Receivables not constituting Purchased Receivables of such Account Debtor in chronological order, oldest first. For the avoidance of doubt, it is understood and agreed that (i) the foregoing sentence is intended to deal with the rare situation where a payment cannot be identified to a particular Receivable and (ii) nothing in the foregoing sentence shall be understood to permit such Servicer to apply to non-Purchased Receivables any Collections which are identifiable as Collections in respect of Purchased Receivables.

(f) **No Changes to Receivables.** Except as otherwise expressly provided for in Section 6(a) hereof, no Seller or Servicer shall compromise or settle any Purchased Receivable or extend the Maturity Date with respect thereto without the consent of the Administrative Agent and each Buyer who has acquired any interest in any such Purchased Receivables in accordance with this Agreement.

(g) **Reconciliation Report.** Concurrently with (a) each transfer of funds by any Seller to the Administrative Agent's Account on a Settlement Date and (b) each request by any Seller for a return of payments received by the Administrative Agent or a Buyer which do not represent Collections on Purchased Receivables in accordance with Section 5(d), the Servicers shall provide to the Administrative Agent, in form and substance reasonably satisfactory to the Administrative Agent, a full reconciliation of all Collections with respect to each Purchased Receivable of an Account Debtor for which Collections were received (each, a "Reconciliation Report"). The Servicers shall be responsible for submitting the Reconciliation Report to the Administrative Agent via the PrimeRevenue System; provided, however, and notwithstanding anything herein to the contrary, if (i) the PrimeRevenue System is not operational or is otherwise offline or (ii) the Administrative Agent has, in its discretion, instructed a Servicer that the PrimeRevenue System is no longer available for use, then such Servicer may deliver a written Reconciliation Report to the Administrative Agent (for distribution to the Buyers), and this Agreement shall be construed and interpreted accordingly, *mutatis mutandis*.

(a) Non-Payment Report. In the event a Purchased Receivable has not been paid in full by the date that is seven (7) days after the Maturity Date therefor (an “Overdue Receivable”), the applicable Seller shall use commercially reasonable efforts to determine the cause of such payment delay or non-payment, including whether it is due to a Dispute, and it shall deliver to the Administrative Agent (for delivery to the Buyer) by no later than fourteen (14) days after such Maturity Date, a certification and report (a “Non-Payment Report”) identifying the Overdue Receivable and the Account Debtor thereof and describing in reasonable detail the cause of such non-payment, including whether a Dispute exists with respect to such Overdue Receivable, or certifying that such cause is unknown. In the event a Purchased Receivable has not been paid in full by the date that is thirty (30) days after the Maturity Date therefor and no Non-Payment Report with respect thereto has been delivered or the Non-Payment Report delivered with respect thereto does not report a Dispute or states that the cause of such payment delay or non-payment is unknown (a “Non-Payment Event”), the Administrative Agent may in its sole discretion (or shall, at the direction of the Required Buyers) (a) contact such Account Debtor by phone or in person to discuss the status of such Overdue Receivable and to inquire whether such payment delay or non-payment is due to a Dispute and when payment can be expected and/or (b) take any other lawful action to collect such Purchased Receivable directly from such Account Debtor. If the Account Debtor advises the Administrative Agent of the existence of a Dispute, the Administrative Agent shall advise the applicable Seller of such Overdue Receivable that the Account Debtor has asserted a Dispute.

(f) Servicer Indemnification. Each Servicer hereby agrees to indemnify and hold harmless the Administrative Agent and the Buyers and their respective officers, directors, agents, representatives, shareholders, counsel, employees and each of their respective Affiliates, successors and assigns (each, an “Indemnified Person”) from and against any and all damages, claims, losses, costs, expenses and liabilities (including, without limitation, reasonable and documented attorneys’ fees and expenses) (all of the foregoing being collectively referred to as “Indemnified Amounts”) arising out of or resulting from or related to (i) any failure by any Servicer to perform its duties or obligations as Servicer hereunder in accordance with this Agreement or to comply in all material respects with any Applicable Law in connection with the Transaction Documents or any Purchased Receivables, (ii) any breach of any Servicer’s (in its capacity as Servicer) representations, warranties or covenants under any Transaction Document or (iii) any claim brought by any Person other than an Indemnified Person arising from any Servicer’s servicing or collection activities with respect to the Purchased Receivables; provided, however, that in all events there shall be excluded from the foregoing indemnification any damages, claims, losses, costs, expenses or liabilities to the extent resulting solely from (x) the gross negligence or willful misconduct of the applicable Indemnified Person and/or any of its Related Indemnified Persons as determined in a final non-appealable judgment by a court of competent jurisdiction, (y) the failure of an Account Debtor to pay any sum due under its Purchased Receivables by reason of the financial or credit condition of such Account Debtor (including, without limitation, the occurrence of an Insolvency Event with respect to the applicable Account Debtor), or (z) any action taken by the Administrative Agent or any Buyer without the consent of the Servicer, at any time prior to the Servicer’s removal as Servicer with respect to such Purchased Receivable in accordance with clause (j) of this Section 5 to compromise or settle its claim against the applicable Account Debtor in respect of any such Purchased Receivable. Any amount due and payable pursuant to this clause shall be paid to the Administrative Agent’s Account in immediately available funds by no later than the first Settlement Date following demand therefor by the Administrative Agent.

(g) Replacement of Servicers. Following the occurrence of a Servicer Termination Event, the Administrative Agent may, or upon the direction of the Required Buyers, shall, replace any or all Servicers with itself or any agent for the Administrative Agent with respect to any and all Purchased Receivables. Sellers shall be responsible for all reasonable costs and expenses incurred in connection with such replacement and shall promptly reimburse the Administrative Agent with respect to same. Any amount due and payable pursuant to this clause shall be paid to the Administrative Agent’s Account in immediately available funds by no later than the first Settlement Date following demand therefor by the Administrative Agent.

(h) The Administrative Agent as Attorney-in-Fact. Sellers hereby appoint the Administrative Agent as the true and lawful attorney-in-fact of Sellers, with full power of substitution, coupled with an interest, and hereby authorizes and empowers the Administrative Agent in the name and on behalf of Sellers at any time following removal of any Seller as Servicer pursuant to clause (j) of this

Section 5, to take such actions, and execute and deliver such documents, as the Administrative Agent deems necessary or advisable in connection with any applicable Purchased Receivable (i) to perfect the purchase and sale of such Purchased Receivable, including, without limitation, to send a notice of such purchase and sale to the Account Debtor of the transfers contemplated hereby and the sale of such Purchased Receivable or (ii) to make collection of and otherwise realize the benefits of such Purchased Receivable. At any time that any Seller is no longer serving as Servicer hereunder, the Administrative Agent shall have the right to bring suit, in the Administrative Agent's or any Seller's name, and generally have all other rights of an owner and holder respecting each applicable Purchased Receivable, including without limitation the right to accelerate or extend the time of payment, settle, compromise, release in whole or in part any amounts owing on such Purchased Receivables and issue credits in its own name. At any time following removal of any Seller as Servicer, the Administrative Agent may endorse or sign the Administrative Agent's or any Seller's name on any checks or other instruments with respect to any applicable Purchased Receivables. The Administrative Agent shall not be liable for any actions taken by it in accordance with this Section unless such actions constitute the gross negligence or willful misconduct of the Administrative Agent as determined by a court of competent jurisdiction in a final and non-appealable judgment. This power of attorney, being coupled with an interest, is irrevocable and shall not expire until the Final Collection Date.

(i) Netting of Payments. The parties hereto agree that on each Settlement Date, for administrative convenience, the parties may net the required payments hereunder with respect to (a) the obligation of the Buyers in respect the payment of the applicable Purchase Prices for any Proposed Receivables that are purchased on such Settlement Date, if any, and (b) any and all obligations of the Sellers and the Servicers to the Administrative Agent and the Buyers (including with respect to the transfer of any applicable Collections and the repurchase of Purchased Receivables in accordance with Section 6(b)). On each such Settlement Date in which such election is made by the parties, to the extent that the obligations of the Sellers and the Servicers to the Administrative Agent and the Buyers described in the foregoing sentence exceed the obligations of the Buyers to the Sellers described in the foregoing sentence, the Sellers or the Servicers shall transfer the net amount to the Administrative Agent in accordance with Section 5(b); to the extent that the obligations of the Buyers to the Sellers described in the foregoing sentence exceed the obligations of the Sellers and the Servicers to the Administrative Agent and the Buyers in the foregoing sentence, the Administrative Agent shall transfer the net amount to the Sellers in accordance with Section 5(g). Such amounts shall be determined by the Administrative Agent and all such determinations shall be conclusive absent manifest error.

## 6. Deemed Collections; Events of Repurchase; Indemnities and Setoff

(h) Deemed Collections. If, on any day following the Purchase Date for any Purchased Receivable, the outstanding balance of such Purchased Receivable is reduced (including to zero) or cancelled as a result of any Dilution, the applicable Seller shall be deemed to have received on such day a Collection in respect of such Purchased Receivable in the amount of such Dilution. Any amount deemed to have been received under this Section 6(a) shall constitute a "Deemed Collection". In the event of any such Deemed Collection, the applicable Seller shall deposit an amount equal to such Deemed Collection into the Administrative Agent's Account by no later than the first Settlement Date to occur after such Seller or Servicer obtains knowledge or notice thereof.

(i) Events of Repurchase. If any of the following events (each, an "Event of Repurchase") occurs with respect to a Purchased Receivable:

(i)such Purchased Receivable was not an Eligible Receivable at the time of purchase;

(i)any other representation or warranty pertaining to such Purchased Receivable deemed to have been made by a Seller pursuant to Section 1(e) in connection with Seller's delivery or submission of the Purchase Request in which such Purchased Receivable was included shall be inaccurate, incorrect or untrue in any material respect on the date as of which it was made or deemed to be made; or

(ii)an Adverse Claim or a Dispute has arisen with respect to any Purchased Receivable;

then, the applicable Seller shall deliver notice thereof to the Administrative Agent within five (5) days of becoming aware of the Event of Repurchase and, at the time, in the manner and otherwise as hereinafter set forth, repurchase such Purchased Receivable (or, if the Account Debtor related to such Purchased Receivable is subject to an Insolvency Event, then with respect to an Event of Repurchase caused by a Dispute, instead of repurchasing such Purchased Receivable, the applicable Seller shall instead make a Deemed Collection payment in the disputed portion and the Buyers will convey back to the Sellers all of their right, title and interest in such disputed portion) at the Administrative Agent's option and demand. The repurchase price for a Purchased Receivable shall (provided that the Outstanding Purchase Amount is greater than zero) be the amount equal to the Outstanding Purchase Amount relating to such Purchased Receivable (or, if applicable, a proportionate part thereof) at such time and shall be paid to the Administrative Agent's Account in immediately available funds on the first Settlement Date following demand therefor by the Administrative Agent; provided, that for purposes of recalculating such repurchase price, any reductions to the Outstanding Purchase Amount pursuant to Section 5(h)(iii) shall be disregarded. Upon the payment in full of the repurchase price with respect to a Purchased Receivable (or portion), such Purchased Receivable (or portion) shall hereby be, and be deemed to be, repurchased by such Seller from the Buyers without recourse to or warranty by the Buyers, whereupon such Purchased Receivable shall no longer be deemed a Purchased Receivable (or portion) and the Buyers shall have no further right, title or interest in or to such Purchased Receivable (or portion).

(a) **Seller Indemnification.** Each Seller hereby agrees, jointly and severally with each other Seller, to indemnify each Indemnified Person and hold each Indemnified Person harmless from and against any and all Indemnified Amounts arising out of or resulting from or related to this Agreement or any other Transaction Document or the ownership, maintenance or funding, directly or indirectly, of the Purchased Receivable (or any of them) sold by such Seller or otherwise arising out of or resulting from the actions or inactions of such Seller or any of its Affiliates, as a result of: (i) any representation or warranty made or deemed made by such Seller (or any of its officers) under or in connection with this Agreement or any other Transaction Document which shall have been incorrect when made; (ii) the failure by such Seller to perform any of its covenants or obligations under any Transaction Document; (iii) the failure by such Seller or any Purchased Receivable or Contract generated, signed or accepted by such Seller to comply in all material respects with any Applicable Law; (iv) the use of the Purchase Price proceeds by such Seller; (v) the failure to vest in the Buyers ownership of each Purchased Receivable and all Collections in respect thereof sold by such Seller, free and clear of any Adverse Claim (and any attempt by any Person to void, rescind or set-aside any such transfer); (vi) any Dispute, Dilution or any other claim resulting from the services performed or merchandise furnished in connection with any Purchased Receivable sold by such Seller or the furnishing or failure to furnish such services or merchandise or relating to such Seller's collection activities with respect to any Purchased Receivable, (vii) any products liability claim or personal injury or property damage suit or other similar or related claim or action of whatever sort arising out of or in connection with the services performed or merchandise furnished in connection with any Purchased Receivable sold by such Seller; (viii) the failure to vest in the Administrative Agent a first priority perfected security interest (within the meaning of the UCC) in, each Purchased Receivable and all Collections in respect thereof sold by such Seller, free and clear of any Adverse Claim (and any attempt by any Person to void, rescind or set-aside any such transfer); (ix) the commingling by such Seller of Collections at any time with other funds of such Seller or any other Person or (x) the existence of any liens or security interests described in clauses (iii) or (iv) of the proviso to the definition of Adverse Claim or the exercise of rights by any Person with respect thereto; provided, however, that in all events there shall be excluded from the foregoing indemnification any Indemnified Amounts to the extent resulting solely from (x) the gross negligence or willful misconduct of the applicable Indemnified Person and/or any of its Related Indemnified Persons as determined in a final non-appealable judgment by a court of competent jurisdiction, (y) the failure of an Account Debtor to pay any sum due under its Purchased Receivables by reason of the financial or credit condition of such Account Debtor (including, without limitation, the occurrence of an Insolvency Event with respect to the applicable Account Debtor), or (z) any action taken by the Administrative Agent or any Buyer without the consent of the Servicer, at any time prior to the Servicer's removal as Servicer with respect to such Purchased Receivable in accordance with clause (j) of Section 5 to compromise or settle its claim against the applicable Account Debtor in respect of any such Purchased Receivable. Any amount due and

payable pursuant to this section shall be paid to the Administrative Agent's Account in immediately available funds by no later than the fifth (5th) Business Day following demand therefor by the Administrative Agent or the applicable Buyer.

(b) Tax Indemnification. All payments on the Purchased Receivables from the Account Debtors will be made free and clear of any present or future taxes, withholdings or other deductions whatsoever which arise by reason of the sale of the Purchased Receivables to the Buyers ("Sale Transaction Taxes") or relating to the underlying transactions between the applicable Seller and the related Account Debtors that gave rise to such Purchased Receivables ("Prior Transaction Taxes"). Each Seller, jointly and severally with each other Seller, will indemnify the Administrative Agent and each Buyer and hold the Administrative Agent and each Buyer harmless for any Sale Transaction Taxes and Prior Transaction Taxes. Further, each Seller shall pay and indemnify and hold the Administrative Agent and each Buyer harmless from and against, any Sale Transaction Taxes or Prior Transaction Taxes that may at any time be asserted with respect to any Purchased Receivable sold by such Seller (including any sales, occupational, excise, gross receipts, personal property, privilege or license taxes, or withholdings, but not including taxes imposed upon the Administrative Agent or any Buyer with respect to its overall net income including gross receipts, franchise, doing business or similar taxes) and costs, expenses and reasonable attorneys' fees and expenses in defending against the same, whether arising by reason of the acts to be performed by such Seller hereunder or otherwise. Any amount due and payable pursuant to this section shall be paid to the Administrative Agent's Account in immediately available funds by no later than the fifth (5th) Business Day following demand therefor by the Administrative Agent or the applicable Buyer.

(c) Increased Costs. If a Buyer shall determine in its reasonable discretion that any Regulatory Change regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Buyer's capital or assets or increasing its amount of required liquidity as a consequence of (i) this Agreement or any other Transaction Document, (ii) any of such Buyer's obligations under this Agreement or any other Transaction Document or (iii) such Buyer's purchase or the ownership, maintenance or funding of any Purchased Receivables hereunder, to a level below that which such Buyer would have achieved but for such Regulatory Change (taking into consideration such Buyer's policies with respect to capital adequacy), then, from time to time, and thereafter, the Administrative Agent may deliver to the Sellers, on behalf of such Buyer, a certificate describing such increased costs and indicating the necessary increase in each applicable Account Debtor Discount Rate to compensate for such increased costs. Such increased Account Debtor Discount Rates shall automatically become effective with respect to any sales of Proposed Receivables occurring on Purchase Dates commencing ten (10) Business Days after delivery to the Sellers of such increased cost certificate (it being understood, for the avoidance of doubt, that during such period no Buyer shall be under any obligation whatsoever to make any purchase of any Purchased Receivable). A certificate as to such increased costs submitted the applicable Sellers by or on behalf of the applicable Buyer shall be conclusive and binding for all purposes as to the calculations therein, absent manifest error.

(a) Setoff. Each Seller, Servicer and the Guarantor hereby irrevocably instruct and authorize the Administrative Agent and each Buyer, at any time that a Servicer Termination Event has occurred and is continuing, to setoff, appropriate and apply (without presentment, demand, protest or other notice which are hereby expressly waived) any deposits and any other indebtedness held or owing by the Administrative Agent or such Buyer, as applicable, or any branch, agency or Affiliate thereof, including the payment of the Purchase Price for any Proposed Receivables, to, or for the account of, any Seller, any Servicer or the Guarantor against amounts owing by each Seller, Servicer or the Guarantor hereunder or under any other Transaction Document.

(j) UCC. The rights granted to Administrative Agent hereunder are in addition to all other rights and remedies afforded to the Administrative Agent as a secured party under the UCC.

## 7. Guaranty.

(j) Unconditional Guaranty. For value received, the Guarantor hereby unconditionally and irrevocably guarantees on demand (after notice thereof by the Administrative Agent in accordance with the terms of this Agreement), as primary obligor and not merely as surety, the

complete and timely payment and performance of any obligations of each Additional Seller that joins this Agreement pursuant to Section 15 hereof (each such Additional Seller, in its capacity as a Servicer, an "Additional Servicer") and each Additional Servicer arising under or pursuant to this Agreement and the other Transaction Documents, including, without limitation, the obligations of each Additional Seller and each Additional Servicer to make any payment to the Administrative Agent or any Buyer as set forth in Section 5, Section 6, Section 11 and Section 12 of this Agreement (the "Guaranteed Obligations"); provided, that, for the avoidance of doubt, the Guarantor shall have no obligations hereunder with respect to any non-payment of any Purchased Receivable resulting solely from the failure of an Account Debtor to pay any sum due under such Purchased Receivable because of the financial or credit condition of such Account Debtor (including, without limitation, the occurrence of an Insolvency Event with respect to such Account Debtor).

(k) Guaranty of Payment; Waiver of Defenses. This Section 7 represents an irrevocable, absolute, unconditional, present and continuing guaranty of payment and performance, and is in no way conditional or contingent upon any requirement to bring action against any Additional Seller or any Additional Servicer, or to perfect or enforce any security or upon any other action, occurrence or circumstance whatsoever. The liability of the Guarantor hereunder is independent of and not in consideration of or contingent upon the liability of any other Person under this or any similar instrument and the release of, or cancellation by, any party to this or a similar instrument shall not act to release or otherwise affect the liability of the Guarantor hereunder. It shall not be necessary for the Administrative Agent or any Buyer (and the Guarantor hereby waives to the extent permitted by Applicable Law any rights that the Guarantor may have to require Buyer), in order to enforce the obligations of the Guarantor hereunder, first to (i) institute suit or exhaust its remedies against any Additional Seller, any Additional Servicer or any other Person, (ii) enforce the Administrative Agent's rights against any collateral that shall ever have been given to secure performance under this Agreement or any other Transaction Document, (iii) exhaust any remedies available to the Administrative Agent against any collateral which shall ever have been given to secure performance under the Receivables Purchase Agreement or any other Transaction Document or (iv) resort to any other means of obtaining payment of the obligations of any Additional Seller, any Additional Servicer or any other Person. The liability of the Guarantor hereunder shall be absolute and unconditional irrespective of (and the Guarantor hereby waives any and all defenses arising out of): (i) any lack of validity or enforceability of any obligation of any Additional Seller or Additional Servicer under this Agreement or any other Transaction Document as against any such Person, (ii) any amendment, modification or waiver of this Agreement or any other Transaction Document, (iii) any challenge to, or lack of validity of, any Additional Seller's ownership interest (immediately prior to each purchase thereof by the Buyers) in the Purchased Receivables, (iv) any other defense it may have as a guarantor or a surety generally or otherwise based upon suretyship or impairment of collateral and (v) any other circumstance that might otherwise constitute a defense, either in equity or at law, available to, or a legal or equitable discharge of the Guarantor (other than the defense of performance and/or payment in full of the Guaranteed Obligations).

(l) Corporate Existence. The Guarantor will comply in all material respects with all Applicable Laws and preserve and maintain its corporate existence, rights, franchises, qualifications and privileges.

(m) Expenses. In addition to any Guaranteed Obligations it may be required to pay pursuant to this Section 7, the Guarantor hereby agrees to reimburse the Administrative Agent and (as appropriate) each Buyer on demand for:

(i)all reasonable and documented costs and expenses (including reasonable attorneys' fees and expenses) the Administrative Agent or any Buyer incurs in connection with the enforcement of this Section 7, or for any breach of this Agreement or any of the other Transaction Documents by the Guarantor (including all such expenses incurred during any work-out or negotiation in respect of the obligations of the Guarantor hereunder); and

(ii)all stamp and other similar taxes and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of this Agreement or the other Transaction Documents.

(k) **Further Assurances.** The Guarantor will, at its expense, promptly execute and deliver all further instruments and documents that the Administrative Agent may reasonably request to effectuate the terms of this Section 7 and the performance of the Guarantor's obligations hereunder.

(l) **Payments.** Any payments made by the Guarantor hereunder will be made without setoff, deduction or counterclaim for the amount of any taxes, levies or imposts by any taxing authority thereof or therein (but not including taxes imposed upon the Administrative Agent or any Buyer with respect to its overall net income including gross receipts, franchise, doing business or similar taxes).

(a) **Compliance Programs.** The Guarantor and its Subsidiaries have conducted and will conduct their businesses in compliance with applicable Anti-Corruption Laws and Sanctions, and have maintained and will maintain policies and procedures designed to promote and achieve compliance with such laws.

8. **Administrative Agent.**

(b) **Appointment and Authorization.**

(i) Each Buyer hereby irrevocably designates and appoints MUFG Bank, Ltd., as the "Administrative Agent" hereunder and authorizes the Administrative Agent to take such actions and to exercise such powers as are delegated to the Administrative Agent hereby and to exercise such other powers as are reasonably incidental thereto. The Administrative Agent shall not have any duties other than those expressly set forth herein or any fiduciary relationship with any Buyer, and no implied obligations or liabilities shall be read into this Agreement, or otherwise exist, against the Administrative Agent. The Administrative Agent does not assume, nor shall it be deemed to have assumed, any obligation to, or relationship of trust or agency with, any Buyer, any Seller, any Servicer or the Guarantor. Notwithstanding any provision hereof or any other Transaction Document, in no event shall the Administrative Agent ever be required to take any action that exposes the Administrative Agent to personal liability or that is contrary to the provision of any Transaction Document or Applicable Law.

(ii) Except as otherwise specifically provided in this Agreement, the provisions of this Section 8 are solely for the benefit of the Administrative Agent and the Buyers, and none of any Seller, any Servicer or the Guarantor shall have any rights as a third-party beneficiary or otherwise under any of the provisions of this Section 8 (other than as provided in Section 8(h)), except that this Section 8 shall not affect any obligations that the Administrative Agent or any Buyer may have to any Seller, any Servicer or the Guarantor under the other provisions hereof.

(iii) In performing its functions and duties hereunder, the Administrative Agent shall act solely as the agent of the Buyers and does not assume nor shall be deemed to have assumed any obligation or relationship of trust or agency with or for any Seller, any Servicer or the Guarantor or any of their successors and assigns.

(iv) Each Buyer hereby appoints the Administrative Agent as its representative for purposes of Section 9-502(a)(2) of the UCC in order so that the Administrative Agent may act as secured party of record under any such UCC financing statements to perfect such Buyer's ownership interest in the Purchased Receivables.

(v) With respect to any information or notice that is provided to the Administrative Agent under this Agreement for distribution to the Buyers, the Administrative Agent shall use commercially reasonable efforts to promptly distribute such information or notice to the Buyers; provided, however, that the failure of the Administrative Agent to promptly distribute such information or notice to the Buyers shall neither constitute a breach of this Agreement nor give rise to any liability on the part of the Administrative Agent.

(c) **Delegation of Duties.** The Administrative Agent may execute any of its duties through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible to any Buyer for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

(d) **Exculpatory Provisions.** None of the Administrative Agent or any of its directors, officers, agents or employees shall be liable for any action taken or omitted (a) with the consent or at the direction of the Required Buyers or (b) in the absence of such Person's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment. The Administrative Agent shall not be responsible to any Buyer or other Person for (i) any recitals, representations, warranties or other statements made by any Seller, any Servicer or the Guarantor or any of their Affiliates, (ii) the value, validity, effectiveness, genuineness, enforceability or sufficiency of any Transaction Document, (iii) any failure of any Seller, any Servicer or the Guarantor or any of their Affiliates to perform any obligation or (iv) the satisfaction of any condition specified in Section 1(d) or (e). The Administrative Agent shall not have any obligation to any Buyer to ascertain or inquire about the observance or performance of any agreement contained in any Transaction Document or to inspect the properties, books or records of any Seller, any Servicer or the Guarantor or any of their Affiliates.

(e) **Reliance by the Administrative Agent.** The Administrative Agent shall in all cases be entitled to rely, and shall be fully protected in relying, upon any document, other writing or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person and upon advice and statements of legal counsel (including counsel to any Seller, any Servicer or the Guarantor), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall in all cases be fully justified in failing or refusing to take any action under any Transaction Document unless it shall first receive such advice or concurrence of the Required Buyers, and assurance of its indemnification, as it deems appropriate.

(f) **Actions by Administrative Agent.** The Administrative Agent shall take such actions, or refrain from taking such actions, under each of the Transaction Documents with respect to the rights and remedies of Buyers, including with respect to any Purchased Receivable, in each case as may be directed by the Required Buyers; provided, until the Administrative Agent receives such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, as Administrative Agent deems advisable and in the best interests of the Buyers. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with a request of the Required Buyers, and such request and any action taken or failure to act pursuant thereto shall be binding upon all Buyers and the Administrative Agent.

(g) **Non-Reliance on the Administrative Agent and Other Buyers.** Each Buyer expressly acknowledges that none of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to such Buyer and that no act by the Administrative Agent hereafter taken, including any review of the affairs of any Seller, any Servicer or the Guarantor, shall be deemed to constitute any representation or warranty by the Administrative Agent. Each Buyer represents and warrants to the Administrative Agent that, independently and without reliance upon the Administrative Agent or any other Buyer and based on such documents and information as it has deemed appropriate, it has made and will continue to make its own appraisal of an investigation into the business, operations, property, prospects, financial and other conditions and creditworthiness of any Seller, any Servicer, the Guarantor and the Purchased Receivables and its own decision to enter into this Agreement and to take, or omit, action under any Transaction Document. Except for items specifically required to be delivered hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Buyer with any information concerning any Seller, any Servicer, the Guarantor or any of their Affiliates that comes into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates.

(h) **Administrative Agent and Affiliates.** Each of the Buyers and the Administrative Agent and their respective Affiliates may extend credit to, accept deposits from and generally engage in any kind of banking, trust, debt, entity or other business with any Seller, any Servicer, the Guarantor or any of their Affiliates and MUFG Bank may exercise or refrain from exercising its rights and powers as if it were not the Administrative Agent. With respect to the purchase of the Proposed Receivables pursuant to this Agreement, the Administrative Agent, in its capacity as a Buyer, shall have the same rights and powers under this Agreement as any other Buyer and may exercise the same as though it were not such an agent, and the terms "Buyer" and "Buyers" shall include the Administrative Agent in its capacity as a Buyer.

(i) **Successor Administrative Agent.** The Administrative Agent may, upon at least forty-five (45) days' notice to the Guarantor, each Seller, each Servicer and each Buyer, resign as Administrative Agent. If the Person serving as Administrative Agent is subject to an Insolvency Event, the Buyers (excluding the Buyer that is also the Administrative Agent at such time, if applicable) may, to the extent permitted by Applicable Law, by notice in writing to the Guarantor and such Person remove such Person as Administrative Agent. Any resignation or removal, as the case may be, shall not become effective until a successor agent is appointed by the Buyers (excluding the Buyer that is also the Administrative Agent at such time, if applicable), but with the consent of the Guarantor (provided, such consent shall not be unreasonably withheld, delayed or conditioned), and has accepted such appointment. Upon such acceptance of its appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall succeed to and become vested with all the rights and duties of the retiring or removed, as applicable, Administrative Agent, and the retiring or removed, as applicable, the Administrative Agent shall be discharged from its duties and obligations as Administrative Agent under the Transaction Documents. After any retiring or removed, as applicable, Administrative Agent's resignation or removal, as applicable, hereunder, the provisions of Section 18 and this Section 8 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent.

(j) **Know Your Customer.** Nothing in this Agreement shall require any Buyer (including any Buyer when acting as Administrative Agent) to carry out any "know your customer" or other checks in relation to any Person on behalf of any other Buyer. Each Buyer confirms and acknowledges that it is solely responsible for such checks and verifications it is required to carry out.

(k) **Enforcement.**

(i) Notwithstanding anything to the contrary contained herein or in any other Transaction Document and without limiting Section 8(e) (but subject to the rest of this Section 8(j)), the authority to enforce rights and remedies of the Buyers hereunder and under the other Transaction Documents against any Person shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8(a) for the benefit of all the Buyers.

(i) In the event that (1) any Buyer shall at any time be the sole owner of 100% of any Purchased Receivable and no other Buyer shall have a Pro Rata Share in such Purchased Receivable (each, a "Wholly-Owned Purchased Receivable", and such Buyer an "Affected Buyer"), and (2) a Non-Payment Event occurs with respect to such Wholly-Owned Purchased Receivable, then:

(1) Each Affected Buyer may elect by written notice to the Administrative Agent, each Seller, each Servicer and each other Buyer (each a "Direct Enforcement Election"), to exercise any rights and remedies otherwise available to the Administrative Agent under this Agreement in respect of such Wholly-Owned Purchased Receivable, including, without limitation, those in Section 5(h).

(2) Upon the delivery of such Direct Enforcement Election, (1) neither the Administrative Agent nor any other Buyer shall have the right to exercise such rights and remedies with respect to the Wholly-Owned Purchased Receivables of such Affected Buyer designated in such Direct Enforcement Election and (2) neither the Administrative Agent nor any other Buyer shall have any liability to such Affected Buyer, any Seller, any Servicer, the Guarantor or any other Person for the actions of such Affected Buyer or its respective representatives or agents in respect thereof.

(3) Upon the request of an Affected Buyer, Administrative Agent will, if permitted to do so under Applicable Law, assign to such Affected Buyer, its security interest in the applicable Wholly-Owned Purchased Receivables subject to any Direct Enforcement Election and shall deliver to such Affected Buyer, such UCC filing statements as such Affected Buyer shall reasonably request in form and substance acceptable to Administrative Agent and such Affected Buyer to assign to such Affected Buyer the Administrative Agent's UCC-1 filing position as secured party of record, but solely with respect to such Wholly-Owned Purchased Receivables. In addition, as to any Wholly-Owned Purchased Receivables originated pursuant to a Contract governed by the laws of Hungary and owed by

an Account Debtor located in Hungary with respect to which Wholly-Owned Purchased Receivables the Affected Buyer has made a Direct Enforcement Election, upon the written request of such Affected Buyer, Administrative Agent and Seller will deliver to such Affected Buyer an executed performance instruction substantially in the form attached hereto as Exhibit I (each, a “Hungary Performance Instruction”), signed by the Seller and covering such Wholly-Owned Purchased Receivables. Seller and Administrative Agent shall cooperate with such Affected Buyer in good faith to facilitate the exercise of such Affected Buyer’s rights in such Wholly-Owned Purchased Receivables as to which a Direct Enforcement Election has been made including, without limitation, by maintaining with Administrative Agent a level supply of at least ten Hungary Performance Instructions, executed in blank by Seller, to which Administrative Agent may attach schedules setting out specific invoice and other information as to such Wholly-Owned Purchased Receivables, in order to facilitate delivery of such completed document to an Affected Buyer upon its request pursuant to this Subsection 8(j)(ii)(C).

(4) Each Affected Buyer, the other Buyers and the Administrative Agent shall cooperate with each other in good faith to coordinate the exercise of their rights and remedies under this Agreement and the other Transaction Documents with respect to such Wholly-Owned Purchased Receivables and the Purchased Receivables generally.

(l) Prompt Delivery of Information. Unless specifically required otherwise under the terms of this Agreement, to the extent the Administrative Agent receives information from the Sellers or the Servicers, which by the terms of this Agreement is “for delivery to the Buyers” or other similar terms, the Administrative Agent shall endeavor to promptly deliver such information to the Buyers; provided that the failure to do so in a timely manner shall not give rise to any liability on the part of the Administrative Agent.

(m) Erroneous Payments.

(i) If the Administrative Agent (x) notifies a Buyer or Indemnified Person, or any Person who has received funds on behalf of a Buyer or Indemnified Person (any such Buyer, Indemnified Person or other recipient (and each of their respective successors and assigns), a “Payment Recipient”) that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (ii)) that any funds (as set forth in such notice from the Administrative Agent) received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Buyer, Indemnified Person or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “Erroneous Payment”) and (y) demands in writing the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent pending its return or repayment as contemplated below in this Section 8(l) and held in trust for the benefit of the Administrative Agent, and such Buyer or Indemnified Person shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter (or such later date as the Administrative Agent may, in its sole discretion, specify in writing), return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by the Administrative Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (i) shall be conclusive, absent manifest error.

(ii) Without limiting immediately preceding clause (i), each Buyer, Indemnified Person or any Person who has received funds on behalf of a Buyer or Indemnified Person (and each of their respective successors and assigns), agrees that if it receives a payment, prepayment

or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Buyer or Indemnified Person, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:

(1) it acknowledges and agrees that (A) in the case of immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error and mistake has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(2) such Buyer or Indemnified Person shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of the occurrence of any of the circumstances described in immediately preceding clauses (x), (y) and (z)) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 8(l)(ii).

For the avoidance of doubt, the failure to deliver a notice to the Administrative Agent pursuant to this Section 8(l)(ii) shall not have any effect on a Payment Recipient's obligations pursuant to Section 8(l)(ii) or on whether or not an Erroneous Payment has been made.

(vi) Each Buyer or Indemnified Person hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Buyer or Indemnified Person under any Transaction Document, or otherwise payable or distributable by the Administrative Agent to such Buyer or Indemnified Person under any Transaction Document with respect to any payment of principal, interest, fees or other amounts, against any amount that the Administrative Agent has demanded to be returned under immediately preceding clause (i).

(vii)(A) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor in accordance with immediately preceding clause (a), from any Buyer that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "Erroneous Payment Return Deficiency"), upon the Administrative Agent's notice to such Buyer at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (A) such Buyer shall be deemed to have assigned its Purchased Receivables with respect to which such Erroneous Payment was made (the "Erroneous Payment Impacted Class") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Purchased Receivables of the Erroneous Payment Impacted Class, the "Erroneous Payment Deficiency Assignment") (on a cashless basis and such amount calculated at the Purchase Price of such Purchased Receivables), and is hereby (together with the Sellers) deemed to execute and deliver an assignment agreement with respect to such Erroneous Payment Deficiency Assignment, (B) the Administrative Agent as the assignee Buyer shall be deemed to have acquired the Erroneous Payment Deficiency Assignment, (C) upon such deemed acquisition, the Administrative Agent as the assignee Buyer shall become a Buyer, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Buyer shall cease to be a Buyer, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement, (D) the Administrative Agent and the Sellers shall each be deemed to have waived any consents required under this Agreement to any such Erroneous Payment Deficiency Assignment, and (E) the Administrative Agent will reflect in

its records its ownership interest in the Purchased Receivables subject to the Erroneous Payment Deficiency Assignment.

(B) Subject to Section 18(b) (but excluding, in all events, any assignment consent or approval requirements (whether from the Sellers or otherwise)), the Administrative Agent may, in its discretion, sell any Purchased Receivables acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Buyer shall be reduced by the net proceeds of the sale of such Purchased Receivable (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Buyer (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Buyer (x) shall be reduced by the proceeds of prepayments or repayments of principal and interest, or other distribution in respect of principal and interest, received by the Administrative Agent on or with respect to any such Purchased Receivables acquired from such Buyer pursuant to an Erroneous Payment Deficiency Assignment (to the extent that any such Purchased Receivables are then owned by the Administrative Agent) and (y) may, in the sole discretion of the Administrative Agent, be reduced by any amount specified by the Administrative Agent in writing to the applicable Buyer from time to time.

(viii)The parties hereto agree that (x) irrespective of whether the Administrative Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Buyer or Indemnified Person, to the rights and interests of such Buyer or Indemnified Person, as the case may be) under the Transaction Documents with respect to such amount (the “Erroneous Payment Subrogation Rights”) (provided that the Sellers’ obligations under the Transaction Documents in respect of the Erroneous Payment Subrogation Rights shall not be duplicative of such obligations in respect of Purchased Receivables that have been assigned to the Administrative Agent under an Erroneous Payment Deficiency Assignment) and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any obligations owed by the Sellers; provided that this Section 8(l) shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the obligations of the Sellers relative to the amount (and/or timing for payment) of the obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent; provided, further, that for the avoidance of doubt, immediately preceding clauses (x) and (y) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Sellers for the purpose of making such Erroneous Payment.

(ix)To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including, without limitation, any defense based on “discharge for value” or any similar doctrine.

(x)Each party’s obligations, agreements and waivers under this Section 8(l) shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Buyer and/or the repayment, satisfaction or discharge of all obligations (or any portion thereof) of the Sellers under any Transaction Document.

9. Notices. Unless otherwise provided herein, all communications by any party to any other party hereunder or any other Transaction Document shall be in a writing personally delivered or sent by a recognized overnight delivery service, or certified mail, postage prepaid, return receipt requested, or by e-mail to such party, as the case may be, at its address set forth below:

If to Sanmina Corporation,

as Seller or Servicer: Sanmina Corporation  
2700 North First Street  
San Jose, California 95134  
Attention: David R. Anderson, Executive Vice President and Chief Financial Officer  
Email:

With a copy to the Guarantor:

If to Guarantor: Sanmina Corporation  
2700 North First Street  
San Jose, California 95134  
Attention: David R. Anderson, Executive Vice President and Chief Financial Officer  
Email:

If to Sanmina Singapore,  
as Seller or Servicer: Sanmina-SCI Systems Singapore Pte. Ltd.  
2 Chai Chee Drive  
Singapore  
Singapore 469044  
Attention: Michael Ng, Director  
Email:

With a copy to the Guarantor: Sanmina Corporation  
2700 North First Street  
San Jose, California 95134  
Attention: David R. Anderson, Executive Vice President and Chief Financial Officer  
Email:

If to Sanmina Malaysia,  
as Seller or Servicer: SANMINA-SCI SYSTEMS (MALAYSIA) SDN. BHD.

Plot 2 Bayan Lepas  
Technoplex Industrial Park  
Mukim 12 SWD  
11900 Bayan Lepas Penang, Malaysia  
Attention: Lim Seong Jin, Director  
Email:

With a copy to the Guarantor: Sanmina Corporation  
2700 North First Street  
San Jose, California 95134  
Attention: David R. Anderson  
Executive Vice President and Chief Financial Officer  
Email:

If to the Administrative Agent: MUFG Bank, Ltd.  
1251 Avenue of the Americas  
New York, New York 10020-1104  
Attention: Brian McNany; Vladimir Mashchenko  
Email:

With a copy to: MUFG Bank, Ltd.  
1251 Avenue of the Americas  
New York, New York 10020-1104  
Attention: Amy Mellon Grandis  
Email:

If to the Buyers:

For MUFG Bank: MUFG Bank, Ltd.  
1251 Avenue of the Americas  
New York, New York 10020-1104  
Attention: Brian McNany; Vladimir Mashchenko  
Email:

For Wells: Wells Fargo Bank, N.A.  
301 South College Street, 5<sup>th</sup> Floor  
Charlotte, NC 28202  
Attention: Brian Work; Idris Wuhib  
Telephone No. (754).301.5208  
Email:

For BOW: Bank of the West  
180 Montgomery Street  
San Francisco, California 94104  
Attention: Scott Bruni; Julien Coustel  
Email:

Notwithstanding the foregoing, if sent by e-mail, (i) any notice of default or Servicer Termination Event by the Administrative Agent and (ii) any notice of termination by any party under this Agreement, shall, in each case, also be given by one of the other means provided above. A Purchase Request, and any supporting documentation in connection herewith or therewith, such as copies of invoices not submitted via the PrimeRevenue System, may be sent by any Seller or Servicer by e-mail attachment in portable document format (.pdf).

Each Seller, Servicer and the Guarantor agree that the Administrative Agent and the Buyers may presume the authenticity, genuineness, accuracy, completeness and due execution of any email bearing a facsimile or scanned signature resembling a signature of an authorized Person of such Seller or Servicer without further verification or inquiry by the Administrative Agent or the Buyers. Notwithstanding the foregoing, the Administrative Agent and any Buyer in its sole discretion may elect not to act or rely upon such a communication and shall be entitled (but not obligated) to make inquiries or require further Seller, Servicer or Guarantor action to authenticate any such communication.

A party may change the address at which it is to receive notices hereunder by written notice in the foregoing manner given to the other parties hereto.

10. Survival. All covenants, representations and warranties made herein shall continue in full force and effect until the Final Collection Date. Each Seller's and Servicer's obligations to indemnify the Administrative Agent and each Buyer with respect to the expenses, damages, losses, costs and liabilities shall survive until the later of (x) the Final Collection Date and (y) all applicable statute of limitations periods with respect to actions that may be brought by the Administrative Agent or a Buyer under the Transaction Documents have run.

11. Expenses. Each Seller hereby agrees to reimburse the Administrative Agent and (as appropriate) each Buyer on demand for:

(n) (i) all reasonable and documented out-of-pocket costs and expenses (including reasonable legal expenses) that the Administrative Agent incurs in connection with the preparation, negotiation, documentation and delivery of this Agreement and the other Transaction Documents and any amendment of or consent or waiver under any of the Transaction Documents, up to an amount of \$65,000.00, (ii) all reasonable and documented costs and expenses (including reasonable attorneys' fees and expenses) that the Administrative Agent and each Buyer incur in connection with the enforcement of, or any actual or reasonably claimed breach of, this Agreement or any of the other Transaction Documents, including all such expenses incurred during any work-out or negotiation in respect of the obligations of the Seller or Servicer hereunder; and

(o) all stamp and other similar taxes and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of this Agreement or the other Transaction Documents.

12. Interest on Overdue Amounts. All amounts due for payment by any Seller, Servicer or the Guarantor to the Administrative Agent and each Buyer pursuant to this Agreement shall accrue interest at the Overdue Payment Rate from the date on which payment thereof is due until the date on which payment thereof is made in accordance with the terms of this Agreement.

13. Governing Law. THIS AGREEMENT, INCLUDING THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO ANY OTHER CONFLICTS OF LAW PROVISIONS THEREOF, EXCEPT TO THE EXTENT THAT THE PERFECTION, THE EFFECT OF PERFECTION OR PRIORITY OF THE INTERESTS OF THE ADMINISTRATIVE AGENT OR THE BUYERS IN THE PURCHASED RECEIVABLES IS GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK).

14. No Non-Direct Damages. To the fullest extent permitted by Applicable Law, each Seller, each Servicer and the Guarantor shall not assert, and each such Person hereby waives, any claim against any Indemnified Person, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Transaction Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby. No Indemnified Person shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Transaction Documents or the transactions contemplated hereby or thereby; provided that the waiver provided for in this sentence shall not apply to damages resulting directly from such Indemnified Person's own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment.

15. Joinder of Additional Sellers. At any time during the term of this Agreement, with the written consent of the Administrative Agent and the Buyers (such consent to be granted or withheld at the sole and absolute discretion of the Administrative Agent and each Buyer), one or more additional Subsidiaries of the Guarantor (each, an "Additional Seller"), may join this Agreement as a Seller in all respects by delivering a Joinder Agreement to the Administrative Agent and the Buyers along with such other approvals, resolutions, certificates, legal opinions and other documents as the Administrative Agent and the Buyers may reasonably request, in each case, in form and substance reasonably acceptable to the Administrative Agent and the Buyers. Upon receipt of such Joinder Agreement and such other documents, such Additional Seller shall become a Seller hereunder, subject to the rights, duties and obligations of a Seller in all respects.

16. Addition of Account Debtor. From time to time during the term of this Agreement, the Sellers and the Guarantor may request that one or more account debtors be added as an additional Account Debtor under this Agreement. Any such request shall be made by the Sellers and the Guarantor to the Administrative Agent (for distribution to the Buyers) and shall include a proposed Account Debtor Buffer Period and the information required for each Account Debtor on Schedule II. Administrative

Agent and the Buyers shall determine whether or not to accept any such request in their sole discretion. Once the Administrative Agent and the Buyers have provided written approval of a proposed Account Debtor, such Person shall immediately become an Account Debtor hereunder, and the Administrative Agent shall provide an updated copy of Schedule II to the Sellers reflecting the then-current Account Debtors.

17. Joint and Several Obligations. The obligations of the Sellers hereunder are joint and several. To the maximum extent permitted by Applicable Law, each Seller hereby agrees to subordinate until the Final Collection Date any claim, right or remedy that such Seller now has or hereafter acquires against any other Seller that arises hereunder including, without limitation, any claim, remedy or right of subrogation, reimbursement, exoneration, contribution, indemnification, or participation in any claim, right or remedy of the Administrative Agent or any Buyer against any Seller or any of its property which the Administrative Agent or any Buyer now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise. In addition, until the Final Collection Date, each Seller hereby waives any right to proceed against the other Sellers, now or hereafter, for contribution, indemnity, reimbursement, and any other suretyship rights and claims, whether direct or indirect, liquidated or contingent, whether arising under express or implied contract or by operation of law, which any Seller may now have or hereafter have as against the other Seller with respect to the transactions contemplated by this Agreement.

18. General Provisions.

(a) Final Agreement. This Agreement represents the final agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings and agreements with respect to such subject matter.

(b) Assignment.

(i) Each Buyer may only assign or transfer its role as Buyer under this Agreement with the prior written consent (such consent not to be unreasonably withheld, conditioned or delayed) of the Sellers and the Administrative Agent; provided that no consent of the Sellers shall be required for an assignment to an Affiliate of such Buyer or, if a Servicer Termination Event has occurred and is continuing, any other Person; provided further that the Sellers shall be deemed to have consented to any such assignment unless one of them shall object thereto by written notice to such Buyer within ten (10) Business Days after having received notice thereof.

(ii) Notwithstanding clause (i) above, each Buyer may at any time assign, transfer or participate any Purchased Receivables or its rights to receive payments with respect to any Purchased Receivables, including to any provider of credit insurance.

(iii) None of the Sellers, the Servicers or the Guarantor may assign or otherwise transfer its rights, benefits or obligations under the Transaction Documents without the prior written consent of the Administrative Agent and the Buyers.

(iv) Notwithstanding anything herein to the contrary, each Buyer may assign or pledge a security interest in all or any portion of its rights under this Agreement to secure obligations of such Buyer, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank. No such assignment and/or pledge shall release such Buyer from its obligations hereunder.

(v) Subject to the foregoing clauses (i) through (iv), this Agreement shall be binding on and shall inure to the benefit of each party hereto and its successors and assigns.

(p) Joinder of Additional Buyers. At any time during the term of this Agreement, upon the request of the Sellers and with the written consent of the Administrative Agent and (subject to the proviso below) each existing Buyer (in each case, such consent not to be unreasonably withheld), one or more additional commercial banks (each, an "Additional Buyer") may join this Agreement as a Buyer in all respects by entering into a joinder and amendment agreement (each, a "Buyer Joinder") among the

Sellers, the Servicers, the Guarantor, the Administrative Agent and (subject to the proviso below) each existing Buyer (except for any Buyer that is being removed as a Buyer of future Proposed Receivables in accordance with Section 18(f)), which shall, among other things, contain all relevant information applicable to Buyers under this Agreement, including, without limitation, such Additional Buyer's Facility Share and its Designated Percentages for the Account Debtors; provided, however, that no such consent of, or entry into the applicable Buyer Joinder by, an existing Buyer shall be required in circumstances where the proposed Additional Buyer(s) will have positive Designated Percentages solely with respect to Account Debtors in relation to which such existing Buyer's Designated Percentage is zero. Upon the effectiveness of such Buyer Joinder such Additional Buyer shall become a Buyer hereunder, subject to the rights, duties and obligations of a Buyer in all respects. For the avoidance of doubt and notwithstanding the addition of any Additional Buyer, no changes whatsoever will be made to the Pro Rata Shares of the existing Buyers in the existing Purchased Receivables absent the consent of the applicable Buyers holding Pro Rata Shares in the applicable Purchased Receivables, which consent may be given at the sole and absolute discretion of each such Buyer.

(q) Severability. Any provisions of this Agreement which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

(r) Execution; Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by electronic mail attachment in portable document format (.pdf) shall be effective as delivery of a manually executed counterpart of this Agreement.

(s) Termination. The term of this Agreement shall last from the initial Effective Date hereof until and including March 25, 2019, which date shall be automatically extended for progressive three hundred and sixty-four (364)-day terms unless the Sellers provide written notice to the Administrative Agent or the Administrative Agent provides written notice to the Sellers not less than ten (10) Business Days prior to the expiration of the then-applicable term, that such Person does not intend to extend the term of this Agreement. In addition, (i) the Administrative Agent, the Buyers or the Sellers may terminate this Agreement for convenience at any time by thirty (30) days' prior written notice to the other parties, and (ii) the Sellers may terminate this Agreement upon three (3) Business Days' prior written notice to the Administrative Agent at any time following (A) the delivery by or on behalf of any Buyer of any certificate pursuant to Section 6(e) hereof providing for an increase in Account Debtor Discount Rates on account of increased costs or (B) the rejection by the Buyers of at least two (2) duly submitted Purchase Requests as to which all conditions precedent set forth in Section 1(g) would be satisfied but for such rejection within any consecutive sixty (60) day period. In addition, any Buyer may at any time elect to resign its role as a Buyer under this Agreement by providing at least thirty (30) days' prior written notice of such resignation to the Administrative Agent, the other Buyers, each Seller, each Servicer and the Guarantor, whereupon such resigning Buyer will no longer be offered Purchase Requests following the effectiveness of such notice. Notwithstanding the foregoing, all obligations of the Sellers, the Servicers and the Guarantor under this Agreement, including all covenants, representations, warranties, repurchase obligations, and indemnities made herein shall continue in full force and effect until the Final Collection Date.

(t) Calculation of Interest. All interest amounts calculated on a per annum basis hereunder are calculated on the basis of a year of three hundred and sixty (360) days.

(u) WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS.

(v) CONSENT TO JURISDICTION. EACH PARTY HERETO HEREBY ACKNOWLEDGES AND AGREES THAT IT IRREVOCABLY (i) SUBMITS TO THE JURISDICTION, FIRST, OF ANY UNITED STATES FEDERAL COURT, AND SECOND, IF FEDERAL JURISDICTION IS NOT AVAILABLE, OF ANY NEW YORK STATE COURT, IN EITHER CASE SITTING IN NEW YORK CITY, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OTHER TRANSACTION DOCUMENT, (ii) AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED ONLY IN SUCH NEW YORK STATE OR FEDERAL COURT AND NOT IN ANY OTHER COURT, AND (iii) WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING.

(a) WAIVER OF IMMUNITIES. EACH PARTY HERETO HEREBY ACKNOWLEDGES AND AGREES THAT TO THE EXTENT THAT IT HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM THE JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID TO EXECUTION, EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, IT HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER OR IN CONNECTION WITH THIS AGREEMENT.

(a) Captions and Cross References. The various captions in this Agreement are provided solely for convenience of reference and shall not affect the meaning or interpretation of any provision of this Agreement. Unless otherwise indicated, references in this Agreement to any Section, Schedule or Exhibit are to such Section or Schedule or Exhibit to this Agreement, as the case may be, and references in any Section, subsection, or clause to any subsection, clause or subclause are to such subsection, clause or subclause of such Section, subsection or clause.

(b) No Party Deemed Drafter. No party hereto shall be deemed to be the drafter of this Agreement.

(c) PATRIOT Act. Each of the Administrative Agent and each Buyer hereby notifies each other party hereto that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies each such party, which information includes the name and address of such party and other information that will allow such Person to identify such party in accordance with the Act. Each party to this Agreement shall, promptly following a request by the Administrative Agent or a Buyer, provide all documentation and other information that the Administrative Agent or such Buyer requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Act.

(d) Amendments; Waiver.

No failure or delay by the Administrative Agent or any Buyer in exercising any right or power hereunder or under any other Transaction Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Buyers hereunder and under any other Transaction Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Transaction Document or consent to any departure by any Seller or the Guarantor therefrom shall in any event be effective unless the same shall be permitted by the next paragraph, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a purchase shall not be construed as a waiver of any default or breach of this Agreement, regardless of whether the Administrative Agent or any Buyer may have had notice or knowledge of such default or breach at the time.

No waiver, alteration, modification or amendment of this Agreement or any other Transaction Document or any of the provisions hereof or thereof shall be binding unless made in writing and duly executed by each Seller, each Servicer, the Guarantor, the Administrative Agent and the Required Buyers, except that no such waiver, alteration, modification or amendment shall, without the consent of all Buyers: (i) extend the term of this Agreement (other than in accordance with Section 18(e)), (ii) increase the Buyer's Facility Share of any Buyer or change any Buyer's Designated Percentage with respect to any Account Debtor, (iii) alter the definition of the term Pro Rata Share, (iv) extend the maturity of any Purchased Receivable or reduce any fee payable by any Seller to the Buyers, including pursuant to any Buyer Pricing Letter, (v) alter the definition of the term Required Buyers or alter, amend or modify this Section 18(n), (vi) alter the terms "Purchase Price", "Discount," "Purchased Receivables," "Event of Repurchase" or any of their component parts, (vii) release any Seller, the Guarantor or other Person from its obligations under this Agreement or any other Transaction Document, (viii) release the general security interest granted herein to the Administrative Agent, for the benefit of the Buyers, in the Purchased Receivables (unless such release relates to a sale or other disposition of assets permitted under the terms of this Agreement) or (ix) alter, amend or modify Schedule II, Exhibit E, or Exhibit F or any of their component parts.

Notwithstanding the foregoing, it is acknowledged by each Seller that the Buyers shall not agree to any amendment to Schedule II hereof unless Sanmina Corporation has complied with its obligations pursuant to clause (r) of Exhibit D hereof both before and after giving effect to any such amendment.

No assignment by the Administrative Agent or any Buyer in accordance with Section 18(a) shall be deemed to be an alteration, modification or amendment of any of the provisions hereof.

Notwithstanding the foregoing, (i) any Agent Fee Letter may be amended or supplemented by the mutual agreement of only the Sellers, the Guarantor and the Administrative Agent and (ii) any Buyer Pricing Letter may be amended or supplemented by the mutual agreement of only the Sellers, the Guarantor and the Buyers party thereto (and the written acknowledgment of the Administrative Agent).

19. Confidentiality; Disclosure Required by Law. Each party to this Agreement acknowledges that each other party may receive or have access to proprietary or confidential information disclosed by a disclosing party (collectively, the "Information"). The receiving party will use the disclosing party's Information solely to perform its obligations and exercise its rights under or in relation to this Agreement and any other Transaction Document. The receiving party will not disclose the disclosing party's Information; provided that, the receiving party may disclose the disclosing party's Information:

(a) to such party's Affiliates and the respective directors, managers, officers, trustees, employees, agents and advisors of such party (so long as each such Person shall have been instructed to keep the same confidential in accordance with this Section 19);

(b) to the extent necessary to comply with law or any legal process or the requirements of any Governmental Authority (including bank examiners and self-regulatory organizations) or of any securities exchange on which securities of the disclosing party or any Affiliate of the disclosing party are listed or traded (and the disclosing party shall use commercially reasonable efforts to so notify the other party of such disclosure; provided no such notice shall be required if such disclosure is part of a routine regulatory examination or securities law filing (including any required filing disclosing this Agreement) or is not otherwise permitted pursuant to Applicable Law);

(c) as part of normal reporting or review procedures to Governmental Authorities (the disclosing party shall use commercially reasonable efforts to so notify the other party of such disclosure; provided no such notice shall be required if such disclosure is part of a routine regulatory examination or is not otherwise permitted pursuant to Applicable Law);

(d) in order to enforce its rights under this Agreement or any other Transaction Document in a legal proceeding;

(e) to any actual or prospective assignee of, or any actual or prospective participant in, any of its rights under this Agreement or any credit insurance provider (so long as such has agreed in a legally enforceable document to comply with the terms of this Section 19 or any other substantially similar confidentiality restrictions); and

(f) to the service provider with whom the Administrative Agent subcontracts use of the PrimeRevenue System and its contractors and agents provided that such Persons agree to hold such information confidential pursuant to customary commercial terms.

(g) Accounting Treatment; Non-Reliance. Each Seller, each Servicer and the Guarantor agrees and acknowledges that (i) it is a sophisticated party in relation to this Agreement; (ii) it has made its own independent decision to enter into the Agreement, the other Transaction Documents to which it is a party and the transactions contemplated hereby and thereby and, in connection therewith, has obtained such independent accounting, legal, tax, financial and other advice as it deems necessary and appropriate (including, without limitation, as to the appropriate treatment of such transactions for accounting, legal, tax and other purposes) and (iii) it has not relied upon any representation or advice from the Administrative Agent, any Buyer, their Affiliates or any of their respective directors, officers, employees, contractors, counsel, advisors or other representatives in this regard.

[Signatures Commence on the Following Page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

**SANMINA CORPORATION,**  
as Seller and Servicer

By: \_\_\_\_\_  
Name:  
Title:

**SANMINA CORPORATION,**  
as Guarantor

By: \_\_\_\_\_  
Name:  
Title:

**MUFG BANK, LTD.,**  
as the Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

**MUFG BANK, LTD.,**  
as a Buyer

By: \_\_\_\_\_  
Name:  
Title:

Signature Page

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**Schedule I**  
**Form of Purchase Request**

[date]

MUFG Bank, Ltd.  
1251 Avenue of the Americas  
New York, New York 10020-1104  
Attention: Gustavo Rizzo; Jason Wu  
Email:

Reference is hereby made to that certain Receivables Purchase Agreement, dated as of March 26, 2018, by and among SANMINA CORPORATION, a Delaware corporation, and any other seller from time to time party thereto (each, in such capacity, a “Seller” and collectively, the “Sellers”), and as servicers (each, in such capacity, a “Servicer” and collectively, the “Servicers”), SANMINA CORPORATION, as guarantor (in such capacity the “Guarantor”), MUFG BANK, LTD. (“MUFG Bank”) and each other buyer from time to time party thereto (each, in such capacity, a “Buyer” and collectively, the “Buyers”), and MUFG Bank as administrative agent (in such capacity, the “Administrative Agent”) (as it may be amended, restated, modified or supplemented from time to time, the “Agreement”; capitalized terms not otherwise defined herein shall have the meanings set forth in, or by reference in, the Agreement).

Pursuant to the terms of the Agreement, the Sellers party hereto hereby request that the Buyers purchase from such Sellers on \_\_\_\_\_, 20\_\_\_\_\_, the Proposed Receivables listed on the exhibit attached hereto with an aggregate Net Invoice Amount of \$ \_\_\_\_\_ (for U.S. dollar Proposed Receivables) and € \_\_\_\_\_ (for Euro Proposed Receivables).

Each Seller party hereto represents and warrants that each of the conditions precedent outlined in Section 1(e) of the Agreement will be satisfied in connection with such proposed purchase.

Upon payment of the aggregate Purchase Price for any Proposed Receivable, the applicable Buyers hereby purchase, and the Sellers party hereto hereby sell all of such Sellers’ right, title and interest (but none of Sellers’ underlying obligations to the applicable Account Debtor) with respect to such Proposed Receivable as of the date hereof, and such Proposed Receivables shall become Purchased Receivables in the manner set forth in the Agreement.

[SELLER]<sup>2</sup>

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[SELLER]<sup>3</sup>

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

<sup>2</sup> Insert applicable Seller name and signatures.

<sup>3</sup> Insert applicable Seller name and signatures.

**Schedule I**

List of Accounts Receivable for Account Debtor(s): [\_\_\_\_\_]  
Proposed for Sale as of \_\_\_\_\_, 20\_\_\_\_

**CALCULATION OF PURCHASE SUBLIMIT (all amounts in [U.S. dollars].[Euros]) FOR ACCOUNT DEBTOR:**

Net Invoice Amount for Proposed Receivables:	[\$ ][€]
Outstanding Purchase Amount with respect to applicable Account Debtor (excluding Proposed Receivables):	[\$ ][€]
Funded Amount for Proposed Receivables:	[\$ ][€]
<b>Total Outstanding Purchase Amount for applicable Account Debtor</b> (not to exceed applicable Purchase Sublimit for such Account Debtor):	[\$][€]

**CALCULATION OF PURCHASE SUBLIMIT (all amounts in [U.S. dollars].[Euros]) FOR ACCOUNT DEBTOR:**

Net Invoice Amount for Proposed Receivables:	[\$ ][€]
Outstanding Purchase Amount with respect to applicable Account Debtor (excluding Proposed Receivables):	[\$ ][€]
Funded Amount for Proposed Receivables:	[\$ ][€]
<b>Total Outstanding Purchase Amount for applicable Account Debtor</b> (not to exceed applicable Purchase Sublimit for such Account Debtor):	[\$][€]

Seller	Account Debtor	Invoice Number	Net Invoice Amount	Outstanding Purchase Amount	Funded Amount	Maturity Date	[Default Rate of Interest or Fees (if any)]

Schedule II  
Account Debtors  
Seller: Sanmina Corporation

Account Debtor Name	Other Permitted Governing Law	Account Debtor Purchase Sublimit	Account Debtor Buffer Period	Designated Percentages	Buyer
[***]		\$[***]	[***]	[***]	[***]
[***]		\$[***]	[***]	[***]	[***]
[***]					
[***]			[***]	[***]	[***]
[***]			[***]	[***]	[***]
[***]			[***]	[***]	[***]
[***]		\$[***] <sup>4</sup>	[***]	[***]	[***]
[***]		\$[***] <sup>5</sup>	[***]	[***]	[***]
[***]		\$[***] <sup>6</sup>	[***]	[***]	[***]
[***]		\$[***]	[***]	[***]	[***]
[***]		\$[***]	[***]	[***]	[***]
[***]		€[***]	[***]	[***]	[***]
[***]		\$[***]	[***]	[***]	[***]
[***]		\$[***]	[***]	[***]	[***]
[***]		\$[***]	[***]	[***]	[***]
[***]	[***]				
[***]	[***]				
[***]					
[***]		\$[***] <sup>7</sup>	[***]	[***]	[***]
[***]					
[***]					

<sup>4</sup> [\*\*\*]

<sup>5</sup> [\*\*\*]

<sup>6</sup> [\*\*\*]

<sup>7</sup> [\*\*\*]

Schedule II

Account Debtors

Seller: Sanmina-SCI Systems Singapore Pte. Ltd.

Account Debtor Name	Other Permitted Governing Law	Account Debtor Purchase Sublimit	Account Debtor Buffer Period	Designated Percentages	Buyer
[***]		\$[***]	[***]	[***]	[***]
[***]		\$[***]	[***]	[***]	[***]

Schedule I-2

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Schedule II

Account Debtors

Seller: SANMINA-SCI SYSTEMS (MALAYSIA) SDN. BHD.

Account Debtor Name	Other Permitted Governing Law	Account Debtor Purchase Sublimit	Account Debtor Buffer Period	Designated Percentages	Buyer
[***]		\$[***] <sup>8</sup>	[***]	[***]	[***]

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<sup>8</sup> [\*\*\*].

Schedule I-3

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**Schedule III**  
**UCC Information**

(a) Name: SANMINA-SCI SYSTEMS (MALAYSIA) SDN. BHD.

(b) Chief Executive Office: Plot 2 Bayan Lepas  
Technoplex Industrial Park  
Mukim 12 SWD

11900 Bayan Lepas Penang, Malaysia

(c) Jurisdiction of Incorporation: Malaysia

(d) Registration Number: 199101016030 (226342-D)

(e) FEIN/ Tax ID: N/A

(f) Tradenames: None

(g) Changes in Location, Name and Corporate Organization in the last 5 years: None

(a) Name: SANMINA CORPORATION

(b) Chief Executive Office: 2700 North First Street, San Jose, CA 95134

(c) Jurisdiction of Organization: Delaware

(d) Organizational Number: 2195845

(e) FEIN: 77-0228183

(f) Tradenames: Viking Technology; 42Q; Advanced Micro Systems Technologies; Hadco, Viking; Viking Components; Viking Enterprise Solutions; and Viking Modular Solutions

(g) Changes in Location, Name and Corporate Organization in the last 5 years: None

(a) Name: SANMINA-SCI SYSTEMS SINGAPORE PTE. LTD.

(b) Chief Executive Office: 2 Chai Chee Drive, Singapore, 469044

(c) Jurisdiction of Organization: Singapore

(d) Organizational Number: 198305350W

(e) FEIN: N/A

(f) Tradenames: None

(g) Changes in Location, Name and Corporate Organization in the last 5 years: None

Schedule III-1

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**Exhibit A**  
**Certain Defined Terms**

**A. Defined Terms.**

As used herein, the following terms shall have the following meanings:

“Account Debtor” means, with respect to each Seller, a Person listed as an account debtor on Schedule II to this Agreement under the name of such Seller, as such Schedule may be modified or supplemented from time to time upon the request of the Sellers, as approved in advance by the Administrative Agent and the Buyers in writing in their sole and absolute discretion in accordance with the terms of this Agreement.

“Account Debtor Buffer Period” means, for each Account Debtor, the number of days set forth under the heading “Account Debtor Buffer Period” for such Account Debtor on Schedule II to this Agreement, as such Schedule may be modified or supplemented from time to time upon the request of the Sellers, as approved in advance by the Administrative Agent and the Buyers in writing in their sole and absolute discretion in accordance with the terms of this Agreement (which request and approval may for purposes of this definition be in the form of e-mail communication).

“Account Debtor Discount Rate” means, with respect to any Account Debtor, (i) for such Account Debtor’s Purchased Receivables denominated in U.S. dollars, the Base Rate and (ii) for such Account Debtor’s Purchased Receivables denominated in Euros, either (1) EURIBOR, or (2) the Eurocurrency Rate, as selected by each applicable Buyer and communicated to the Administrative Agent and the applicable Sellers, in each case, plus the “Account Debtor Discount Margin” per annum specified for such Account Debtor in the applicable Buyer Pricing Letter, as such Buyer Pricing Letter may be modified or supplemented from time to time (a) upon the request of the Sellers, as approved in advance by the Administrative Agent and each applicable Buyer in writing in their sole and absolute discretion in accordance with the terms of this Agreement, or (b) as otherwise provided in this Agreement.

“Act” has the meaning set forth in Section 18(m) hereof.

“Additional Buyer” has the meaning set forth in Section 18(c) hereof.

“Additional Seller” has the meaning set forth in Section 15 hereof.

“Additional Servicer” has the meaning set forth in Section 7(a) hereof.

“Administrative Agent” has the meaning set forth in the preamble hereto.

“Administrative Agent’s Account” means, with respect to an amount denominated in a particular currency, the deposit account related to such currency specified as such in Exhibit G hereto, or such other deposit account identified in writing by the Administrative Agent to the Sellers from time to time.

“Adverse Claim” means any ownership interest or claim, mortgage, deed of trust, pledge, lien, security interest, hypothecation, charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including, but not limited to, any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security; provided, however, that none of the foregoing shall constitute an Adverse Claim (i) to the extent granted favor of, or assigned to, the Administrative Agent, (ii) to the extent granted or created by the Administrative Agent or any Buyer in favor of any third party, arising out of any claim asserted by any creditor of the Administrative Agent or any such Buyer, or otherwise resulting solely from actions or omissions of the Administrative Agent or any Buyer (iii) to the extent consisting of liens or security interests arising under the Credit Agreement or the Indenture which are automatically released with respect to the applicable Purchased Receivable hereunder upon its sale to the Buyers hereunder, or (iv) to the extent consisting of liens or security interests granted pursuant to the Credit Agreement or the

Indenture over deposit accounts into which Collections in respect of any Purchased Receivables are received or held prior to being transferred to the Administrative Agent.

“Affected Buyer” has the meaning set forth in Section 8(j)(ii) hereof.

“Affiliate” when used with respect to a Person means any other current or future Person controlling, controlled by, or under common control with, such Person. For the purposes of this definition, “control” of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of its management and policies, whether through the ownership of voting securities, by contract or otherwise.

“Agent Fee Letter” means any fee letter agreement entered into subsequent to the date hereof by and between Sellers and the Administrative Agent with respect to any administrative, processing or other similar fees payable to the Administrative Agent.

“Agreement” has the meaning set forth in the preamble hereto.

“Anti-Corruption Laws” means the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, and other similar anti-corruption legislation in other jurisdictions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

“Anti-Terrorism Laws” means each of: (a) the Executive Order; (b) the PATRIOT Act; (c) the Money Laundering Control Act of 1986, 18 U.S.C. Sect. 1956 and any successor statute thereto; (d) the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada); (e) the Bank Secrecy Act, and the rules and regulations promulgated thereunder; and (f) any other Applicable Law of the United States, Canada or any member state of the European Union now or hereafter enacted to monitor, deter or otherwise prevent: (i) terrorism or (ii) the funding or support of terrorism or (iii) money laundering.

“Applicable Law” means any law (including common law), constitution, statute, treaty, regulation, rule, ordinance, order, injunction, writ, decree, judgment, award or similar item of or by a Governmental Authority or any interpretation, implementation or application thereof.

“Auto Rejected Receivable” has the meaning set forth in Section 1(g) hereof.

“Base Rate” means, for any Purchased Receivable, Term SOFR plus the Credit Spread Adjustment; provided, however, that if Term SOFR plus the Credit Spread Adjustment is less than 0%, then the Base Rate shall be deemed to be 0%.

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

“BOW” means Bank of the West.

“Business Day” means any day that is not a Saturday, Sunday or other day on which banks in New York City are required or permitted to close; provided that, (i) when used in connection with determining the Base Rate, each applicable reference to a “Business Day” shall be deemed to refer to a “U.S. Government Securities Business Day” and (ii) when used in connection with determining EURIBOR, such day is also a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System is open.

“Buyer” has the meaning set forth in the preamble hereto.

“Buyer’s Facility Share” shall mean, with respect to any Buyer, (i) if appearing below, the amount set forth opposite such Buyer’s name below, or as such amount is modified from time to time, and (ii) with respect to any other Buyer, in the applicable Buyer Joinder under which it becomes a Buyer hereunder, as such amount is modified from time to time.

MUFG Bank, Ltd.	\$[***]
Bank of the West	\$[***]
Wells Fargo Bank, N.A.	\$[***]
Wells Fargo Bank, N.A.	\$[***]

“Buyer Joinder” has the meaning set forth in Section 18(c) hereof.

“Buyer Pricing Letter” means one or more letter agreements by and among the Sellers, the Guarantor and one or more Buyers with respect to the relevant Account Debtor Discount Margins applicable to the Account Debtors hereunder and any other amounts payable to the Buyers hereunder.

“Certification of Beneficial Owner(s)” means a certificate in form and substance satisfactory to the Administrative Agent regarding beneficial ownership of each Seller, each Servicer and the Guarantor as required by the Beneficial Ownership Rule.

“Collections” means, with respect to any Receivable: (a) all funds that are received by any Seller, Servicer or any other Person on their behalf in payment of any amounts owed in respect of such Receivable (including purchase price, finance charges, interest and all other charges), or applied to amounts owed in respect of such Receivable (including insurance payments and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Account Debtor or any other Person directly or indirectly liable for the payment of such Receivable and available to be applied thereon), (b) all Deemed Collections, (c) all proceeds of all Related Security with respect to such Receivable and (d) all other proceeds of such Receivable.

“Contract” means, with respect to any Receivable, the applicable contract or purchase order with respect to such Receivable between a Seller and the applicable Account Debtor, as the same may be amended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

“Credit Agreement” means the Third Amended and Restated Credit Agreement dated as of February 1, 2018 among Sanmina Corporation as the borrower, Bank of America, N.A. as the administrative agent, swing line lender and issuing lender, and the other lenders from time to time party thereto, as amended, restated, supplemented or otherwise modified from time to time.

“Credit Spread Adjustment” means, for any Purchased Receivable, the percentage applicable to the relevant Discount Period identified by the Administrative Agent to serve as the basis upon which the Administrative Agent adjusts Term SOFR from time to time, in respect of such Purchased Receivable, which percentage shall be made available to the Sellers in a manner determined by the Administrative Agent from time to time. Each determination of the Credit Spread Adjustment shall be in the sole and absolute discretion of the Administrative Agent.

“Deemed Collection” has the meaning set forth in Section 6(a) hereof.

“Designated Percentage” means, for each Buyer, with respect to each Account Debtor, the percentage set forth under the heading “Designated Percentage” for such Buyer on Schedule II to this Agreement, as such Schedule may be modified or supplemented from time to time upon the request of the Sellers, as approved in advance by the Administrative Agent and the Buyers in writing in their sole and absolute discretion in accordance with the terms of this Agreement.

“Dilution” means, on any date, an amount equal to the sum, without duplication, of the aggregate reduction effected on such date in the outstanding balance of any Purchased Receivable attributable to any discount, adjustment, deduction, or reduction that would have the effect of reducing the amount of part or all of such Purchased Receivable (except, in each case, to the extent arising solely as the result of the applicable Account Debtor’s financial or credit condition or ability to pay).

**“Discount”** means, with respect to each Purchased Receivable purchased on a Purchase Date related to a specific Account Debtor, the discount cost applied by the Buyers to such Purchased Receivable as of such Purchase Date, which shall be equal to the product of (a) the applicable Account Debtor Discount Rate per annum, determined as of two (2) Business Days prior to the Purchase Date for such Purchased Receivables, multiplied by (b) the result of (i) the applicable Discount Period divided by (ii) 360 and multiplied by (c) the Net Invoice Amount.

**“Discount Period”** means, with respect to each Purchased Receivable, the sum of the number of days from and including (i) the Purchase Date for such Purchased Receivable and to, but not including, (ii) the first weekly Settlement Date occurring after the date that corresponds to the Maturity Date with respect to such Purchased Receivable plus the Account Debtor Buffer Period for such Account Debtor.

**“Dispute”** means any dispute, discount, deduction, claim, offset, defense, or counterclaim or similar position asserted of any kind relating to one or more Receivables (x) arising on account of the goods relating to such Receivables having been lost or damaged prior to receipt thereof by the related Account Debtor or otherwise not delivered to such Account Debtor in accordance with the Contract related thereto; (y) arising on account of the return of goods by an Account Debtor to any Seller, Servicer, any of their respective Affiliates or successors or assigns (including any Buyer) relating to its obligation to pay an amount due with respect to a Purchased Receivable, or (z) otherwise asserted by the related Account Debtor as being a basis for non-payment in full of the Receivable (except, in each case, to the extent arising solely as the result of (A) the applicable Account Debtor’s financial or credit condition or ability to pay or (B) the actions or omissions of the Administrative Agent or any Buyer (including, for the avoidance of doubt, any dispute, offset, counterclaim or defense asserted by an Account Debtor on account of (1) amounts owed or alleged to be owed by the Administrative Agent or any such Buyer to such Account Debtor or its Affiliates in respect of debtors or obligations unrelated to this Agreement or the Purchased Receivables or (2) resulting actions or omissions of the Administrative Agent or any such Buyer related to the Purchased Receivables of such Account Debtor taken after such time as an applicable Seller has been removed as Servicer under clause (j) of Section 5)); regardless of whether the same (i) is in an amount greater than, equal to or less than the applicable Purchased Receivable concerned or (ii) arises by reason of an act of God, civil strife, war, currency restrictions, foreign political restrictions or regulations, or any other circumstance or event beyond the control of such Seller or the applicable Account Debtor; provided that, for the avoidance of doubt, Dilutions do not constitute Disputes.

**“Effective Date”** means March 26, 2018.

**“Eligible Receivable”** means a Receivable with respect to which each of the Eligibility Criteria set forth in Exhibit E is satisfied.

**“Erroneous Payment”** has the meaning set forth in Section 8(l)(i) hereof.

**“Erroneous Payment Deficiency Assignment”** has the meaning set forth in Section 8(l)(iv) hereof.

**“Erroneous Payment Impacted Class”** has the meaning set forth in Section 8(l)(iv) hereof.

**“Erroneous Payment Return Deficiency”** has the meaning set forth in Section 8(l)(iv) hereof.

**“Erroneous Payment Subordination Rights”** has the meaning set forth in Section 8(l)(v) hereof.

**“EURIBOR”**: means, for any Purchased Receivable, (a) the interest rate per annum determined by the Banking Federation of the European Union (or any other Person that takes over the administration of that rate) for deposits in Euros as of 11:00 a.m. (London time) on the second Business Day preceding the Purchase Date for such Purchased Receivable, having a term approximately equal to the Discount Period for such Purchased Receivable as it appears on the relevant display page on the Bloomberg Professional Service (or any successor or substitute page or service providing quotations of interest rates applicable to Euro deposits in the London interbank market comparable to those currently provided on such page that is mutually acceptable to the Administrative Agent and the Seller) or (b) if a rate cannot be determined under clause (a), the interest rate per annum equal to the average (rounded upwards if necessary to the nearest 1/100th of 1%) of the rates per annum at which deposits in Euros having a term approximately

equal to such Discount Period are offered to the principal London office of the Administrative Agent by three (3) prime banks in the London interbank market, selected by the Administrative Agent in good faith, at about 11:00 a.m. (London time) on the second Business Day preceding the first day of such Discount Period; provided, however, that, in the event the applicable interest rate is not available for the term in question, the interest rate for such term will be determined by linear interpolation of the rates available for maturities next higher and next shorter than the relevant term. Notwithstanding the foregoing, if, on any day, "EURIBOR" would be less than 0%, for purposes of this Agreement, "EURIBOR" shall mean 0%.

"Eurocurrency Rate" means, Purchased Receivable, the interest rate per annum determined on the basis of the London interbank offered rate administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of that rate) for deposits in Euros as of 11:00 a.m. (London time) on the second Business Day preceding the Purchase Date for such Purchased Receivable, having a term approximately equal to the Discount Period for such Purchased Receivable as it appears on the relevant display page on the Bloomberg Professional Service (or any successor or substitute page or service providing quotations of interest rates applicable to Euro deposits in the London interbank market comparable to those currently provided on such page that is mutually acceptable to the Administrative Agent and the Seller) or (b) if a rate cannot be determined under clause (a), the interest rate per annum equal to the average (rounded upwards if necessary to the nearest 1/100th of 1%) of the rates per annum at which deposits in Euros having a term approximately equal to such Discount Period are offered to the principal London office of the Administrative Agent by three (3) prime banks in the London interbank market, selected by the Administrative Agent in good faith, at about 11:00 a.m. (London time) on the second Business Day preceding the first day of such Discount Period; provided, however, that, in the event the applicable interest rate is not available for the term in question, the interest rate for such term will be determined by linear interpolation of the rates available for maturities next higher and next shorter than the relevant term. Notwithstanding the foregoing, if, on any day, "Eurocurrency Rate" would be less than 0%, for purposes of this Agreement, "Eurocurrency Rate" shall mean 0%.

"Euros": the currency introduced on January 1, 1999 pursuant to the Treaty establishing the European Union.

"Events of Repurchase" has the meaning set forth in Section 6(b) hereof.

"Existing Credit Facility Default" means the occurrence of (i) an event of default or any other similar concept shall occur under the Credit Agreement or (ii) an event of default shall occur under Section 8.01(f) (*Cross Default*) of the Credit Agreement, in each case, as in effect on the date of this Agreement and without giving effect to an amendment, restatement, waiver or supplement thereto, or any termination or expiration thereof, unless otherwise agreed to in writing by the Administrative Agent and the Buyers in their sole discretion, in each case, which occurrence and continuation gives the lenders under the Credit Agreement the immediate right (disregarding any waiver or forbearance that may have been granted by such lenders with respect thereto) to accelerate the maturity of the outstanding debt under the Credit Agreement.

"Federal Funds Rate" means, for any day, the greater of (a) the rate calculated by the Federal Reserve Bank of New York based on such day's Federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the Federal funds effective rate and (b) 0%.

"Fee Letter" means, collectively, the Buyer Pricing Letter and the Agent Fee Letter.

"Final Collection Date" means the date following the termination of this Agreement on which the Administrative Agent has received (i) all Collections owing on the Purchased Receivables and (ii) all payments, if any, required to be paid by any Seller or Servicer under this Agreement or any other Transaction Document, including with respect to Events of Repurchase and Indemnified Amounts to the extent any claim therefor has been asserted as of such date.

"Funded Amount" has the meaning set forth in Section 1(f) hereof.

**"GAAP"** means generally accepted accounting principles in the United States of America, applied on a consistent basis as set forth in Opinions of the Accounting Principles Board of the American Institute of Certified Public Accountants and/or in statements of the Financial Accounting Standards Board or the rules and regulations of the United States Securities and Exchange Commission and/or their respective successors and which are applied in the circumstances as of the date in question.

**"Governmental Authority"** means any government or political subdivision or any agency, authority, bureau, regulatory body, central bank, commission, department or instrumentality of any such government or political subdivision, or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government or any court, tribunal, grand jury or arbitrator, or any accounting board or authority (whether or not part of a government) which is responsible for the establishment or interpretation of national or international accounting principles, in each case whether foreign or domestic.

**"Guaranteed Obligations"** has the meaning set forth in Section 7(a) hereof.

**"Guarantor"** has the meaning set forth in the preamble hereto.

**"Indemnified Amounts"** has the meaning set forth in Section 5(i) hereof.

**"Indemnified Person"** has the meaning set forth in Section 5(i) hereof.

**"Indenture"** means that certain Indenture, dated as of June 4, 2014, by and among Sanmina Corporation, as issuer, the guarantors from time to time party thereto, and U.S. Bank National Association, as trustee and notes collateral agent, as supplemented by the First Supplemental Indenture, dated as of July 29, 2015, among Sanmina Corporation, certain subsidiaries of Sanmina Corporation as guarantors and U.S. Bank National Association, as trustee, and as further amended, supplemented or otherwise modified from time to time.

**"Information"** has the meaning set forth in Section 19 hereof.

**"Insolvency Event"** shall mean (i) with respect to an Account Debtor, the inability of such Account Debtor to pay any amount owed when due in respect of a Purchased Receivable as a result of the bankruptcy, insolvency or other financial inability of such Account Debtor to make such payment and (ii) with respect to any Person (including an Account Debtor), such Person shall fail to pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against such Person seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any Applicable Law relating to bankruptcy, insolvency or reorganization or relief of debtors, or seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of thirty (30) days, or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or such Person shall take any action to authorize any of the actions set forth above in this clause (ii).

**"Internal Revenue Code"** means the Internal Revenue Code of 1986, as amended, reformed or otherwise modified from time to time.

**"Joinder Agreement"** means a joinder agreement in substantially the form of Exhibit H hereto.

**"Maturity Date"** means, with respect to any Purchased Receivable, the date the related Contract provides for timely payment in full of the amounts owing thereunder.

**"Modified Designated Percentage"** has the meaning set forth in Section 1(g) hereof.

“Modified Designated Percentage Buyer” has the meaning set forth in Section 1(g) hereof.

“MUFG Bank” has the meaning set forth in the preamble hereto.

“Net Invoice Amount” means the amount of the applicable Purchased Receivable shown on the invoice for such Purchased Receivable as the total amount payable by the related Account Debtor (net of any discounts, credits or other allowances shown on such invoice and agreed to prior to the Purchase Date).

“Non-Funding Buyer” has the meaning set forth in Section 1(g) hereto.

“Non-Payment Event” has the meaning set forth in Section 5(h).

“Non-Payment Report” has the meaning set forth in Section 5(h).

“OFAC” means the United States Department of the Treasury’s Office of Foreign Assets Control (or any successor thereto).

“Outstanding Purchase Amount” means, as of any time of determination and with respect to any portion of the Purchased Receivables, (x) the Net Invoice Amount for such Purchased Receivables, minus (y) the aggregate amount of all Collections with respect to such Purchased Receivables that has been deposited into the Administrative Agent’s Account as of such time. When such term is used without reference to any specific Purchased Receivables, it shall constitute a reference to all Purchased Receivables.

“Overdue Payment Rate” means the Prime Rate + 2% per annum.

“Overdue Receivable” has the meaning set forth in Section 5(h) hereof.

“Person” means an individual, partnership, sole proprietorship, corporation (including a business trust), limited liability company, limited partnership, joint stock company, trust, unincorporated association, joint venture or other entity, or a government or any political subdivision or agency thereof.

“Primary Indemnified Person” means each of the Administrative Agent and each Buyer.

“Prime Rate” means, for any day, the rate of interest in effect for such day as publicly announced from time to time by the Administrative Agent as its “reference rate” or “prime rate”, as applicable. Such “reference rate” or “prime rate” is set by the Administrative Agent based on various factors, including the Administrative Agent’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such announced rate, and is not necessarily the lowest rate charged to any customer.

“PrimeRevenue System” means the Administrative Agent’s communication tool accessible via the internet to enable clients to offer various Proposed Receivables for sale to the Administrative Agent and for the loading approval and monitoring of such Proposed Receivables on a platform, the terms of use of which are set out in Annex I and are hereby incorporated herein.

“Pro Rata Share” shall mean, with respect to any Buyer,

(i) subject to clause (ii) immediately below, with respect to each Proposed Receivable, an amount (expressed as a percentage) equal to such Buyer’s Designated Percentage applicable to the Account Debtor owing on such Proposed Receivable,

(ii) with respect to each Auto Rejected Receivable that is resubmitted for sale by a Seller in accordance with Section 1(g), an amount (expressed as a percentage) equal to such Buyer’s Modified Designated Percentage applicable to the Account Debtor owing on such Proposed Receivable,

(iii) with respect to any Purchased Receivable, an amount (expressed as a percentage) equal to (x) that portion of the Purchase Price of such Purchased Receivable paid by such Buyer, divided by (y) the Purchase Price of such Purchased Receivable paid by all of the Buyers, and

(iv) for all other purposes under this Agreement, an amount (expressed as a percentage) equal to (x) the aggregate Purchase Prices of all Purchased Receivables paid by such Buyer, divided by (y) the aggregate Purchase Prices of all Purchased Receivables paid by all of the Buyers.

“Proposed Receivable” means, with respect to any Purchase Date, each Receivable proposed by Seller to the Buyers for purchase hereunder and described in a Purchase Request to be purchased on such Purchase Date, together with any Related Security with respect to such Receivable, and all Collections and proceeds with respect to the foregoing.

“Purchase Date” means, with respect to any Purchased Receivable, the date on which the applicable Buyers purchase such Purchased Receivable.

“Purchase Price” has the meaning set forth in Section 1(f) hereof.

“Purchase Request” has the meaning set forth in Section 1(a) hereof.

“Purchase Sublimit” means, with respect to each Account Debtor, the U.S. dollar or the Euros amount, as applicable, set forth on Schedule II to this Agreement as the Purchase Sublimit, as such Schedule may be modified or supplemented from time to time upon request of the Sellers, as approved in advance by the Administrative Agent and the Buyers in writing in their sole and absolute discretion in accordance with the terms of this Agreement (which request and approval may for purposes of this definition be in the form of e-mail communication).

“Purchased Receivables” has the meaning set forth in Section 1(b) hereof.

“Receivable” means any right to payment of a monetary obligation, whether or not earned by performance, owed to any Seller or Buyer (as assignee of Seller) by an Account Debtor, whether constituting an account, instrument, document, contract right, general intangible, chattel paper or payment intangible, in each instance arising in connection with the sale of goods that have been or are to be sold or for services rendered or to be rendered, including, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto. Any such right to payment arising from any one transaction, including any such right to payment represented by an individual invoice or agreement, shall constitute a Receivable separate from a Receivable consisting of any such right to payment arising from any other transaction.

“Reconciliation Report” has the meaning set forth in Section 5(g).

“Regulatory Change” means, relative to any Person:

(a) any change subsequent to the date of this Agreement in (or the adoption, implementation, administration, change in phase-in or interpretation or commencement of effectiveness of) any:

(i) Applicable Law applicable to such Person;

(ii) regulation, interpretation, directive, requirement or request (whether or not having the force of law) applicable to such Person of (A) any Governmental Authority charged with the interpretation or administration of any Applicable Law referred to in clause (a)(i) or (B) any fiscal, monetary or other authority having jurisdiction over such Person;

(iii) GAAP or regulatory accounting principles applicable to such Person and affecting the application to such Person of any Applicable Law,

regulation, interpretation, directive, requirement or request referred to in clause (a)(i) or (a)(ii) above; or

(iv) notwithstanding the foregoing, (A) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder, issued in connection therewith or in implementation thereof, and (B) all requests, rules, guidelines and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign governmental or regulatory authorities, shall in each case be deemed to be a "Regulatory Change" occurring and implemented after the date hereof, regardless of the date enacted, adopted, issued or implemented; or

(b) any change in the application to such Person of any existing Applicable Law, regulation, interpretation, directive, requirement, request or accounting principles referred to in clause (a)(i), (a)(ii), (a)(iii) or (a)(iv) above.

"Related Indemnified Person" means (i) with respect any Primary Indemnified Person, each of such Primary Indemnified Person's officers, directors, agents, representatives, shareholders, counsel, employees, Affiliates, successors and assigns and (ii) with respect to any Person that is a Related Indemnified Person of a Primary Indemnified Person, each of (x) such Primary Indemnified Person and (y) each other Related Indemnified Person of such Primary Indemnified Person.

"Related Security" means, with respect to any Receivable:

(i) all rights to enforce payment of such Receivable under the related Contract;

(ii) all instruments and chattel paper that may evidence such Receivable;

(iii) all payment rights under guaranties, insurance and other agreements or arrangements of whatever character from time to time supporting or securing payment of such Receivable whether pursuant to the Contract related to such Receivable or otherwise;

(iv) all security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, together with all financing statements describing any collateral securing such Receivable; and

(v) all books, records and other information (including computer programs, tapes, discs, punch cards, data processing software and related property and rights) relating to such Receivable and the related Account Debtor.

"Required Buyers" shall mean, (i) at such time as there are two or fewer Buyers, all Buyers, (ii) at such time as there are three Buyers, at least two Buyers and (iii) at all other times, the Buyers the Pro Rata Shares in excess of 50%.

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

"Sanctioned Person" means, at any time, (a) any Person currently the subject or the target of any Sanctions, including any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of OFAC or the United States Department of State, available at:

<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>, or as otherwise published from time to time; (b) that is operating, organized or resident in a Sanctioned Country; (c) with whom engaging in trade, business or other activities is otherwise prohibited or restricted by Sanctions; or (d) (i) an agency of the government of a Sanctioned Country, (ii) an organization controlled by a Sanctioned Country, or (iii) a Person resident in a Sanctioned Country, to the extent subject to a sanctions program administered by OFAC.

“Sanctions” means any sanction administered or enforced by the United States Government (including without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority.

“Seller” has the meaning set forth in the preamble hereto.

“Sellers’ Account” means the account specified as such in Exhibit G hereto, or such other bank account identified in writing by the Sellers to the Administrative Agent from time to time.

“Servicer” has the meaning set forth in Section 5(a) hereof.

“Servicer Termination Event” means an event specified in Exhibit F hereto.

“Settlement Date” means each Tuesday of each calendar week (unless any such day is not a Business Day, in which case, the next Business Day thereafter shall be a Settlement Date).

“SOFR” means a rate equal to the secured overnight financing rate, as published by the SOFR Administrator on the applicable day of determination (which determination day shall be a Business Day) (or if SOFR is not published on such Business Day, then SOFR as most recently published by the SOFR Administrator).

“SOFR Administrator” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“Solvent” means, with respect to any Person and as of any particular date, (i) the present fair market value (or present fair saleable value) of the assets of such Person is not less than the total amount required to pay the probable liabilities of such Person on its total existing debts and liabilities (including contingent liabilities) as they become absolute and matured, (ii) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and commitments as they mature and become due in the normal course of business, (iii) such Person is not incurring debts or liabilities beyond its ability to pay such debts and liabilities as they mature and (iv) such Person is not engaged in any business or transaction, and is not about to engage in any business or transaction, for which its property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged.

“Subsidiary” means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; provided, in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a “qualifying share” of the former Person shall be deemed to be outstanding.

“Term SOFR” means, for any Purchased Receivable, an interest rate per annum equal to the Term SOFR Reference Rate for a tenor comparable to the number of days in the relevant Discount Period, as such rate is published by the Term SOFR Administrator two (2) Business Days prior to the applicable Purchase Date (such day, the “Term SOFR Determination Day”); provided, that if on any Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor is not published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate

has not occurred, then Term SOFR shall be the Term SOFR Reference Rate for the applicable tenor as most recently published by the Term SOFR Administrator. Notwithstanding the foregoing, if the number of days in the relevant Discount Period does not correspond to any available published tenor, then the relevant rate shall be a USD Interpolated Rate.

**“Term SOFR Administrator”** means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of Term SOFR selected by the Administrative Agent in its discretion).

**“Term SOFR Reference Rate”** means the forward-looking term rate based on SOFR. Each such determination by the Administrative Agent shall be conclusive absent manifest error. The Administrative Agent does not accept responsibility for or have any liability with respect to the administration, determination, publication or other matters related to Term SOFR.

**“Transaction Documents”** means this Agreement, the Buyer Pricing Letter, each Fee Letter, each Joinder Agreement, each Buyer Joinder and all other documents and agreements to be executed and delivered by any Seller, any Servicer or the Guarantor in connection with any of the foregoing (including, without limitation, any Purchase Request, any Non-Payment Report or any Reconciliation Report), in each case, as amended, supplemented or otherwise modified from time to time.

**“UCC”** means the Uniform Commercial Code in effect in the State of New York from time to time; provided, if by reason of mandatory provisions of Applicable Law, the perfection, the effect of perfection or non-perfection or the priority of the security interests of the Administrative Agent or any Buyer is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, the term “UCC” shall mean the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

**“UCC Information”** means the information set forth on Schedule III, as such information may be updated from time to time in writing in accordance with clause (c) of Exhibit D.

**“USD Interpolated Rate”** means, with respect to any Purchased Receivable for which a published Term SOFR is not available for a tenor comparable to the relevant Discount Period, the rate per annum (rounded to the same number of decimal places as the Term SOFR Reference Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) Term SOFR for the longest period for which a published Term SOFR is available that is shorter than the relevant Discount Period plus the Credit Spread Adjustment; and (b) Term SOFR for the shortest period for which a published Term SOFR is available that exceeds the relevant Discount Period plus the Credit Spread Adjustment, with Term SOFR, in each case, determined using the applicable publication date specified in the definition of “Term SOFR”. Without limiting the generality of the foregoing, if the relevant Discount Period is less than one (1) month, the USD Interpolated Rate shall be equal to the rate that results from interpolating on a linear basis between: (c) SOFR plus the Credit Spread Adjustment, with SOFR determined using the publication date specified in the definition of “SOFR”; and (d) Term SOFR for a one (1) month tenor plus the Credit Spread Adjustment, with Term SOFR determined using the publication date specified in the definition of “Term SOFR”. Notwithstanding the foregoing, if the sum of the values described in clauses (a), (b), (c) or (d) above, is less than 0%, then the sum of the values described in any such clause that is less than 0% shall be deemed to be 0% for purposes of this Agreement.

**“U.S. dollars”** means United States dollars, the lawful currency of the United States of America.

**“U.S. Government Securities Business Day”** means any day except for (a) a Saturday, (b) a Sunday, or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

**“Wells”** means Wells Fargo Bank, N.A.

**B. Other Interpretive Matters.**

All accounting terms defined directly or by incorporation in this Agreement shall have the defined meanings when used in any certificate or other document delivered pursuant thereto unless otherwise defined therein. For purposes of this Agreement and all such certificates and other documents, unless the context otherwise requires: (a) terms defined in Article 9 of the UCC and not otherwise defined in such agreement are used as defined in such Article; (b) references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day; (c) the words "hereof," "herein" and "hereunder" and words of similar import refer to such agreement (or the certificate or other document in which they are used) as a whole and not to any particular provision of such agreement (or such certificate or document); (d) references to any Annex, Section, Schedule or Exhibit are references to Annexes, Sections, Schedules and Exhibits in or to such agreement (or the certificate or other document in which the reference is made), and references to any paragraph, subsection, clause or other subdivision within any Section or definition refer to such paragraph, subsection, clause or other subdivision of such Section or definition; (e) the term "including" means "including without limitation"; (f) references to any Applicable Law refer to that Applicable Law as amended from time to time and include any successor Applicable Law; (g) references to any agreement refer to that agreement as from time to time amended, restated, extended or supplemented or as the terms of such agreement are waived or modified in accordance with its terms; (h) references to any Person include that Person's permitted successors and assigns; (i) headings are for purposes of reference only and shall not otherwise affect the meaning or interpretation of any provision hereof; (j) unless otherwise provided, in the calculation of time from a specified date to a later specified date, the term "from" means "from and including", and the terms "to" and "until" each means "to but excluding"; (k) terms in one gender include the parallel terms in the neuter and opposite gender; (l) the term "or" is not exclusive; and (m) unless otherwise provided, all references to specific times shall be references to such time in New York City, New York.

## Exhibit A-12

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**Exhibit B**  
**Conditions Precedent for Effectiveness**

Each of the following is in form and substance satisfactory to the Administrative Agent and each Buyer:

- a. A fully executed counterpart of this Agreement.
- (e) A fully executed counterpart of the Buyer Pricing Letter.
- (f) Certificates (long form, if available) issued by the Secretary of State of the applicable jurisdiction as to the legal existence and good standing of each Seller, Servicer and the Guarantor.
- (g) A certificate of the Secretary or Assistant Secretary of each Seller, Servicer and the Guarantor certifying attached copies of the certified organizational documents of such Person and all documents evidencing necessary corporate action to be taken by and governmental approvals, if any, to be obtained by such Person with respect to this Agreement and the other Transaction Documents to which it is a party and the names and true signatures of the incumbent officers of such Person authorized to sign this Agreement and any other Transaction Documents to be delivered by it hereunder (including each Purchase Request) or thereunder or in connection herewith or therewith.
- (h) UCC, tax and judgment lien searches, bankruptcy and pending lawsuit searches or equivalent reports or searches, each of a recent date, listing all effective financing statements, lien notices or comparable documents that name any Seller as debtor and that are filed in those state and county jurisdictions in which such Seller is organized or maintains its principal place of business or chief executive office and such other searches that the Administrative Agent deems necessary or appropriate.
- (i) Acknowledgment copies of proper termination statements (Form UCC-3) and any other relevant filings necessary to evidence the release of all security interests, ownership and other rights of any Person previously granted by any Seller in the Purchased Receivables.
- (j) Properly completed forms of UCC-1 financing statements (showing each Seller as "debtor/seller" and Administrative Agent as "secured party/buyer") which have been submitted for filing in the Uniform Commercial Code filing office in the jurisdiction of organization of each Seller.
- (k) A lien release and acknowledgment letter from Bank of America, N.A., as Administrative Agent under the Credit Agreement.
- (l) Favorable legal opinions from outside legal counsel to the Guarantor and each Seller in form and substance satisfactory to the Administrative Agent and the Buyers, including opinions with respect to due organization and good standing of each such Person, due authorization, execution and delivery of this Agreement by each such Person, validity and enforceability of this Agreement with respect to each such Person, non-contravention of organizational documents, material agreements and law, no consents, creation and perfection of security interests, and true sale and such other matters as the Administrative Agent and the Buyers may reasonably request.

Exhibit B-1

**Exhibit C**  
**Representations and Warranties**

Each Seller and each Servicer hereby makes the following representations and warranties for the benefit of the Administrative Agent and each Buyer as of the date of this Agreement and on each Purchase Date:

b. Such Person is (i) duly organized, validly existing, and, to the extent applicable under the laws of its jurisdiction of organization, in good standing under the laws of its jurisdiction of organization and has all organizational powers and all material governmental licenses, authorizations, consents, and approvals required to carry on its business as now conducted and (ii) is qualified to do business in every jurisdiction where the nature of its business requires it to be so qualified, except, with respect to clause (ii), to the extent that failure to so qualify would not reasonably be expected to adversely affect its ability to perform its obligations hereunder or under the other Transaction Documents and would not have an adverse effect on the collectability of any Purchased Receivable or on the interests of the Administrative Agent or any Buyer under the Transaction Documents.

c. Such Person has the requisite power and authority to enter into and deliver this Agreement and the other Transaction Documents, and it has taken all necessary corporate or other action required to authorize the execution, delivery and performance by such Person of this Agreement and the other Transaction Documents. This Agreement and the other Transaction Documents to which such Person is a party have been duly executed and delivered by such Person.

d. Such Seller has the requisite power and authority to sell the Proposed Receivables being sold by it on the applicable Purchase Date in the manner herein contemplated, and it has taken all necessary corporate or other action required to authorize the assignment and sale of such Proposed Receivables.

e. This Agreement and the other Transaction Documents to which it is a party constitutes the legal, valid and binding obligations of such Person, enforceable in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting the rights and remedies of creditors and general principles of equity, regardless of whether enforcement is sought in proceedings in equity or at law.

f. This Agreement, together with the sale and assignments contemplated hereby, are effective to transfer to the Buyers legal and equitable title to, with right to sell and encumber, each Purchased Receivable, whether now existing or hereafter arising. Upon the filing of a UCC-1 financing statement in the state of organization of such Seller set forth in the UCC Information, listing such Seller, as debtor/seller, and the Administrative Agent (for the benefit of the Buyers), as secured party/buyer, and covering Purchased Receivables from time to time purchased hereunder, the ownership interests of the Buyers in each such Purchased Receivable shall be perfected.

g. The UCC Information is true and correct in all respects. All other data, materials and information provided by such Person to each Buyer and the Administrative Agent in connection herewith and with the Contract, each Purchased Receivable being sold by it hereunder, each Account Debtor, the relationship between it and each Account Debtor, and each Account Debtor's payment history (including timeliness of payments), is true and correct in all material respects.

h. Neither the execution nor the delivery by such Person of this Agreement, the other Transaction Documents to which it is a party or any of the other documents related hereto or thereto, nor the performance of or compliance with the terms and provisions hereof or thereof by such Person will conflict with or result in a breach of or give rise to a default under (i) any Applicable Laws, (ii) any indenture, loan agreement, security agreement or other material agreement binding upon such Person or any of its properties, or (iii) any provision of such Person's organizational documents.

i. No authorization, consent or approval or other action by, and no notice to or filing (other than the UCC financing statements required to be filed hereunder) with, any Governmental

Authority is required to be obtained or made by such Person for the due execution, delivery and performance by it of this Agreement or any other Transaction Document.

j. Such Person is Solvent.

k. There is no pending or, to its knowledge, threatened action, proceeding, investigation or injunction, writ or restraining order binding on or against such Person or any of its Affiliates before any court, governmental entity or arbitrator, which could reasonably be expected to have an adverse effect on the enforceability of this Agreement (including, without limitation, the enforceability of any Buyer's ownership interest in the Purchased Receivables) or the ability of such Person to perform its obligations hereunder.

l. No Seller has pledged or granted any security interest in any Purchased Receivable to any Person except (i) pursuant to this Agreement, (ii) security interests granted pursuant to the Credit Agreement or the Indenture which, in each case, are automatically released with respect to such Purchased Receivable upon its sale to the Buyers hereunder, or (iii) security interests granted pursuant to the Credit Agreement or the Indenture over deposit accounts into which Collections in respect of any Purchased Receivables are received or held prior to being transferred to the Administrative Agent.

m. Such Person is in compliance with all covenants and other agreements contained in this Agreement.

n. Policies and procedures have been implemented and maintained by or on behalf of each Person that are designed to achieve compliance by such Person, its respective Subsidiaries, directors, officers, employees and agents with Anti-Corruption Laws, Anti-Terrorism Laws and applicable Sanctions, giving due regard to the nature of such Person's business and activities, and such Person, its Subsidiaries and its officers and employees and, to the knowledge of such Person, its officers, employees, directors and agents acting in any capacity in connection with or directly benefiting from the facility established hereby, are in compliance with Anti-Corruption Laws, Anti-Terrorism Laws and applicable Sanctions.

o. (i) None of such Person, its Subsidiaries or, to the knowledge of such Person, any of its directors, officers, employees, or agents acting in any capacity in connection with or directly benefiting from the facility established hereby, is an individual or entity that is, or is directly or indirectly owned or controlled by, a Sanctioned Person, (ii) none of such Person and its Subsidiaries is located, organized or resident in a Sanctioned Country or is the subject or target of any Sanctions, and (iii) such Person is not in violation of any applicable Anti-Corruption Laws, Anti-Terrorism Laws or Sanctions.

p. No proceeds of Purchased Receivables will be used by such Person in any manner that will violate Anti-Corruption Laws, Anti-Terrorism Laws or applicable Sanctions.

q. The information included in the Certification of Beneficial Owner is true and correct in all respects.

The Guarantor hereby makes the following representations and warranties for the benefit of each Buyer and the Administrative Agent as of the date of this Agreement and on each Purchase Date:

(w) The Guarantor is (i) duly organized, validly existing, and, to the extent applicable under the laws of its jurisdiction of organization, in good standing under the laws of its jurisdiction of organization and has all organizational powers and all material governmental licenses, authorizations, consents, and approvals required to carry on its business as now conducted and (ii) is qualified to do business in every jurisdiction where the nature of its business requires it to be so qualified, except, with respect to clause (ii), to the extent that failure to so qualify would not reasonably be expected to adversely affect its ability to perform its obligations hereunder and would not have an adverse effect on the interests of the Buyer under the Transaction Documents.

(x) The Guarantor has the requisite power and authority to enter into and deliver this Agreement, and it has taken all necessary corporate or other action required to authorize the execution,

delivery and performance by the Guarantor of this Agreement. This Agreement has been duly executed and delivered by the Guarantor.

(y) This Agreement constitutes the legal, valid and binding obligations of the Guarantor, enforceable in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting the rights and remedies of creditors and general principles of equity, regardless of whether enforcement is sought in proceedings in equity or at law.

(z) Neither the execution nor the delivery of this Agreement by the Guarantor, nor the Guarantor's performance of or compliance with the terms and provisions hereof will conflict with or result in a breach of or give rise to a default under (i) any laws, (ii) any indenture, loan agreement, security agreement, or other material agreement binding upon the Guarantor or any of its properties, or (iii) any provision of the Guarantor's organizational documents.

(aa) No authorization, consent or approval or other action by, and no notice to or filing with, any Governmental Authority is required to be obtained or made by the Guarantor for the due execution, delivery and performance by it of this Agreement.

(ab) The Guarantor is Solvent.

(ac) There is no pending or, to its knowledge, threatened action, proceeding, investigation or injunction, writ or restraining order binding on or against the Guarantor or any of its Affiliates before any court, governmental entity or arbitrator, which could reasonably be expected to have an adverse effect on the enforceability of this Agreement (including, without limitation, the enforceability of any Buyer's ownership interest in the Purchased Receivables) or the ability of the Guarantor to perform its obligations hereunder.

(ad) Policies and procedures have been implemented and maintained by or on behalf of the Guarantor that are designed to achieve compliance by the Guarantor and its respective Subsidiaries, directors, officers, employees and agents with Anti-Corruption Laws, Anti-Terrorism Laws and applicable Sanctions, giving due regard to the nature of such Person's business and activities, and the Guarantor, its respective Subsidiaries and their respective officers and employees and, to the knowledge of each of the Guarantor, its respective officers, employees, directors and agents acting in any capacity in connection with or directly benefitting from the facility established hereby, are in compliance with Anti-Corruption Laws, Anti-Terrorism Laws and applicable Sanctions.

(ae) (i) None of the Guarantor or any of its respective Subsidiaries or, to the knowledge of the Guarantor, as applicable, any of its respective directors, officers, employees, or agents that will act in any capacity in connection with or directly benefit from the facility established hereby, is an individual or entity that is, or is directly or indirectly owned or controlled by, a Sanctioned Person, (ii) none of the Guarantor or any of its respective Subsidiaries is located, organized or resident in a Sanctioned Country or is the subject or target of any Sanctions, and (iii) the Guarantor is not in violation of any applicable Anti-Corruption Laws, Anti-Terrorism Laws or Sanctions.

(af) The information included in the Certification of Beneficial Owner is true and correct in all respects.

Exhibit C-3

**Exhibit D**  
**Covenants**

Each Seller, each Servicer and the Guarantor hereby agree, at all times prior to the Final Collection Date:

r. To take all necessary steps and actions to preserve its corporate (or other organization) existence and comply in all material respects with all laws applicable to such Person in the operation of its business.

s. To duly perform and comply in all material respects with all terms, provisions, and obligations under each Contract and refrain from taking any action or omitting to take any action which could reasonably be expected to prejudice or limit the applicable Buyer's rights to payment with respect to the Purchased Receivables or result in any Adverse Claim.

t. To promptly notify the Administrative Agent in writing of any change to the UCC Information on or before the date of such change.

u. To not modify the terms of any Contract in any manner which would adversely affect the collectability of any Purchased Receivable or any rights of the Buyers as the owners of the Purchased Receivables or would otherwise reduce the amount due thereunder or delay the Maturity Date thereof.

v. To make all disclosures required by any Applicable Law with respect to the sale of the Purchased Receivables hereunder to the Buyers, and account for such sale in accordance with GAAP.

w. To maintain its books and records, including but not limited to any computer files and master data processing records, so that such records that refer to Purchased Receivables sold hereunder shall indicate clearly that the applicable Seller's right, title and interest in such Purchased Receivables have been sold to the Buyers.

x. To not create or permit to exist any Adverse Claim over all or any of such Seller's or the Buyer's rights, title and interest in and to the Purchased Receivables.

y. To not sell, assign or otherwise transfer the Purchased Receivables except as specifically provided for herein.

z. To provide the Administrative Agent and the Buyers with such other reports, information, documents, books and records related to the Purchased Receivables as the Administrative Agent on behalf of any Buyer may reasonably request or any other information that the Administrative Agent or any Buyer may require for capital or regulatory purposes and which may be lawfully disclosed or provided to such Persons, including, without limitation, promptly after request by the Administrative Agent on behalf of any Buyer (i) a copy of the purchase order or sales order and invoices relating to each Purchased Receivable; (ii) a copy of the bill of lading and any other shipping document relating to each Purchased Receivable; and (iii) all billings, statements, correspondence and memoranda directed to the Account Debtor in relation to each Purchased Receivable.

aa. To (i) at a time reasonably convenient to the applicable Seller or Servicer during regular business hours and upon reasonable prior notice (but so long as no Servicer Termination Event has occurred and is continuing, no more than once per calendar year), permit the Administrative Agent or any of its agents or representatives, to examine and make copies of and abstracts from such Seller's or Servicer's sales records and the invoices in respect of Purchased Receivables at any time and permit the Administrative Agent to take such copies and extracts from such sales records and to provide the Administrative Agent with copies or originals (at Seller's option) of the invoices relating to Purchased Receivables as it may require and generally allow the Administrative Agent (at the applicable Seller's expense) to review, check and audit each Seller's and each Servicer's credit control procedures; and to visit the offices and properties of each Seller or Servicer for the purpose of examining such records and to discuss matters relating to Purchased Receivables and each Seller's and each Servicer's performance

hereunder with any of the officers or employees of each Seller or Servicer having knowledge of such matters' and (ii) without limiting the provisions of clause (i), upon reasonable prior notice (but so long as no Servicer Termination Event has occurred and is continuing, no more than once per calendar year) and subject to such Seller or such Servicer receiving acceptable confidentiality undertakings thereof, permit certified public accountants or other auditors acceptable to the Administrative Agent to conduct, at the applicable Seller's expense, a review of each Seller's and each Servicer's books and records to the extent related to the Purchased Receivables; provided that so long as no Servicer Termination Event has occurred and is continuing, the aggregate expense payable by the Sellers and the Servicers pursuant to this clause (j) shall not exceed \$10,000 in any calendar year.

ab. To maintain and enforce policies and procedures by or on behalf of each Seller, each Servicer and the Guarantor designed to promote and achieve compliance, by each Seller, each Servicer, and the Guarantor and each of their Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, Anti-Terrorism Laws and applicable Sanctions.

ac. To not use, and to procure that its Subsidiaries and its or their respective directors, officers, employees and agents not use, directly or indirectly, the proceeds of any Purchased Receivables (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws or Anti-Terrorism Laws, (ii) for the purpose of funding or financing any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, in each case to the extent doing so would violate any Sanctions, or (iii) in any other manner that would result in liability to any party hereto under any applicable Sanctions or result in the violation of any Anti-Corruption Laws, Anti-Terrorism Laws or Sanctions.

ad. To promptly execute and deliver, at its expense, all further instruments and documents, and take all further action that the Administrative Agent and the Buyers may reasonably request, from time to time, in order to perfect, protect or more fully evidence the full and complete ownership and security interest in the Purchased Receivables, or to enable the Administrative Agent and the Buyers to exercise or enforce the rights of the Administrative Agent and the Buyers hereunder or under or in connection with the Purchased Receivables.

ae. Within thirty days of the date hereof, an acknowledgment copy of Form UCC-3 with respect to that certain UCC Financing Statement listing the Sanmina Corporation, as debtor, and Cameron Technology Investors II, LLP, as secured party, recorded and filed with the Delaware Secretary of State on May 16, 2014 as File No. 20141999325.

af. If any Seller sells, pledges or otherwise transfers (other than pursuant to the Credit Agreement or the Indenture) any Receivables owed by any of the Account Debtors to any Person other than a Buyer under this Agreement, to deliver to the Administrative Agent (for distribution to the Buyers) promptly following such transfer, a detailed summary of any such Receivables, including a description of the individual invoices numbers, due dates and amounts of such other Receivables.

ag. To promptly, following any change in the information included in the Certification of Beneficial Owner(s) that would result in a change to the list of beneficial owners or control party identified in such certification, or a change in the address of any beneficial owners or control party, execute and deliver to the Administrative Agent an updated Certification of Beneficial Owner(s).

ah. To promptly, following any request therefor, deliver to the Administrative Agent such information and documentation in its possession (or which it is able to obtain or generate through commercially reasonable efforts) as may be reasonably requested by the Administrative Agent for purposes of compliance with applicable "know your customer" requirements under the Act, the Beneficial Ownership Rule or other applicable anti-money laundering laws, in each case, in relation to the transactions contemplated by this Agreement.

(r) To deliver to the Buyers and the Administrative Agent, from time to time but in any event at least every forty-five (45) calendar days, evidence that Sanmina Corporation has delivered a

Exhibit D-2

certificate executed by it and acknowledged by the Trustee under and as defined in the Indenture in accordance with Section 1013(a)(3) of the Indenture.

Exhibit D-3

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**Exhibit E**  
**Eligibility Criteria**

(m) Prior to giving effect to the sale of such Purchased Receivable, the applicable Seller has a valid ownership interest therein, free and clear of any Adverse Claim. Such Purchased Receivable is a valid, current and freely assignable trade account receivable and the assignment of such Purchased Receivable is not subject to a consent requirement by any third party to the sale or other transfer of such Purchased Receivable or the grant of a security interest or other lien in such Purchased Receivable other than (i) consents previously obtained in writing by such Seller and that remain in effect as of the Purchase Date and (ii) any such requirements which are not enforceable under Applicable Law (including, if applicable, Sections 9-406 and 9-408 of the UCC).

(n) Upon purchase by the Buyers pursuant to this Agreement, such Purchased Receivable will have been validly and absolutely assigned, transferred and sold to the Buyers and the Buyers shall acquire a legally valid ownership interest in such Purchased Receivable, free and clear of any Adverse Claim without any need on the part of such Seller or the Buyers to (i) notify the applicable Account Debtor or (ii) other than the UCC financing statements required to be filed hereunder, file, register or record any Transaction Document or the sale of such Purchased Receivable under the Applicable Laws applicable to such Seller. All of such Seller's right, title and interest in and to such Purchased Receivable will have been validly sold and absolutely assigned and transferred to the Buyers, and the Buyers will have the legal and beneficial right to be paid the face amount of such Purchased Receivable free of any Adverse Claim. Such Purchased Receivable is sold hereunder by such Seller in good faith and without actual intent to hinder, delay or defraud the creditors of such Seller.

(o) Such Purchased Receivable and the applicable Contract constitutes a bona fide, existing and enforceable legal, valid and binding obligation of the applicable Account Debtor (except (x) as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity, and (y) as would not reasonably be expected to have a material adverse effect on the legality, validity and binding effect, enforceability or collectability of such Receivable against the applicable Account Debtor), arising out of an arm's-length sale by such Seller of goods and the provision of any related services, in each case, in the ordinary course of its and such Account Debtor's businesses. Such Purchased Receivable and the related Contract under which it arises comply with, and the goods with respect thereto have been manufactured in compliance with, and any related services have been provided in compliance with, the requirements of all applicable laws, rules, regulations or orders of any Governmental Authority and do not contravene any agreement binding upon such Seller.

(p) The goods deliverable to and any services provided to the applicable Account Debtor in connection with such Purchased Receivable were delivered to (or, in the case of goods deliverable under a Contract or other agreement pursuant to which the applicable Account Debtor bears the risk of loss upon shipment, shipped to) such Account Debtor (or, in the case of services, fully performed) not later than the applicable Purchase Date.

(q) As of the applicable Purchase Date, the applicable Account Debtor is unconditionally and irrevocably obliged to pay the Net Invoice Amount of such Purchased Receivable as set forth in the applicable Purchase Request (except to the extent of reductions, discounts and similar Deemed Collections arising in the ordinary course of business and resulting in Dilution in respect of which the applicable Seller promptly pays the amount thereof pursuant to Section 6(a)).

(r) The applicable Related Security and rights thereunder included with the purchase of such Purchased Receivable comprise all the rights necessary to claim, collect or otherwise enforce the obligations of such Purchased Receivable.

(s) Such Purchased Receivable is not evidenced by and does not constitute an "instrument" or "chattel paper" as such terms are defined in the UCC.

- (t) The applicable Account Debtor is not an Affiliate or Subsidiary of any Seller and is not a Sanctioned Person.
- (u) Such Purchased Receivable has not been sold or assigned to any Person other than the Buyers.
- (v) Neither such Seller, nor, to the best of such Seller's knowledge, the applicable Account Debtor, is in default of the applicable Contract or is in breach of its terms, except (i) as would not reasonably be expected to have a material adverse effect on the legality, validity, enforceability or collectability of such Receivable against the applicable Account Debtor and (ii) with respect to any contractual restrictions on the assignment of the applicable Purchased Receivables under such Contract, any such restrictions which are not enforceable under Applicable Law (including, if applicable, Sections 9-406 and 9-408 of the UCC).
- (w) Neither such Seller nor the applicable Account Debtor has asserted any Dispute with respect to such Purchased Receivable.
- (x) Such Purchased Receivable (x) is denominated in U.S. dollars (unless the Purchase Sublimit for the Account Debtor owing on such Purchased Receivable is designated on Schedule II in Euros), (y) is payable either in the United States or, if such Purchased Receivable was sold by SANMINA-SCI SYSTEMS (MALAYSIA) SDN. BHD., in Malaysia or was sold by Sanmina- SCI Systems Singapore Pte. Ltd., in Singapore, and (z) was originated pursuant to a Contract governed by the laws of (i) the United States, any State thereof or the District of Columbia, (ii) any other jurisdiction identified opposite the name of the applicable Account Debtor on Schedule II hereto, or (iii) any other jurisdiction as may be mutually agreed by the Sellers, the Administrative Agent and the applicable Buyers.
- (y) Such Purchased Receivable does not represent a progress billing or a sale on a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment, cash-on-delivery or any other repurchase or return basis, does not relate to payments of interest and has not been invoiced more than once.
- (z) The Maturity Date for such Purchased Receivable is the lesser of (i) one hundred and fifty (150) days after the Purchase Date therefor or (ii) the shortest number of days specified in any Buyer Pricing Letter for any Buyer holding a Pro Rata Share with respect to the applicable Account Debtor.
- (aa) No Insolvency Event with respect to the applicable Account Debtor has occurred and is continuing.
- (ab) There are no actions, claims or proceedings now pending between such Seller and the applicable Account Debtor which would reasonably be expected to have a material adverse effect on the legality, validity, enforceability or collectability of such Purchased Receivable against the applicable Account Debtor.
- (ac) If an Account Debtor is located in or organized under the laws of France, then the Maturity Date for any related Purchased Receivable shall not be more than sixty days following the invoice date thereof.

Exhibit E-2

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**Exhibit F**  
**Servicer Termination Events**

Each of the following shall constitute a “Servicer Termination Event” for purposes of this Agreement:

ai. Any Seller, any Servicer or the Guarantor fails to pay any amount due under this Agreement or any other Transaction Document on its due date and such failure continues for two (2) Business Days.

(c) Any Seller, the Servicer or the Guarantor shall fail to perform or observe in any material respect any term, covenant or agreement under this Agreement or any other Transaction Document and, if curable, such failure is not cured within ten (10) Business Days after the earlier of (i) any Seller, the Servicer or the Guarantor have knowledge of such failure or (ii) any Seller, the Servicer or the Guarantor receive written notice thereof from the Administrative Agent or any Buyer.

(d) Any representation or warranty made by a Seller, the Servicer or the Guarantor shall be inaccurate, incorrect or untrue in any material respect on any date as of which it is made or deemed to be made (except with respect to breaches giving rise to Events of Repurchase, but only if the Seller repurchases the affected Purchased Receivable in accordance with the requirements of Section 6(b)).

(e) An Existing Credit Facility Default has occurred.

(f) An Insolvency Event shall have occurred with respect to any Seller, Servicer or the Guarantor.

(g) An event, condition, change or effect shall occur which has a material adverse effect on (i) the validity or collectability of the Purchased Receivables, or (ii) the validity or enforceability of this Agreement or any other Transaction Document as against any Seller, any Servicer or the Guarantor or the rights and remedies of the Administrative Agent or any Buyer hereunder or thereunder; provided, that, for the avoidance of doubt, that no Servicer Termination Event under this clause (f) shall be deemed to arise solely as the result of an Insolvency Event with respect to any Account Debtor.

Exhibit G  
Accounts

**Administrative Agent's Account**

Bank:  
Bank Swift Address:  
ABA#:  
Account #:  
Account Name:  
Reference:

For Purchased Receivables denominated in Euros:

Bank:  
Bank Swift Address:  
Account #:  
Account Name:  
Attention:  
Reference:

**Sellers' Accounts**

For Purchased Receivables denominated in U.S. dollars:

Sanmina Corporation

Bank:  
Bank Swift Address:  
ABA #:  
Account #:  
Account Name:

For Purchased Receivables denominated in Euros

Sanmina Corporation  
Bank:  
Bank Swift Address:  
Account:  
IBAN:

For Purchased Receivables denominated in U.S. dollars

Sanmina-SCI Systems Singapore Pte. Ltd.

Bank:  
Bank Swift Address:  
Intermediary Bank for UDS payment:  
Intermediary Bank Swift Code:  
Account #:  
Account Name:

SANMINA-SCI SYSTEMS (MALAYSIA) SDN. BHD.

Bank:  
Bank Swift Address:  
Account #:  
Account Name:

Exhibit G-2

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**Exhibit H**  
**Form of Joinder**

This JOINDER dated as of [●] (this “Agreement”), is by and among [●] (the “New Seller”), each Buyer (as defined below) and MUFG BANK, LTD., as the Administrative Agent (as defined below). Capitalized terms used and not defined herein have the meanings given to them in the RPA (as defined below).

**WITNESSETH THAT:**

WHEREAS, SANMINA CORPORATION, a Delaware corporation (the “Existing Seller”)<sup>9</sup>, and any other seller from time to time party thereto (each, in such capacity, a “Seller” and collectively, the “Sellers”), the Buyers described therein, and MUFG BANK, LTD., as administrative agent for the Buyers (the “Administrative Agent”), have entered into the Receivables Purchase Agreement, dated March 26, 2018 (as amended, supplemented or otherwise modified from time to time, the “RPA”); and

WHEREAS, the New Seller desires to be joined as a Seller and Servicer under the RPA;

NOW, THEREFORE, FOR VALUE RECEIVED, and in consideration of accommodations given or to be given, to the Sellers by the Buyers from time to time, the New Seller hereby agrees as follows:

1. The New Seller is a “Seller” and a “Servicer” under the RPA, effective upon the date of that it executes this Agreement. All references in the RPA to the term “Seller”, “Sellers”, “Servicer” or “Servicers” shall be deemed to include the New Seller in those respective capacities. Without limiting the generality of the foregoing, the New Seller hereby repeats and reaffirms all covenants, agreements, representations and warranties made or given by a Seller or a Servicer contained in the RPA, and appoints the Administrative Agent as its agent, attorney-in-fact and representative in accordance with Section 5(k) of the RPA.

2. For purposes of the RPA, the “Seller’s Account” with respect to the New Seller will be (i) the account of the New Seller located at [●] with account number [●] or (ii) such other account as notified to the Administrative Agent from time to time by the New Seller in writing.

3. For purposes of the RPA, the New Seller’s UCC Information shall be as follows:

(a) Name:	[●]
(b) Chief Executive Office:	[●]
(c) Jurisdiction of Organization:	[●]
(d) Organizational Number:	[●]
(e) FEIN:	[●]
(f) Tradenames:	[●]
(g) Changes in Location, Name and Corporate Organization in the last 5 years:	[●]

4. The New Seller shall, at its expense, promptly execute and deliver all further instruments and documents, and take all further action, that the Administrative Agent and the Buyers may reasonably request, from time to time, in order to perfect, protect or more fully evidence the transactions contemplated hereby and by the RPA. Without limiting the foregoing, the New Seller hereby authorizes the Administrative Agent to file UCC financing statements with respect to the transactions contemplated hereby and by the RPA, together with any amendments relating hereto or thereto.

5. This Agreement is a Transaction Document for purposes of the RPA.

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<sup>9</sup> Form to be revised to accommodate additional Buyers if applicable.

6. THIS AGREEMENT, INCLUDING THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO ANY OTHER CONFLICTS OF LAW PROVISIONS THEREOF).

[Remainder of Page Intentionally Left Blank]

Exhibit H-2

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**In witness whereof**, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above written.

**NEW SELLER:**

[●], as a Seller

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BUYER(S):**

**MUFG BANK, LTD.,**  
as a Buyer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*[Other Buyers to be included if applicable]*

**ADMINISTRATIVE AGENT:**

**MUFG BANK, LTD.,**  
as Administrative Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXISTING SELLER(S):**

**SANMINA CORPORATION,**  
as a Seller

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*[Other Sellers to be included if applicable]*

Exhibit I

Form of Hungary Performance Instruction

**TELJESÍTÉSI UTASÍTÁS**

[MINTA]

Címzett:

[Az engedményezett követelés kötelezettséjének neve]

[A kötelezettség címe]

**Tárgy: Teljesítési Utasítás**

Tisztelet Hölgyem / Uram!

Hivatkozunk a többek között a [Affected Buyer] (székhely: [REGISTERED OFFICE IN US]; cégegyezékszám: [COMPANY REGISTRATION NUMBER IN US]) mint követelés-vev6 (a továbbiakban: "9HYE") és a Sanmina Corporation (székhely: [REGISTERED OFFICE OF THE ASSIGNEE IN US]; cégegyezékszám: [COMPANY REGISTRATION NUMBER OF THE ASSIGNEE IN US]) mint követelés-eladó (a továbbiakban: "Követelés-eladó") között 2018. március 26. napján megkötött [DATE OF RPA] napján módosított Receivables Purchase Agreement-re (a továbbiakban: "RPA").

Az RPA alapján a Követelés-eladó az Önökkel szemben a [...] sz. mellékletben található Szamlak alapjan fennallos vagy a kes6bbieken keletkező követelést (a továbbiakban: "Követelések") rank mint Vev6re engedményezte.

Értesítjük Önöket, hogy a RPA-ban foglaltak alapjan a Vev6 a Követeléseket megszerezte, ezért Önöknek a jelen Teljesítési Utasítás kézhezvételét követően a Követeléseket a következő bankszamlara kell fizetniük:

[BANKSZÁMLA ADATAI]

A jelen Teljesítési Utasítás a magyar Polgári Törvénykönyvről sz6l6 2013. évi V. törvény 6:198. §-a szerinti teljesítési utasításnak minősül.

**PERFORMANCE INSTRUCTION**

[SAMPLE]

To:

[Name of the Debtor of the assigned receivables]

[Address of the Debtor]

**Subject: Performance Instruction**

Dear Madam/Sir,

We refer to the Receivables Purchase Agreement between *among others* [Affected Buyer] (registered office: [REGISTERED OFFICE IN US]; company registration number: [COMPANY REGISTRATION NUMBER IN US]) as Buyer of receivables (hereinafter: "Buyer") and Sanmina Corporation (registered office: [REGISTERED OFFICE OF SANMINA IN US]; company registration number: [COMPANY REGISTRATION NUMBER OF SANMINA IN US]) as Seller of receivables (hereinafter: "Seller"), entered into on March 26, 2018, as amended [DATE OF RPA] (hereinafter: "RPA").

On the basis of the RPA, the Seller has assigned to us as Buyer its receivables (hereinafter: "Receivables") existing or arising in the future on the basis of the Invoices *in Schedule No. [...]*.

We inform you that the Buyer has acquired the Receivables on the basis of the RPA, therefore You are obliged to pay the Receivables to the following bank account after receiving this Performance Instruction:

[BANK ACCOUNT DETAILS]

This Performance Instruction shall be considered a performance instruction according to Section 6:198 of Act No. V of 2013 on the Hungarian Civil Code.

A Számlák alapján a Koveteléseket a Vevő érvényesíti, de a Számlákhoz kapcsolódó szerződés(ek)b6l eredő kötelezettségek teljesítéséért továbbra is a Követelés-eladó felel.

Felhívjuk szíves figyelmüket, hogy amennyiben a jelen Teljesítési Utasításban foglaltaknak nem tesznek eleget és továbbra is a Követelés-eladónak teljesítenek, ezt saját kockázatukra teszik, és a Vevő az összeg kifizetését jogoszerfien követelheti Onöktől tekintet nélkül arra, hogy fizetést teljesítettek a Követelés-eladó részére.

[PLACE], [REDACTED] 2020

Tisztelettel:

The Receivables from the Invoices are collected by the Buyer, but the Seller is still liable for the fulfillment of the obligations under the contract(s) in connection with the Invoices.

We would like to draw your attention to the fact that if you do not follow this Performance Instruction and continue to pay to the Seller, it is at your own risk and the Buyer can lawfully demand the payment of this amount from You, regardless of whether you have performed a payment to the Seller.

Best regards,

**[Affected Buyer]**

Vevő / Buyer

képviseli / represented by:

[REDACTED] és/und [REDACTED]

ügyvezetők / managing directors [Can be any officer who can lawfully represent Wells]

**Sanmina Corporation**

Követelés-eladó / Seller

képviseli / represented by:

[REDACTED] és/und [REDACTED]

iigyevezetők / managing directors [Can be any officer who can lawfully represent Sanmina]

### Schedules

Nr. 1: Invoices

Kérjük, hogy a Teljesítési Utasítás tudomásulvételének jeléül, a Teljesítési Utasítás cégszerfien aláírt másolatát az alábbi címre levél vagy telefax útján visszaküldeni szíveskedjenek:

**[Affected Byer]**

[Affected Buyer's US address]

Telefax: + [REDACTED]

Please send a signed copy of this Performance Instruction to the following address by post or fax as a way of acknowledgement:

A fentieket tudomásul vettük:

We acknowledge the above:

[PLACE], [REDACTED] 2020

[Cégszerii aldirds / official company signature]  
**[AZ ENGEDMÉNYEZETT KÖVETELÉS KÖTELEZETTJÉNEK NEVE /  
NAME OF THE DEBTOR OF THE ASSIGNED RECEIVABLES]**

Exhibit I-3

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**Annex I**  
**Electronic Services Schedule**

This Electronic Services Schedule (the “Schedule”) is attached and made a part of the Agreement (as defined herein). In the event of any conflict between the terms and conditions of the Agreement and the terms and conditions of this Schedule, the terms and conditions of this Schedule shall control. Capitalized terms used herein not otherwise defined herein shall have the meanings ascribed thereto in the Agreement.

**Section 1.** As used herein:

“Agreement” means the Receivables Purchase Agreement, dated as of March 26, 2018, by and among SANMINA CORPORATION, a Delaware corporation, and any other seller from time to time party hereto (each, in such capacity, a “Seller” and collectively, the “Sellers”), and as servicers (each, in such capacity, a “Servicer” and collectively, the “Servicers”), SANMINA CORPORATION, as guarantor (in such capacity the “Guarantor”), MUFG BANK, LTD. (“MUFG Bank”) and each other buyer from time to time party hereto (each, in such capacity, a “Buyer” and collectively, the “Buyers”), and MUFG Bank as administrative agent (in such capacity, the “Administrative Agent”), including this Annex, as such agreement may be amended, restated, supplemented or otherwise modified from time to time in accordance with its terms.

“Message” means all messages or other information sent or received by any Seller in connection with the Agreement using the Program web portal.

“PrimeRevenue” means PrimeRevenue, Inc., which is a Service Provider hereunder.

“Program web portal” means the system interface of the Service Provider to be used by Administrative Agent and the Sellers so as to operate the Agreement or any updated or replacement system from time to time.

“Service Provider” means any person with whom an agreement has been entered into by Administrative Agent and to whom the performance of certain obligations or exercise of certain rights in respect of the giving and receiving of Messages, and not in respect of any purchase of Receivables, is from time to time sub-contracted by Administrative Agent.

**Section 2. Service Provider**

1.a The parties to the Agreement agree that the Service Provider is and will be the service provider solely for Administrative Agent and not the subcontractor or agent of any Seller. Each Seller consents to Administrative Agent outsourcing to the Service Provider the management of certain administrative functions under the Agreement, it being understood that only the rights and obligations issuing from this Schedule shall be outsourced.<sup>10</sup>

**Section 3. Service Provider’s Systems and Platform**

1.b To operate the Agreement, each Seller and Administrative Agent shall use the Program web portal, subject to Section 4.9 below.

1.c Program related data will be updated and available for view access by Sellers and Administrative Agent on a day to day basis in the Program web portal.

1.d Each Seller will upload and download information pertaining to Purchase Requests from the Program web portal.

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<sup>10</sup> Services with respect to Messages are only being offered as an accommodation and not as a requirement for any Seller’s use of the facility. As such, in the event the service provider cannot or does not perform, Administrative Agent’s liability is limited to Administrative Agent performing under Administrative Agent’s obligations stated in the Agreement.

1.e As of the date of this Schedule, the Service Provider means PrimeRevenue. Administrative Agent may replace the Service Provider at any time or terminate this Schedule, and will give written notice thereof to the Sellers.

#### **Section 4. Use of Service Provider's Systems and Platform**

- 1.a Each Seller shall have the right to use the content of the Program web portal to print and use reports downloaded from the Program web portal, and to save reasonable copies to its hard drive, in each case solely for the purposes contemplated by the Agreement. Any copying, distribution, or commercial use of any of the content of the Program web portal not in furtherance of or related to the commercial purposes of the Agreement is strictly forbidden. Notwithstanding the foregoing, each Seller is entitled to share any such content with (a) its Affiliates and any officers, directors, members, managers, employees or outside accountants, auditors or attorneys of such Seller or its Affiliates' attorneys, accounts, and tax-advisors, or any Governmental Authority (b) credit support providers if they agree to hold it confidential pursuant to customary commercial terms and (c) Governmental Authorities with appropriate jurisdiction (including filings required under securities laws). Notwithstanding the above stated obligations, no Seller will be liable for disclosure or use of such information which: (i) was required by Applicable Law, including pursuant to a valid subpoena or other legal process, (ii) is disclosed or used in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Schedule or any other Transaction Document or the enforcement of rights hereunder or thereunder, (iii) was in such Person's possession or known to such Person prior to receipt or (iv) is or becomes known to the public through disclosure in a printed publication (without breach of any of such Person's obligations hereunder).
- 1.b Service Provider retains all right, title, and interest in and to its Program web portal, including all software and other intellectual property underlying the Program web portal and associated therewith, all derivative works thereof, and in all media, but specifically excluding any materials, intellectual property or information provided by the Sellers or Administrative Agent (collectively, "Member Content"), all of which shall remain the property of the contributing party. Other than a royalty-free license to use the Program web portal during the term of this Schedule, nothing contained herein shall be construed as the grant of a license or other right by Service Provider to the Sellers of the Program web portal or any intellectual property underlying or associated with the Program web portal. Each Seller grants to Service Provider for the term of this Schedule a royalty free, non-exclusive license to use, reproduce, display and modify such Seller's Member Content for the purpose of allowing Service Provider to render the contracted-for services to Administrative Agent.
- 1.c All of the design, text, graphics and the selection and arrangement thereof included in the Program web portal are protected by the copyright laws of the United States and foreign countries. The Program web portal and all associated intellectual property rights are owned by Service Provider and its licensors. All rights not expressly granted to the Sellers are reserved to Service Provider and its licensors. Each Seller acknowledges that (a) the Program web portal incorporates confidential and proprietary information developed or acquired by Service Provider, including the software underlying the Program web portal; (b) it shall use such information solely for the purposes set forth herein; and (c) it shall not disclose any such information to third parties except to its Affiliates, and its and their employees, officers, legal counsel, financial advisors and auditors, so long as such parties are bound by written or fiduciary obligations no less stringent than those set forth herein, and such Seller remains primarily responsible for any unauthorized use or disclosure of the information by such third parties. This Section 4.3 shall survive the termination of this Schedule for a period of one year.
- 1.d Service Provider may access and use the non-public financial, transactional and other information that is processed under the Agreement or otherwise acquired by Service Provider in connection with the Program web portal ("Seller Data") for the purposes of providing and operating the Program web portal. In addition, Service Provider may access and use Seller Data on an aggregate basis for the purpose of preparing statistical analyses, reports, and benchmarking statistics for Service Provider's own use and for general marketing purposes related to trends and

overall use of the Program web portal and related services; provided, however, that any public marketing uses shall not individually identify any Seller or Seller Data. Each Seller represents that it has the right to permit Service Provider to use Seller Data as described in the Agreement and that such use will not violate any third person's rights.

- 1.e Each Seller acknowledges that Service Provider may transfer Seller Data to a third person, in connection with: (a) any assignment arising from the acquisition of all or substantially all of its assets or equity interests; or (b) a delegation of hosting or other duties, provided that such third party service provider agrees to abide by appropriate confidentiality obligations. Any such transferee shall only be permitted to use the data as contemplated by this Schedule.
- 1.f The parties may disclose Seller Data if required by applicable law to any government body, or duly authorized representatives thereof, upon an audit or other inspection by any of the same of the records or facilities of Service Provider. The applicable Seller will be notified promptly upon receipt of any order (to the extent allowed by the terms of such order or applicable law) and upon the implementation of any change in laws which requires disclosure of Seller Data.
- 1.g Each Seller hereby acknowledges that Service Provider reserves the right to: (a) terminate such Seller's access to and use of the Program web portal if such Seller permits any unauthorized third person or entity to access and use the Program web portal; and (b) interrupt or disable access to and use of all or any part of the Program web portal if necessary to prevent or protect against fraud, hacking, or illegal conduct or otherwise protect Service Provider's personnel or the Program web portal, in Service Provider's sole discretion and without notice.
- 1.h EACH SELLER ACKNOWLEDGES THAT NO WARRANTIES OR CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE MADE BY SERVICE PROVIDER WITH RESPECT TO THE PROGRAM WEB PORTAL, THE UNDERLYING SOFTWARE, OR ANY SERVICES PROVIDED BY SERVICE PROVIDER, AND SUCH PROGRAM WEB PORTAL, SOFTWARE, AND SERVICES ARE PROVIDED ON AN "AS IS, WHERE IS, AND AS AVAILABLE" BASIS. SERVICE PROVIDER EXPRESSLY DISCLAIMS LIABILITY AND SPECIFICALLY DENIES ANY RESPONSIBILITY FOR (A) THE COMPLETENESS, ACCURACY OR QUALITY OF INFORMATION OR ANY MEMBER CONTENT OBTAINED THROUGH THE PROGRAM WEB PORTAL, AND (B) SUCH SELLER'S USE OF OR INABILITY TO USE THE PROGRAM WEB PORTAL. THE USE OF THE PROGRAM WEB PORTAL, AND ANY MEMBER CONTENT OR INFORMATION OBTAINED VIA THE PROGRAM WEB PORTAL, IS AT EACH SELLER'S OWN RISK. SERVICE PROVIDER SHALL NOT BE LIABLE TO ANY SELLER FOR ANY INDIRECT LOSS, INCLUDING LOSS OF TIME, MONEY OR GOODWILL, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND UNDER ANY LEGAL THEORY OR CAUSE OF ACTION IN EACH CASE BASED ON SELLER'S, USE, INABILITY TO USE, OPERATE OR MODIFY THE PROGRAM WEB PORTAL. FOR THE AVOIDANCE OF DOUBT, INDIRECT LOSS INCLUDES LOSS OF USE, LOST BUSINESS, LOST REVENUE, LOST PROFITS, LOST DATA, OR LOST GOODWILL EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN OF SUCH DAMAGE. EXCEPT FOR SERVICE PROVIDER'S INTENTIONAL TORTIOUS ACTS, FRAUD, OR GROSS NEGLIGENCE, SERVICE PROVIDER'S TOTAL LIABILITY FOR PROVEN DIRECT DAMAGES RESULTING FROM ANY CAUSE OF ACTION ARISING OUT OF SELLER'S USE OF THE PROGRAM WEB PORTAL SHALL NOT EXCEED TEN THOUSAND DOLLARS (USD\$10,000.00).
- 1.i Administrative Agent has the obligation to view the Messages sent in accordance with this Schedule and to act upon them under the terms of the Agreement, and, during any unavailability of the Program web portal for the purposes hereof, or following the change of Service Provider, accept or receive Purchase Requests and other notices as otherwise provided in the Agreement.

**Section 5.     Security.** Each Seller agrees that:

- 1.f such Seller's authorized employees may access the Program web portal using a unique user ID and password issued by Service Provider to Seller's administrative user or any user ID and password maintained by a Seller user. Such Seller and each authorized employee shall not allow any other individual to use such employee's unique user ID and password to access the Program web portal. Such Seller and each authorized employee shall remain responsible for maintaining the strict confidentiality of the user IDs and passwords created for such Seller's authorized employees;
- 1.g it will not intentionally or knowingly interfere with, defeat, disrupt, circumvent or tamper with or attempt to gain unauthorized access to the Program web portal or other information or instruction that is, by the terms of the Agreement to be transmitted through the Program web portal, or with the restrictions on use of functionality or access to information on any portion of the Program web portal, or attempt to do so; and
- 1.h it will not intentionally or knowingly introduce into any portion of the Program web portal any device, software or routine, including but not limited to viruses, Trojan horses, worms, time bombs and cancelbots or other data or code that harms, or may adversely affect, the operation of the Program web portal.

**Section 6.     Representations, Warranties and Covenants of the Sellers.** Each Seller hereby represents, warrants and covenants to and with Administrative Agent as follows:

- 1.j Such Seller's use of the Program web portal is solely to settle genuine and lawful commercial trade transactions, arising in the ordinary course of business, for the purchase or sale of goods (including Receivables as defined under the Agreement) and/or services by or to a Seller from or to Administrative Agent or other third parties. Such Seller shall not use the Program web portal for investment or arbitrage functions or purposes, or for any money laundering purpose, or in contravention of any law or regulation, and any activity undertaken via the Program web portal shall not be used in furtherance of any of the foregoing.
- 1.k Information provided by such Seller to Administrative Agent or Service Provider from time to time in connection with this Schedule is and shall be true and accurate in all material respects at the time given.

**Section 7.     No Implied Duties.** Without limiting the liabilities of Administrative Agent under the Agreement, Administrative Agent shall be obliged to perform such duties and only such duties as are specifically set forth herein, and no implied duties or responsibilities shall be read or implied into this Schedule against Administrative Agent. Administrative Agent shall have no duties or obligations under this Schedule to any person or entity other than the Sellers and, without limiting the foregoing, does not assume any obligation or relationship of agency or trust under this Schedule for, or with any other person or entity.

**Section 8.     Third Party Beneficiary Rights.** Each Seller and Administrative Agent agree that Service Provider is an intended third party beneficiary of, and entitled to rely on Sections 2, 4, 5, 6 and 8 of this Schedule and Section 19 of the Agreement.

## LIST OF SUBSIDIARIES

<u>Entity Name</u>	<u>Jurisdiction</u>
AET Holdings Limited	Mauritius
CertainSource Technology Group Inc.	Texas
CST Real Estate LLC	Texas
Davos Group Limited	British Virgin Islands
Hadco Corporation	Massachusetts
Hadco Santa Clara, Inc.	Delaware
MPSTOR Limited	Ireland
Primary Sourcing Corp.	Texas
Sanmina (B.V.I.) Ltd	British Virgin Islands
Sanmina Bulgaria EOOD	Bulgaria
Sanmina Dutch Holdings B.V.	Netherlands
Sanmina Enclosures Systems Hungary Limited Liability Company	Hungary
Sanmina Holdings, Inc.	Delaware
Sanmina Ireland Unlimited Company	Ireland
Sanmina SAS	France
Sanmina Tech Services Private Limited	India
Sanmina-SCI (China) Limited	Hong Kong
Sanmina-SCI (H.K.) Limited	Hong Kong
Sanmina-SCI (Shenzhen) Limited	China
Sanmina-SCI AB	Sweden
Sanmina-SCI Central Services	France
Sanmina-SCI Circuits (Wuxi) Co., Ltd	China
Sanmina-SCI Corporation (Malaysia) Sdn Bhd	Malaysia
Sanmina-SCI Corporation Africa (Pty) Ltd.	South Africa
Sanmina-SCI Corporation Argentina SA	Argentina
Sanmina-SCI Corporation Colombia S.A.S.	Colombia
Sanmina-SCI Czech Republic s.r.o.	Czech Republic
Sanmina-SCI de Mexico S.A. de C.V.	Mexico
Sanmina-SCI do Brasil Integration Ltda.	Brazil
Sanmina-SCI do Brasil Ltda.	Brazil
Sanmina-SCI do Brasil Technology Ltda.	Brazil
Sanmina-SCI Dutch Holdings B.V.	Netherlands
Sanmina-SCI Electronics Pte. Ltd.	Singapore
Sanmina-SCI EMS Haukipudas Oy	Finland
Sanmina-SCI Enclosure Systems (Asia) Limited	Hong Kong
Sanmina-SCI Enclosure Systems (Shenzhen) Limited	China
Sanmina-SCI Germany GmbH	Germany
Sanmina-SCI Holding (Thailand) Limited	Thailand
Sanmina-SCI Holding GmbH & Co. KG	Germany
Sanmina-SCI Hungary Electronics Manufacturing LLC	Hungary
Sanmina-SCI Hungary Holding Limited Liability Company	Hungary
Sanmina-SCI India Private Limited*	India
Sanmina-SCI Israel EMS Ltd.	Israel
Sanmina-SCI Israel Medical Systems Ltd	Israel
Sanmina-SCI Optical Technology (Shenzhen) Ltd	China

<u>Entity Name</u>	<u>Jurisdiction</u>
Sanmina-SCI Pte. Ltd.	Singapore
Sanmina-SCI RSP de Mexico, S.A. de C.V.	Mexico
Sanmina-SCI Systems (Kunshan) Co., Limited	China
Sanmina-SCI Systems (Malaysia) Sdn. Bhd.	Malaysia
Sanmina-SCI Systems (Thailand) Ltd.	Thailand
Sanmina-SCI Systems Australia Pty Ltd	Australia
Sanmina-SCI Systems de Mexico S.A. de C.V.	Mexico
Sanmina-SCI Systems Holdings, LLC	Delaware
Sanmina-SCI Systems Ireland Limited	Ireland
Sanmina-SCI Systems Israel LTD.	Israel
Sanmina-SCI Systems Japan, Ltd.	Japan
Sanmina-SCI Systems Singapore Pte. Ltd.	Singapore
Sanmina-SCI Systems Tel Aviv Ltd.	Israel
Sanmina-SCI Technology India Private Ltd**	India
Sanmina-SCI Technology Limited	Cayman Islands
Sanmina-SCI U.K. Limited	United Kingdom
SCI Brockville Corp.	Canada
SCI Technology, Inc.	Alabama
SensorWise, Inc.	Texas

\* Held as a joint venture with Reliance Strategic Business Ventures Limited.

\*\* Wholly-owned subsidiary of Sanmina-SCI India Private Limited.

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 333-264681, 333-258471, 333-237898, 333-231175, 333-228406, 333-221515, 333-214706, 333-203596, 333-195455, 333-188085, 333-182042, 333-172128, 333-165435, 333-157099, 333-84704, 333-112605, 333-108942, 333-104692, 333-100236, 333-87946, 333-84704, 333-83110, 333-75616, 333-64294, 333-39930, 333-79259, and 333-23565) of Sanmina Corporation of our report dated November 10, 2022 relating to the financial statements, financial statement schedule and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP

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San Jose, California  
November 10, 2022

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO SECTION 302(A) OF  
THE SARBANES-OXLEY ACT OF 2002**

I, Jure Sola, certify that:

1. I have reviewed this Annual Report on Form 10-K of Sanmina Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's Board of Directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: November 10, 2022

/s/ JURE SOLA

Jure Sola

Chief Executive Officer (Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO SECTION 302(A) OF  
THE SARBANES-OXLEY ACT OF 2002**

I, Kurt Adzema, certify that:

1. I have reviewed this Annual Report on Form 10-K of Sanmina Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this report;
4. The Registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the Registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the Registrant's internal control over financial reporting that occurred during the Registrant's most recent fiscal quarter (the Registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant's internal control over financial reporting; and
5. The Registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Registrant's auditors and the audit committee of the Registrant's Board of Directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant's internal control over financial reporting.

Date: November 10, 2022

/s/ KURT ADZEMA

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Kurt Adzema

Chief Financial Officer (Principal Financial Officer)

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to the requirement set forth in Section 1350 of Chapter 63 of Title 18 of the United States of America Code (18 U.S.C. §1350), Jure Sola, Chief Executive Officer of Sanmina Corporation (the "Company"), hereby certifies that, to the best of his knowledge:

1. The Company's Annual Report on Form 10-K for the fiscal year ended October 1, 2022, to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

**IN WITNESS WHEREOF**, the undersigned has set his hand hereto as of November 10, 2022.

/s/ JURE SOLA

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Jure Sola  
Chief Executive Officer (Principal Executive Officer)

This certification accompanies the Form 10-K to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act (whether made before or after the date of the Form 10-K), irrespective of any general incorporation language contained in such filing.

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to the requirement set forth in Section 1350 of Chapter 63 of Title 18 of the United States of America Code (18 U.S.C. §1350), Kurt Adzema, Chief Financial Officer of Sanmina Corporation (the "Company"), hereby certifies that, to the best of his knowledge:

1. The Company's Annual Report on Form 10-K for the fiscal year ended October 1, 2022, to which this Certification is attached as Exhibit 32.2 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"); and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

**IN WITNESS WHEREOF**, the undersigned has set his hand hereto as of November 10, 2022.

/s/ KURT ADZEMA

Kurt Adzema  
Chief Financial Officer (Principal Financial Officer)

This certification accompanies the Form 10-K to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act (whether made before or after the date of the Form 10-K), irrespective of any general incorporation language contained in such filing.