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

FORM 10-K

☒ **ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2023

or

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

Commission File Number: 001-07120

HARTE HANKS, INC.
(Exact name of registrant as specified in its charter)

Delaware	**74-1677284**	**1 Executive Drive, Chelmsford, MA 01824**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)	(Address of principal executive offices, including zip code)

Registrant's telephone number, including are code (512) 434-1100

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

Title of Each Class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	HHS	NASDAQ

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 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 Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or 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. (Check one): 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. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to § 240.10D-1(b). ☐

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

As of June 30, 2023, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of the voting and non-voting common equity held by non-affiliates was approximately $33,654,017 based on the closing price on the NASDAQ on such date. Solely for purposes of this disclosure, shares of common stock held by executive officers and directors of the registrant as of such date have been excluded because such persons may be deemed to be affiliates. This determination of executive officers and directors as affiliates is not necessarily a conclusive determination for any other purposes.

As of March 15, 2024, 7,240,905 shares of common stock, $1.00 par value per share of the registrant were issued and outstanding.

Documents incorporated by reference:

Portions of the Proxy Statement to be filed in relation to the Company's 2024 Annual Meeting of Stockholders are incorporated herein by reference into Part III of this Form 10-K.

Harte Hanks, Inc. and Subsidiaries
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Form 10-K Report
December 31, 2023

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This report, including the Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A"), contains "forward-looking statements" within the meaning of the federal securities laws. All such statements are qualified by this cautionary note, which is provided pursuant to the safe harbor provisions of Section 27A of the Securities Act of 1933 and Section 21E of the Exchange Act. Forward-looking statements will also be included from time to time in our other public filings, press releases, our website, and oral and written presentations by management. Statements other than historical facts are forward-looking and may be identified by words such as "may," "will," "expects," "believes," "anticipates," "plans," "estimates," "seeks," "could," "intends," or words of similar meaning. Examples include statements regarding (1) our strategies and initiatives, including actions designed to respond to market conditions and improve our performance, (2) our financial outlook for revenues, earnings per share, operating income, expense related to equity-based compensation, capital resources and other financial items, if any, (3) expectations for our businesses and for the industries in which we operate, including the impact of economic conditions of the markets we serve on the marketing expenditures and activities of our clients and prospects, (4) competitive factors, (5) acquisition and development plans, (6) expectations regarding legal proceedings and other contingent liabilities, and (7) other statements regarding future events, conditions, or outcomes.

These forward-looking statements are based on current information, expectations, and estimates and involve risks, uncertainties, assumptions, and other factors that are difficult to predict and that could cause actual results to vary materially from what is expressed in or indicated by the forward-looking statements. In that event, our business, financial condition, results of operations, or liquidity could be materially adversely affected, and investors in our securities could lose part or all of their investments. Some of these risks, uncertainties, assumptions, and other factors can be found in our filings with the SEC, including the factors discussed below in this Item 1A, "Risk Factors" of this Annual Report, and any updates thereto in our Forms 10-Q and 8-K. The forward-looking statements included in this report and those included in our other public filings, press releases, our website, and oral and written presentations by management are made only as of the respective dates thereof, and we undertake no obligation to update publicly any forward-looking statement in this report or in other documents, our website, or oral statements for any reason, even if new information becomes available or other events occur in the future, except as required by law.

PART I

ITEM 1. BUSINESS

INTRODUCTION

Harte Hanks, Inc., together with its subsidiaries ("Harte Hanks," "Company," "we," "our," or "us") is a leading global customer experience company. With offices in North America, Asia-Pacific and Europe, Harte Hanks works with some of the world's most respected brands.

We are the successor to a newspaper business started by Houston Harte and Bernard Hanks in Texas in the early 1920s. We were incorporated in Delaware on October 1, 1970. In 1972, Harte Hanks went public and was listed on the New York Stock Exchange ("NYSE"). We became a private company in a leveraged buyout in 1984, and in 1993 we again went public and listed our common stock on the NYSE. On July 13, 2020, we began trading on the OTCQX® Best Market (the "OTCQX"). On December 1, 2021, our stock was uplisted to be traded on the Nasdaq Global Market® ("Nasdaq"), where it continues to trade today.

All reports filed with the Securities and Exchange Commission ("SEC") under the Securities Exchange Act of 1934, as amended (the "Exchange Act") are publicly available. These documents may be accessed free of charge on our website at http://www.hartehanks.com. These documents are provided as soon as practical after they are filed with the SEC and may also be found at the SEC's website at www.sec.gov. Additionally, we have adopted a code of ethics that applies to our chief executive officer, chief financial officer and general counsel which is posted on our website. Our website also includes our corporate governance guidelines and the charters for each of our audit, compensation, and nominating and corporate governance committees. We will provide a printed copy of any of these documents to any requesting stockholder by following the instructions on our website. These website addresses are intended to be for inactive textual references only. None of the information on, or accessible through, these websites are part of this Form 10-K or is incorporated by reference herein.

OUR BUSINESS

Harte Hanks is a leading customer and brand experience company operating in six service categories - data, marketing, sales, customer care, fulfillment and logistics. In and across these service categories, we address today's biggest growth and customer experience challenges for B2B and B2C businesses across the world in the new era of intelligence and Artificial Intelligence ("AI"), by being a modern journey enabler. The challenges we solve include:

- Grappling with data, AI and technology in the cookie-less world
- Growing awareness, demand and sales for products
- Storing, fulfilling and delivering samples, kits, materials and products direct to the door of consumers, influencers or businesses
- Delivering better customer experience and support across multiple channels
- Delivering effectively with tighter budgets and talent shortages

Our clients need help enabling their journey to growth, to transformation, to customer centricity, to product success and to AI powered approaches and solutions to marketing, sales, fulfillment and customer care. At the core of how we address this is a concentration on our client's key audiences - prospects, customers, patients, members, partners, employees and influencers - and how we help align our client's brands and products to these different audiences along journeys. This includes the **product journey** e.g. product innovation, build, strategy, launch, sell, deliver, support and recall and the **customer journey** e.g. how customers become aware of their needs, how they buy, making the purchase, using the product or service, advocacy and renewal. We are laser focused on helping our clients better understand, engage, acquire, deliver to, service, support and retain these audiences. We start by understanding and architecting the journey in focus, and then enable, deliver and manage some or all aspects along this journey. Our alignment of customers and products on behalf of brands along the entire lifecycle distinguishes us from most other agencies and competitors in our service categories.

We offer a uniquely diverse range of services and solutions in and across our service categories to businesses in the following industries:

- B2B Technology & Services including cloud, SaaS, hardware, software, semiconductors, health technology, fintech, electronics, distributors and telecommunications
- Healthcare, Pharmaceuticals & Health Insurance
- Consumer Products including health, well-being and beauty; consumer tech/electronics; domestic appliances
- Travel, Hospitality, Streaming & Entertainment
- QSRs (Quick Service Restaurants)
- Financial Services and Fintech
- Automotive
- Retail

We partner with our clients to provide them with: data-driven analytics and actionable insights from research; robust customer-experience ("CX"), marketing or sales strategies; and the data, content & technology to enable delivery. We then combine these insights with seamless program execution, fulfillment, service and delivery on a project or ongoing service basis to meet our client's goals. In essence we offer services along the customer & product lifecycle - from Data to Demand, to Deal, to Delivery, and everything in between.

Operationally, starting in 2024, our services are organized into four business units that span the end to end customer and product lifecycles:

- Data, marketing, demand generation and managed marketing services
- Sales Services
- Fulfillment & Logistics
- Customer Care

Data, Marketing, Demand Generation and Managed Marketing Services

Harte Hanks helps our clients determine, detect and activate their audiences through traditional, digital, and emerging channels. We leverage data, insights, technology, and award-winning creative solutions to meet and exceed our clients' business objectives and optimize our client's return on investment. We provide full service multi-channel marketing from strategy to campaign execution.

Data, Marketing, Demand Generation and Managed Marketing Services *(continued)*

Our key offerings include:

- **Data & Analytics** – In-depth data and analytics including audience identification, profiling, segmentation and prioritization, predictive modeling and data strategy. We provide data hygiene and cleansing to ensure the best possible results. We access broad first-party and third-party data sources, search and social media, and research through syndicated, primary and secondary sources, and we leverage our proprietary DataView tool, a comprehensive, aggregate data mart for B2C (USA) and B2B (Global) that provides a 360-degree customer view, with over 1,500 attributes enabling accurate predictive marketing to our clients. We also offer a unique intent data solution called Audience Finder for detecting in-market prospects.
- **Research** - Primary and secondary research to help our clients understand their customers, category, competitors and capabilities, either as a standalone deliverable or to inform the development of strategies for campaigns and programs
- **Strategy** – Provide strategic guidance to help clients efficiently and effectively plan and execute omnichannel marketing, demand generation and customer experience programs that deliver business results. We leverage data and insights to enhance our clients' understanding of their consumers, competitors and category dynamics, then apply those insights to develop the strategies for programs designed to drive activities like customer acquisition, engagement, purchase behavior, loyalty and advocacy. Types of strategies include: targeting, Go-To-Market, commercial, product launch, customer experience, campaign, content, ABM and demand strategy.
- **Creative & Content** - Full-service creative and content design, development and execution spanning traditional and digital channels, including creative concepts, messaging and content assets for print, broadcast, direct mail, website, app, display, social, mobile, search engine marketing, and voice.
- **Marketing Technology** – Website and app development, e-commerce development and enablement, database building and management, platform architecture creation, and marketing automation to serve as the foundation for digital and multi-channel marketing execution.
- **Digital and Multi-channel Marketing Execution -** Orchestration and execution of programs and campaigns across multiple channels, territories and audiences, using data, strategies, content and Marketing technology or MarTech provided either by Harte Hanks or by our clients.
- **Demand Generation and ABM (Account Based Marketing) -** Providing intelligence-based B2B solutions that understand audiences and their behaviors, and then inspire and drive action to deliver results. These solutions help companies understand which accounts, sectors and persons to target, and then generate marketing qualified leads ("MQLs") and pipelines for their marketing and sales team, through combining data, strategy, content, MarTech and digital/multi-channel execution.
- **Managed Marketing Services** - also referred to as "Marketing as a Service". A flexible outsourcing marketing operations solution, that works as a highly integrated extension of a client's own marketing function by blending the best of agency and business outsourcing processes and capabilities. Marketing as a service operationalizes, manages and delivers some or all of: data operations, marketing technology, analytics, demand generation, and staff augmentation.

Sales Services

Harte Hanks supports our customers' sales teams in their continued pursuit of excellence, delivering specialized outsourcing, optimization, lead nurturing and messaging development services to global and national partners, since our acquisition and integration of InsideOut Solutions, LLC in late 2022.

Leveraging our unique initiatives, we help organizations drive their sales operations toward uplifted conversion rates, superior team performance and heightened win rates. Our designed approach delivers revenue predictability, control and confidence for partners. Equipped with our proprietary insights and performance metrics, clients can achieve a more purposeful view of their operational rhythm, enabling them to recognize, meet and improve benchmarks quarter over quarter. This offering is often sold in combination with our Marketing Services capabilities, specifically with Demand Generation and Data Services. Our global team provides this through three key service capabilities:

- **Inside Sales Outsourcing** - combining best-in-class analytics, accomplished sales professionals and full-cycle experimentation we provide B2B enterprises, and Small to Midsized Businesses with a fully outsourced sales service, that can work alongside or in lieu of an internal inside sales function.
- **Lead Generation** – combining data, lead generation resources and technology we provide turnkey lead generation and development that converts interested or good fit prospects into leads for sales to qualify, nurture and sell to.
- **Sales Play Development** - design of sales plays and cadences to enable sales teams to find, plan, engage, nurture and convert prospects into sales opportunities.

Fulfillment & Logistics Services

Harte Hanks fulfillment unlocks critical sales enablement, value-added product fulfillment, and eCommerce channels for our clients. Harte Hanks logistics supports the supply chain needs of our clients in everything from time-sensitive deliveries to full scale supply chain management.

- **Product, Print-On-Demand, and Mail Fulfillment:** Our varied product and mail fulfillment solutions include printing on demand, managing product recalls, and distributing literature and promotional products to support B2B trade, drive marketing campaigns, and improve customer experience. Our event, curated kitting, and influencer programs provide custom solutions to engage audiences, target customers, support conferences, and appreciate employees. Spanning the United States, our fulfillment locations are temperature-controlled, FDA-registered, and geographically convenient, thereby allowing us to optimize print and product fulfillment to maximize customer shipping efficiency while minimizing transportation costs. Our Kansas City location is fully licensed for nutritional supplements, medical foods, baby formula and junior food products, chocolates, coffee and tea, edible nuts and seeds, snack foods, pet foods, pet treats, and pet nutritional supplements. We leverage our proprietary order management platform to facilitate customer orders, and we work with a variety of data sources and users to initiate the fulfillment order process. Furthermore, our global fulfillment capabilities extend to Europe and are augmented by a network of regional partners.
- **Logistics:** We provide third-party logistics and freight optimization services across the United States. We ship millions of time-sensitive materials annually through our access to a certified fleet of over 15,000 trucks and a proprietary rate-shopping logistical system called Allink®360 designed to ensure customer products are delivered on-time and on-budget.

Customer Care

Our customer care services are tailored to serve our partners' customer bases, helping them to win new buyers and turn existing patrons into loyal brand advocates. We serve our clients to support their end customers' urgent needs, navigate an increasingly-complex technology landscape, and enable artificial intelligence technology and automation — with a fierce devotion to reducing customer effort, for the benefit of both business and buyer. This approach to "effortless customer experience" drives better service results and lowers operational costs.

Our global, omnichannel delivery model is focused on providing our clients three key services:

- **Customer Service Outsourcing -** Our accomplished customer care associates interact and resolve consumer queries and complaints across hardware and software platforms, healthcare benefit plans, recalls or a myriad of other customer service issues. by leveraging technology to help reduce customer effort while providing a human touch to increase customer satisfaction.
- **Customer Care Technology and AI Transformation** – Our solution services teams configure different CRM solutions (e.g., Salesforce, Zendesk) and channel /AI technology including Amazon Connect to create meaningful customer interactions by connecting content between agent, AI-driven interfaces and web-based self-help tools and community forums.
- **Self-Service Technology** - Providing and maintaining self service solutions through Interactive Voice Response ("IVR"), Help Centers, online, via apps and via channel technology.

We also analyze a significant amount of aggregated data obtained from customer interactions on behalf of our clients. We leverage information gained from this analysis and end customer-driven feedback to drive efficiencies, provide insights on predictive behaviors that lead to lower customer churn and help our clients innovate their core product offerings and develop innovative product features.

Client Relationships

We are known for helping clients build deep customer relationships, create connected customer experiences, and optimize each and every customer touch point in order to deliver desired business outcomes. Realizing our clients' success is the only valid measure of our own success, we ensure all our efforts are aligned with our clients' business objectives and measured against defined performance metrics. It is this commitment to our clients and their businesses that allows us to build deep and meaningful relationships with them. Our client engagements may consist of one or a few of our service offerings – with a goal toward continuously expanding our client relationships. We provide cross-service client management along with continuous business reviews to ensure our clients get value from our partnerships.

Use of subcontractors

Certain segments of our business rely on subcontractors and other third parties to provide a portion of our overall services in certain engagements. Over the years we have established strong relationships with subcontractors that translate into high level service and favorable prices for our customers.

Restructuring Activities

Our management team continuously reviews and adjusts our cost structure and operating footprint to optimize our operations, and invest in improved technology. During the second half of 2023, we engaged a consulting firm to help review and analyze the structure and operations of the Company. This review included greater than 200 meetings with personnel at all levels of the firm and led to the initiation of our transformation program named "Project Elevate". The program involves the optimization and rationalization of our business resources as well as the partial reinvestment of savings into the company's sales and marketing team, technology, and strategy. A business transformation office was established at the beginning of 2024 to manage and measure these initiatives. Reorganization cost reductions from Project Elevate during 2024 through 2026 are estimated to be $16.0 million.

In connection with our cost-saving and restructuring initiatives in 2023, we incurred total restructuring charges of $5.7 million including $4.6 million of operational efficiency consulting, $0.9 million in real estate consolidation, and $0.2 million of other related costs.

Customers

Our clients include large multinational enterprises, small and medium-sized businesses and government organizations. Our largest client in terms of revenue generated 11.2% of total revenues in 2023. Our largest 25 clients in terms of revenue generated 71.7% of total revenue in 2023. Our clients span a wide range of industries including but not limited to retail, travel, streaming, healthcare, financial services, and technology, which insulates the company from adverse conditions in any one sector. We generally enter into long-term contracts with our clients ranging in duration from one to three years. Most of our contracts do not require our customers to purchase a minimum amount of services from us. In general, our contracts with our customers are terminable on short notice with little or no penalty payable on termination.

Sales and Marketing

Harte Hanks operates a modern sales and marketing growth engine to generate awareness, create demand and convert this demand into new business, as well as support existing client growth and retention. As a B2B services company we practice the marketing and sales methodology and tactics we offer to our clients, including ABM, demand generation, content marketing, inside sales and enterprise sales. We also leverage partnerships to extend our reach and broaden our solutions.

For marketing we leverage a combination of corporate marketing resources, marketing services resources and a modern MarTech stack including CRM, content management, SEO/digital advertising tools to support targeting, account based marketing, demand creation and awareness.

For sales we rely on our enterprise and solution sellers, combined with an internal sales team, to sell our products and services to new clients and task our employees supporting existing clients to expand our client relationship through additional solutions and products. We have expanded our sales team coverage internationally to support our global client and prospect network. Our sales force sells a variety of solutions and services to address our clients' cross-selling targeted marketing needs. We also maintain solution-specific experts in our sales force and sales groups to sell our individual products and solutions, with expertise by target industries including B2B, Health and B2C.

We had 14 employees in our corporate sales and marketing function as of December 31, 2023.

Competition

Our competition comes from local, national, and international marketing, advertising, customer care, print fulfillment, smaller 3PL, logistics companies, and internal client resources, against whom we compete for individual projects, entire client relationships, and marketing expenditures. The principal competitive factors in our industry are the breadth, depth and quality of service offerings, technical and strategic expertise, the perceived value of the services provided, reputation, pricing, and brand recognition. We also compete against social, mobile, web-based, email, print, broadcast, and other

forms of advertising for marketing and advertising dollars in general. During 2023, we continued to see an increase in the in sourcing of capabilities among our clients, which resulted in a decrease in revenues from these customers.

Furthermore, competition may begin to emerge as a result of the availability of in-house information technology solutions that can replicate some of our services. We expect our clients to continue to improve their information technology systems and offerings and, in some circumstances, move the services we provide in-house.

Seasonality

Some of our revenues tend to be higher in the fourth quarter than in other quarters during a given year. This increased revenue is a result of overall increased activity prior to the holiday season in the retail vertical, and due to the open enrollment period in the healthcare vertical.

GOVERNMENT REGULATION

As a company conducting varied business activities for clients across diverse industries around the world, we are subject to a variety of domestic and international legal and regulatory requirements that impact our business, including, for example, regulations governing consumer protection, and unfair business practices, contracts, e-commerce, intellectual property, labor, and employment (especially wage and hour laws), securities, tax, and other laws that are generally applicable to commercial activities. We do not expect to need to make material capital expenditures to maintain compliance with government regulations.

We are also subject to, or affected by, numerous local, national, and international laws, regulations, and industry standards that regulate direct marketing activities, including those that address privacy, data security, and unsolicited marketing communications. The most material of these laws and regulations that may be applied to, or affect, our business or the businesses of our clients include the following:

- The Federal Trade Commission's positions regarding the processing of personal information and consumer protection as expressed through its Protecting Consumer Privacy in an Era of Rapid Change, Data Brokers, Big Data and Cross-Device Tracking reports (each of which seek to address consumer privacy, data protection, and technological advancements related to the collection or use of personal information for marketing purposes).
- Data protection laws in the United States ("U.S.") (which are generally state specific) and in the European Union ("EU"), including the General Data Protection Regulation ("EU Regulation 679/2016"), each of which imposes a number of obligations with respect to the processing of personal data, and with respect to EU Regulation 679/2016 also imposes prohibitions related to the transfer of personal information from the EU to other countries, including the United States, that do not provide data subjects with an "adequate" level of privacy or security, and applies to all of our products in the EU.
- The Financial Services Modernization Act of 1999, also known as the Gramm-Leach-Bliley Act ("GLB"), which, among other things, regulates the use for marketing purposes of non-public personal financial information of consumers held by financial institutions. Although Harte Hanks is not considered a financial institution, many of our clients are subject to the GLB. The GLB also includes rules relating to the physical, administrative, and technological protection of non-public personal financial information.
- The Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), which regulates the use of protected health information for marketing purposes and requires reasonable safeguards designed to prevent intentional or unintentional use or disclosure of protected health information.
- The Fair Credit Reporting Act ("FCRA"), which governs, among other things, the sharing of consumer report information, access to credit scores, and requirements for users of consumer report information.
- The Fair and Accurate Credit Transactions Act of 2003 ("FACT Act"), which amended the FCRA and requires, among other things, consumer credit report notices for creditors that use consumer credit report information in connection with risk-based credit pricing actions and also prohibits a business that receives consumer information from an affiliate from using that information for marketing purposes unless the consumer is first provided a notice and an opportunity to request the business not to use the information for such marketing purposes, subject to certain exceptions.
- Federal and state laws governing the use of email for marketing purposes, including the U.S. Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM"), Canada's Anti-Spam Legislation ("CASL") and similar e-Privacy laws in Europe (in support of Directive 2002/58/EC).

- Federal and state laws governing the use of telephones for unsolicited marketing purposes, including the Federal Trade Commission's Telemarketing Sales Rule ("TSR"), the Federal Communications Commission's Telephone Consumer Protection Act ("TCPA"), various U.S. state do-not-call laws, Canada's National Do Not Call laws and rules ("Telecommunications Act") and similar e-Privacy laws in Europe (in support of Directive 2002/58/EC).
- Federal and state laws governing the collection and use of personal data online and via mobile devices, including but not limited to the Federal Trade Commission Act and the Children's Online Privacy Protection Act, which seek to address consumer privacy and protection.
- Federal and state laws in the U.S., Canada, and Europe specific to data security and breach notification, which include required standards for data security and generally require timely notifications to affected persons in the event of data security breaches or other unauthorized access to certain types of protected personal data.

There are additional consumer protection, privacy, and data security regulations in locations where we or our clients do business. These laws regulate the collection, use, disclosure, and retention of personal data and may require consent from consumers and grant consumers other rights, such as the ability to access their personal data and to correct information in the possession of data controllers.

As a result of increasing public awareness and interest in individual privacy rights, data protection, information security, and other concerns regarding marketing communications, federal, state, and foreign governmental and industry organizations continue to consider new legislative and regulatory proposals that would impose additional restrictions on direct marketing services and products.

In addition, our business, in general, and the way we do business in particular, may be affected by the impact of these restrictions on our clients and their marketing activities. These additional regulations could increase compliance requirements and restrict or prevent the collection, management, aggregation, transfer, use, or dissemination of information or data that is currently legally available. Continued public interest in individual privacy rights and data security may result in the adoption of further voluntary industry guidelines that could impact our direct marketing activities and business practices.

INTELLECTUAL PROPERTY RIGHTS

Our intellectual property assets include trademarks and service marks that identify our Company and our services, know-how, software, and other technology that we develop for our internal use and for license to clients and data and intellectual property licensed from third parties, such as commercial software and data providers. We generally seek to protect our intellectual property through a combination of license agreements and trademark, service mark, copyright, and trade secret laws as well as through domain name registrations and enforcement procedures. We also enter into confidentiality agreements with many of our employees, vendors, and clients and seek to limit access to and distribution of intellectual property and other proprietary information. We pursue the protection of our trademarks and other intellectual property in the U.S. and internationally. Although we from time to time evaluate inventions for their possibility of being awarded a patent, we do not own any patents, and patents are not core to our intellectual property strategy (other than as may be incidental to commercially available technology or software we license).

We have developed proprietary software including NexTOUCH and Allink®360, each of which are integral to our business. NexTOUCH is key to the success of our print and product fulfillment business while Allink®360 ensures customers' products are delivered on-time and on-budget.

HUMAN CAPITAL RESOURCES

As of December 31, 2023, Harte Hanks employed 1,709 full-time employees and 253 part-time employees, of which approximately 980 are based outside of the U.S., primarily in the Philippines. A portion of our workforce is provided to us through staffing companies. None of our workforce is represented by labor unions. We consider our relations with our employees to be good.

We believe that our employees are the key to our success. Our human capital strategy focuses on:

Training and Talent Development: Harte Hanks is committed to the education of its employees and has committed to provide its employees with a variety of learning opportunities, including, but not limited to, technical skill development, soft skills development, workplace conduct guidance, and IT security training.

Diversity, Equity and Inclusion*:* Harte Hanks recognizes the value of diversity, equity and inclusion within its organization and strives to ensure that its workplace reflects the diverse communities in which it operates in order to promote collaboration, innovation, creativity and belonging. Harte Hanks is proud of its diverse workforce and cross-cultural competency and, as of December 31, 2023, employed individuals from 6 different countries. As of December 31, 2023, 58% of Harte Hanks' workforce was female. Harte Hanks is committed to recruiting and employing qualified candidates regardless of their gender or cultural background.

Employee Benefits: Harte Hanks believes in the importance of offering its employees competitive salaries and wages, together with comprehensive insurance options. Harte Hanks recognizes the importance of comprehensive healthcare benefits, including medical, prescription drug, vision and dental, and employees and their family members are provided with tools and resources to assist in adopting and maintaining a healthy lifestyle. Harte Hanks pays the cost of basic life insurance, accidental death and dismemberment insurance, and short-term and long-term disability for its employees. Additionally, employees may purchase supplemental life and dependent life insurance. We also sponsored a 401(k) retirement plan in which we matched a portion of employees' voluntary before-tax contributions prior to 2018. Under this plan, both employee and matching contributions vest immediately. We stopped this 401(k) match program in 2018 and resumed it in 2023.

ITEM 1A. RISK FACTORS

This section discusses the most significant factors that could affect our business, results of operations and financial condition, including the price of our common stock. You should carefully consider the following risks, which represent the material risk factors that affect the Company and are known to the Company at this time, as well as the other information contained in this Annual Report on Form 10-K in evaluating our company and our common stock. The risks described below are not the only ones we face. Additional risks not presently known to us or that we currently deem immaterial may also adversely affect our business, results of operations, or financial condition.

We have grouped these risk factors into three categories:

- Risks related to our business and how we operate;
- Risks related to cybersecurity and technology;
- Risks related to our capital structure and common stock.

Risks Related to our Business and How we Operate

Most of our client engagements are cancellable on short notice.

The marketing services we offer, in particular for contact center services, are generally terminable upon short notice by our clients, even if the term of the agreement (and the expected duration of services) is several or many years. Many of our customer agreements do not have minimum volume, revenue requirements or exclusivity arrangements, so clients may (and do) vary their actual orders from us over time based on their own business needs, their satisfaction with the quality and pricing of our services, and a variety of other competitive factors. In addition, the timing of particular jobs or types of jobs at particular times of year (such as mail programs supporting the holiday shopping season or contact center programs supporting a specific event) may cause significant fluctuations in the operating results of our operations in any given quarter.

A large portion of our revenue is generated from a limited number of clients. The loss of a client or significant work from one or more of our clients could adversely affect our business.

Our largest client (measured in revenue) generated 11.2% of total revenues in 2023 and represented 11.2% of total accounts receivable as of December 31, 2023. Approximately 71.7% of our revenue for 2023 was generated by our 25 largest clients. While we typically have multiple projects with our largest customers which would not all terminate at the same time, the loss of one or more of our larger clients or even a single project or contract with one of our largest clients could adversely affect our business, results of operations, and financial condition if the lost revenues are not replaced with profitable revenues from that client or other clients.

Our industry is subject to intense competition and dynamic changes in business model, which in turn could cause our operations to suffer.

The B2B services industry is highly competitive, highly fragmented, and subject to rapid change. We believe the principal competitive factors in this market are breadth, depth, and quality of service offerings, ability to tailor specific solutions to the needs of clients and their customers, the ability to attract, train, and retain qualified staff, cybersecurity infrastructure, compliance rigor, global delivery capabilities, pricing, and marketing and sales capabilities. We compete for business with a variety of companies, as well as in-house operations of existing and potential clients. If our clients place more focus on in-house marketing or utilize new or emerging technologies to internalize these operations, the size of the market for third-party service providers like us could reduce significantly. Similarly, if competitors offer their services at lower prices to gain market share or provide services that gain greater market acceptance than the services we offer or develop, the demand for our services may decrease.

Specialized providers or new entrants can enter our markets by developing new systems or services that could impact our business. The opportunity for new entrants in our industry may expand as digital engagement and offerings increase in importance. New competitors, new strategies by existing competitors or clients, and consolidation among clients or competitors could result in significant market share gain by our competitors, which could have an adverse effect on our revenue.

Some emerging technologies, such as AI, Robotic Process Automation, Machine Learning, Voice of the Customer, Interactive Voice Response, and Internet of Things, may cause an adverse shift in the way certain of our existing business operations are conducted, including by replacing human contacts with automated or self-service options, or by decreasing the size of the available market. We also expect our competitors to continue to improve their technology infrastructure, including with the use of AI and machine learning solutions, to interact with clients and prospects, automate their services, process and analyze large amounts of data and grow their customer base. Our ability to innovate our own technology infrastructure and appropriately grow our CX solutions offerings using these tools (and predicting the next generation of such tools) will affect our ability to compete. We may be unsuccessful at anticipating or responding to new developments on a timely and cost-effective basis, and our use of technology may differ from accepted practices in the marketplace. Certain of our solutions may require lengthy and complex implementations that can be subject to changing client preferences and continuing changes in technology, which can increase costs or adversely affect our business.

Current and future competitors may have significantly greater financial and other resources than we do, and they may sell competing services at lower prices or at lower profit margins, resulting in pressures on our prices and margins.

The size of our competitors varies widely across vertical markets and service lines. Some of our competitors have significantly greater financial, technical, marketing, and other resources than we do in one or all of our market segments. As a result, our competitors may be in a position to respond more quickly than we can to new or emerging technologies, methodologies, and changes in customer requirements, or may devote greater resources than we can to the development, promotion, sale, and support of innovative products and services. Moreover, new competitors or alliances among our competitors may emerge and potentially reduce our market share, revenue, or margins. Some of our competitors also may choose to sell products or services that compete with ours at lower prices by accepting lower margins and profits or may be able to sell products or services that compete with ours at lower prices given proprietary ownership of data, technical superiority, a broader or deeper product or experience set, greater capital resources or economies of scale. Price reductions or pricing pressure by our competitors could negatively impact our margins and results of operations and could also harm our ability to retain clients or obtain new customers on favorable terms. Competitive pricing pressures tend to increase in difficult or uncertain economic environments, due to reduced marketing expenditures of many of our clients and prospects, and in turn negatively impact the competitive business environment for marketing service providers such as our company.

We must maintain technological competitiveness, continually improve our processes, and develop and introduce new services in a timely and cost-effective manner.

We believe that our success depends on, among other things, maintaining technological competitiveness in our products, processing functionality, and software systems and services. Technology changes rapidly as makers of computer hardware, network systems, programming tools, computer and data architectures, operating systems, database technology, and mobile devices continually improve their offerings. Advances in information technology may result in changing client preferences for products and product delivery channels in our industry. The increasingly sophisticated requirements of our clients require us to continually improve our processes and provide new products and services in a timely and cost-effective manner (whether through development, license, or acquisition). We may be unable to successfully identify, develop, and

bring new and enhanced services and products to market in a timely and cost-effective manner, such services and products may not be commercially successful, and services, products, and technologies developed by others may render our services and products noncompetitive or obsolete.

Our success depends on our ability to consistently and effectively deliver our services to our clients.

Our success depends on our ability to effectively and consistently staff and execute client engagements within the agreed upon time frame and budget. Depending on the needs of our clients, our engagements may require customization, integration, and coordination of a number of complex product and service offerings and execution across many facilities. Moreover, in some of our engagements, we rely on subcontractors and other third parties to provide some of the services to our clients, and we cannot guarantee that these third parties will effectively deliver their services, that we will be able to easily suspend work with contractors that are not performing adequately, or that we will have adequate recourse against these third parties in the event they fail to effectively deliver their services as we are generally responsible for the work of these sub-contractors. Other contingencies and events outside of our control may also impact our ability to provide our products and services, such as pandemics or other national or global health crisis or severe weather events that could disrupt our delivery networks. Our failure to effectively and timely staff, coordinate, and execute our client engagements may adversely impact existing client relationships, the amount or timing of payments from our clients and our reputation in the marketplace as well as our ability to secure additional business and our resulting financial performance. In addition, our contractual arrangements with our clients and other customers may not provide us with sufficient protections against claims for lost profits or other claims for damages.

We may experience in the future, reduced demand for our products and services due to the financial condition and marketing budgets of our clients and other factors that may impact the industry verticals that we serve.

Marketing budgets are largely discretionary in nature, and as a consequence are easier to reduce in the short-term than other expenses. Our customers have in the past, and may in the future, respond to their own financial constraints, whether caused by weak economic conditions, weak industry performance or client-specific circumstances, by reducing their marketing spend. For instance, in light of the current inflationary environment and increased cost of capital due to rising interest rates, our customers may reduce the amount of services we provide to them, for among other reasons, to preserve liquidity. Customers may also be slow to restore their marketing budgets to prior levels during an economic recovery and may respond similarly to adverse economic conditions in the future. Our revenues are dependent on national, regional, and international economies and business conditions. A long-lasting economic recession, regardless of the cause, or anemic recovery in the markets in which we operate could have material adverse effects on our business, financial position, or operating results. Similarly, industry or company-specific factors may negatively impact our clients and prospective clients, and in turn result in reduced demand for our products and services, client insolvencies, collection difficulties or bankruptcy preference actions related to payments received from our clients. We may also experience reduced demand as a result of consolidation of clients and prospective clients in the industry verticals that we serve.

We must effectively manage our costs to be successful. If we do not achieve our cost management objectives, our financial results could be adversely affected.

Our business plan and expectations for the future require that we effectively manage our cost structure, including our operating expenses and capital expenditures across our operations. In 2023, our management team formed a project team focused on cost-saving initiatives and other restructuring efforts. The program named Project Elevate created and changed processes in each of our business segments to transform the operational cost structure of the company and change the culture to be more agile, optimize the structure, and cost justify all activities of the organization. A transformational office was established at the beginning of 2024 with the mandate to manage and measure these initiatives on a go forward basis. However, we may not be able to recognize all identified potential savings and even if we are able to recognize the identified savings, such cost savings may be insufficient to achieve our cost management objectives. To the extent that we do not successfully manage our costs our financial results may be adversely affected.

Consumer perceptions regarding the privacy and security of their data may prevent or impair our ability to offer our products and services.

Various local, national, and international regulations, as well as industry standards, give consumers varying degrees of control as to how personal data is collected, used, and shared for marketing purposes. If, due to privacy, security, or other concerns, consumers exercise their ability to prevent or limit such data collection, use, or sharing, it may impair our ability to provide direct marketing services for those consumers and limit our clients' demand for our services. Additionally,

privacy and security concerns may limit consumers' willingness to voluntarily provide data to our clients or marketing companies. Some of our services depend on voluntarily provided data. For instance, we believe that one of the most attractive offerings of our Marketing Services segment is the provision of data-analytics to our clients. However, the ability to provide such services is at least in part dependent on the ability to collect large volumes of voluntarily provided data. If there is a significant shift in consumer behavior or governmental regulations were to inhibit our ability to collect large amounts of this type of data, our ability to provide meaningful data analytics to our clients would likely be impaired.

If our facilities are damaged, or if we are unable to access and use our facilities, our business and results of operations will be adversely affected.

Our operations rely on the ability of our employees to work at specially equipped facilities to perform services for our clients. Although we have some excess capacity and redundancy, we do not have sufficient excess capacity or redundancy (in equipment, facilities, or personnel) to maintain our standard service and operational levels for an extended period of time if we are unable to use one of our major facilities. Outsourcing these processes to facilities not owned by us is not a viable option. Should we lose access to a facility for any reason, including as a result of pandemics, terrorist incident or natural disaster, our service levels are likely to decline or be suspended and clients would go without service or secure replacement services from a competitor. As a consequence of such an event, we would suffer a reduction in revenues and harm to (and loss of) client relationships.

If our new leaders are unsuccessful, or if we continue to lose key management and are unable to attract and retain the talent required for our business, our operating results could suffer.

Over the past few years, we have replaced many of our leaders (including our Chief Executive Officer, and Chief Financial Officer), some a number of times. If our new leaders fail in their new and additional roles and responsibilities (and more generally if we are unable to attract additional leaders with the necessary skills to manage our business) our business and its operating results may suffer. Further, our prospects depend in large part upon our ability to attract, train, and retain experienced technical, client services, sales, consulting, marketing, and management personnel. While the demand for personnel is also dependent on employment levels, competitive factors, and general economic conditions, our recent business performance may diminish our attractiveness as an employer. The loss or prolonged absence of the services of these individuals could have a material adverse effect on our business, financial position, or operating results**.**

Interest rate increases could affect our results of operations, cash flows and financial position.

Interest rate fluctuations in Europe and the United States may affect the amount of interest we earn on cash equivalents. Our Credit Facility bears interest based upon the Secured Overnight Financing Rate. Our results of operations, cash flows, and financial position could be materially or adversely affected by significant increases in interest rates. We also have exposure to interest rate fluctuations in the United States, specifically money market, the value of our pension obligations and overnight time deposit rates, as these affect our earnings on excess cash. Even with the offsetting increase in earnings on excess cash in the event of an interest rate increase, we cannot be assured that future interest rate increases will not have a material adverse impact on our business, financial position, or operating results. Increased interest rates have put upward pressure on pricing and purchasing power. Pricing pressure has led to some wage inflation which could adversely affect our margins and profitability if it persisted for a long time or wage pressure increased.

We are subject to risks associated with operations outside the United States

Harte Hanks conducts business outside of the United States. During 2023, approximately 9.6% of our revenues were derived from operations outside the United States, primarily in Europe and Asia. We may expand our international operations in the future as part of our growth strategy. Accordingly, our future operating results could be negatively affected by a variety of factors, some of which are beyond our control, including:

- changes in local, national, and international legal requirements or policies resulting in burdensome government controls, tariffs, restrictions, embargoes, or export license requirements;
- higher rates of inflation;
- the potential for nationalization of enterprises;
- less favorable labor laws that may increase employment costs and decrease workforce flexibility;
- potentially adverse tax treatment;
- less favorable foreign intellectual property laws that would make it more difficult to protect our intellectual property from misappropriation;
- more onerous or differing data privacy and security requirements or other marketing regulations;

- longer payment cycles;
- social, economic, and political instability;
- regional armed conflicts, as well as any additional economic sanctions adopted in response to such actions;
- the differing costs and difficulties of managing international operations;
- modifications to international trade policy or the imposition of increased or new tariffs, quotas or trade barriers on key commodities; and
- geopolitical risk and adverse market conditions caused by changes in national or regional economic or political conditions (which may impact relative interest rates and the availability, cost, and terms of mortgage funds).

In addition, exchange rate fluctuations may have an impact on our future costs or on future cash flows from foreign investments. We have not entered into any foreign currency forward exchange contracts or other derivative instruments to hedge the effects of adverse fluctuations in foreign currency exchange rates. The various risks that are inherent in doing business in the United States are also generally applicable to doing business anywhere else and may be exacerbated by the difficulty of doing business in numerous sovereign jurisdictions due to differences in culture, laws, and regulations.

If we fail to establish and maintain proper and effective internal control over financial reporting, our operating results and our ability to operate our business could be harmed.

Section 404 of the Sarbanes-Oxley Act of 2002 requires that we establish and maintain internal control over financial reporting and we are also required to establish disclosure controls and procedures under applicable SEC rules. An effective internal control environment is necessary to enable us to produce reliable financial reports and is an important component of our efforts to prevent and detect financial reporting errors and fraud. Management is required to provide an annual assessment on the effectiveness of our internal control over financial reporting. Our testing may reveal significant deficiencies in our internal control over financial reporting that are deemed to be material weaknesses and render our internal control over financial reporting ineffective. In the past these assessments and similar reviews have led to the discovery of material weaknesses, all of which have been remediated. However, no assurance can be given that we won't discover material weaknesses in the future. We have incurred and we expect to continue to incur substantial accounting and auditing expenses and expend significant management time in complying with the requirements of Section 404.

While an effective internal control environment is necessary to enable us to produce reliable financial reports and is an important component of our efforts to prevent and detect financial reporting errors and fraud, disclosure controls and internal control over financial reporting are generally not capable of preventing or detecting all financial reporting errors and all fraud. A control system, no matter how well-designed and operated, is designed to reduce rather than eliminate the risk of material misstatements in our consolidated financial statements. There are inherent limitations on the effectiveness of internal controls, including collusion, management override and failure in human judgment. A control system can provide only reasonable, not absolute, assurance of achieving the desired control objectives and the design of a control system must reflect the fact that resource constraints exist.

If we are not able to comply with the requirements of Section 404, or if we or our independent registered public accounting firm identify deficiencies in our internal control over financial reporting that are deemed to be material weaknesses (i) we could fail to meet our financial reporting obligations; (ii) our reputation may be adversely affected and our business and operating results could be harmed; (iii) the market price of our stock could decline; and (iv) we could be subject to litigation and/or investigations or sanctions by the SEC, or other regulatory authorities.

There were no changes in our internal controls over financial reporting during our most recent fiscal year that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Risks Related to Cybersecurity and Technology

Privacy, information security and other regulatory requirements may prevent or impair our ability to offer our products and services.

We are subject to and affected by numerous laws, regulations, and industry standards that regulate direct marketing activities, including those that address privacy, data protection, processing personal information, information security, and marketing communications.

As a result of increasing awareness and interest in privacy rights, data protection, the fair use of personal information, consumer protection, information security, and similar matters, national and local governments and industry organizations regularly consider and adopt new laws, rules, regulations, and guidelines that impact, restrict, and regulate our business products and services. Whether already in place or scheduled to become effective in the future, comprehensive data protection, privacy, and marketing laws apply across the jurisdictions in which we operate as well as in the locations where any such personal information originates, including Europe, the Philippines, and most states throughout the United States. These regulations apply when processing personal data for business and marketing purposes and broadly impact all marketing activities, including legitimate activities associated with profiling consumer behaviors, drawing inferences from personal information, making automated decisions about individuals using personal information, transferring personal information between parties and jurisdictions, communicating with existing and prospective customers, and to other similar activities. Additionally, we are subject to operational obligations when processing and storing personal information, including, but not limited to, adopting and upholding a governance framework to protect this information, registering with relevant regulators, implementing secure infrastructure and data security standards and strategies, data breach detection and response solutions, conducting audits to identify security risks as well as carrying out additional procedures to demonstrate accountability and compliance with national and local privacy and data protection regulations. Other relevant compliance considerations in support of these mandates include establishing solutions in support of broad privacy and data protection rights, including those designed to offer notice to individuals, capture prior consent, grant access to personal information, offer choices regarding the decision to share one's personal information and how such information can be used, as well as related controls to honor choices expressed related to if and how personal information can be processed or licensed for marketing purposes.

We anticipate new regulations will continue to be proposed and adopted in the future in the jurisdictions in which we operate and/or generate revenue. We also expect any new regulations will reflect the growing trends common to current privacy, data protection and marketing laws requiring companies to bear the burden of proving compliance efforts through demonstrable records, and may subject companies to significant fines and penalties should they violate any substantive or technical requirement. We may implement additional safeguards, controls and measures in response to these changes and trends; and may be required to change or limit our service offerings.

Our business may also be affected by the impact of rules and regulations on our clients' business and marketing activities. In addition, as we acquire new capabilities and deploy new technologies to execute our strategy, we may be exposed to additional regulation. Current and future restrictions and regulations could increase compliance costs, and restrict or prevent the collection, management, aggregation, transfer, use or dissemination of personal information or change the requirements so as to require other changes to our business or our clients' businesses, practices and tolerance for risk. Additional restrictions and regulations may limit or prohibit current practices regarding marketing communications and information quality solutions. For example, multiple states have implemented opt out legislation for telephone marketing, requiring the creation of statewide do-not call registries. Such legislation could impact our business and the businesses of our clients and of their customers. In addition, continued public interest in privacy rights, data protection and access, and information security may result in the adoption of additional industry guidelines that could impact our direct marketing activities and business practices.

We cannot predict the scope of any new laws, rules, regulations, or industry guidelines or how courts or agencies may interpret existing rules, regulations or guidelines. Additionally, enforcement priorities by governmental authorities will change over time, which may impact our business. Understanding the laws, rules, regulations, and guidelines applicable to specific client multichannel engagements and across many jurisdictions poses a significant challenge, as such laws, rules, regulations, and guidelines are often inconsistent or conflicting, and are sometimes at odds with client objectives. Our failure to properly comply with these regulatory requirements and client needs may materially and adversely affect our business. General compliance with privacy, data protection, and information security obligations is costly and time-consuming, and we may encounter difficulties, delays, or significant expenses in connection with our compliance, or because of our clients' need to comply. We may be exposed to significant penalties, liabilities, reputational harm, and loss of business in the event that we fail to comply. We could suffer a material adverse impact on our business due to the enactment or enforcement of legislation or industry regulations affecting us and/or our clients, the issuance of judicial or governmental interpretations, changed enforcement priorities of governmental agencies, or a change in behavior arising from public concern over privacy, data protection, and information security issues.

Uncertainty around, and disruption from, new and emerging technologies, including the adoption and utilization of artificial intelligence, may result in risks and challenges that could impact our business.

We utilize new and emerging technologies, including AI, in our solutions and services. As with many innovations, AI presents risks and challenges that could significantly disrupt our business model. If we do not execute on AI effectively, this could result in loss of revenue and reduced margins.

Our success depends, in part, on our ability to continue to acquire, develop, and implement solutions that meet the evolving needs of our clients. The rapid evolution of AI will require us to expend resources to develop, test, and implement solutions that utilize AI effectively, which may lead us to incur significant expense to maintain a competitive advantage within the industry. We will also be required to attract, motivate, and retain top professionals with the skills necessary to execute our strategy relating to AI, machine learning and other emerging technologies. If we do not employ new technologies, including AI, as quickly or efficiently as our competitors, or if our competitors develop more cost-effective or client-preferred technologies, it could have a material adverse effect on our ability to win and retain business from clients, which would adversely affect our business.

The regulatory landscape surrounding AI and generative AI technologies is also evolving, and the ways in which these technologies will be regulated by governmental authorities, self-regulatory institutions, or other regulatory authorities remains uncertain. Such regulations may result in significant operational costs or constrain our ability to develop, deploy, or maintain these technologies.

Significant system disruptions, loss of data center capacity or interruption of telecommunication links could adversely affect our business and results of operations.

Our business is heavily dependent on data centers and telecommunications infrastructures, which are essential to both our call center services and our database services (which require that we efficiently and effectively create, access, manipulate and maintain large and complex databases). In addition to the third-party data centers we use, we also operate several of our own operations centers to support both our own and our clients' needs. Our ability to protect our operations against damage or interruption from fire, flood, tornadoes, power loss, telecommunications or equipment failure, or other disasters and events beyond our control is critical to our continued success. Likewise, as we increase our use of third-party data centers, it is critical that these vendors adequately protect their data centers from the same risks we do. Our services are dependent on regional and international networking and telecommunication providers. We believe we have taken reasonable precautions to protect our data centers and telecommunication infrastructure from events that could interrupt our operations. Any damage to the data centers we use or any failure of our telecommunications links could materially adversely affect our ability to continue to provide services to our clients, which could result in loss of revenues, profitability and client confidence, and may adversely impact our ability to attract new clients and force us to expend significant company resources to repair the damage.

If we do not prevent security breaches and other interruptions to our infrastructure, we may be exposed to lawsuits, lose customers, suffer harm to our reputation, and incur additional costs.

The services we offer involve the transmission of large amounts of sensitive and proprietary information over public communications networks, as well as the processing and storage of confidential customer information. Unauthorized access, remnant data exposure, computer viruses, denial of service attacks, accidents, employee error or malfeasance, "social engineering" and "phishing" attacks, intentional misconduct by computer "hackers" and other disruptions can occur, and infrastructure gaps, hardware and software vulnerabilities, inadequate or missing security controls, and exposed or unprotected customer data can exist that (i) interfere with the delivery of services to our customers, (ii) impede our customers' ability to do business, or (iii) compromise the security of our or our customers' systems and data, which exposes confidential information to unauthorized third parties. We are a target of cyber-attacks of varying degrees on a regular basis. Over time, the techniques used to conduct these cyber-attacks, as well as the sources and targets of these attacks, have become increasingly sophisticated and, in some cases, have been but, are often not recognized until such attacks are launched or have been in place for some time. In addition, there has been an increase in cyber-attacks conducted or sponsored by capable and well-funded "nation state" operators. The Company expects that the sophistication and techniques of cyber-threats will continue to evolve with the rapid development and increased adoption of AI and machine-learning technologies.

Our reputation and business results may be adversely impacted if we, or subcontractors upon whom we rely, do not effectively protect sensitive personal information of our clients and our clients' customers.

Current privacy and data security laws and industry standards impact the manner in which we capture, handle, analyze, and disseminate customer and prospect data as part of our client engagements. In many instances, our client contracts also mandate privacy and security practices. If we fail to effectively protect and control information, especially sensitive personal information (such as health information, social security numbers, or credit card numbers) of our clients and their customers or prospects in accordance with these requirements, we may incur significant expense, suffer reputational harm, loss of business, and, in certain cases, be subjected to regulatory or governmental sanctions or litigation. These risks may be increased due to our reliance on subcontractors and other third parties in providing a portion of our overall services in certain engagements. We cannot guarantee that these third parties will effectively protect and handle sensitive personal information or other confidential information, or that we will have adequate recourse against these third parties in the event such third parties fail to adequately protect and handle such sensitive or confidential information.

We could fail to adequately protect our intellectual property rights and may face claims for intellectual property infringement.

Our ability to compete effectively depends in part on the protection of our technology, products, services, and brands through intellectual property right protections, including copyrights, database rights, trade secrets, trademarks, as well as through domain name registrations, and enforcement procedures. The extent to which such rights can be protected and enforced varies by jurisdiction, and capabilities we procure through acquisitions may have less protection than would be desirable for the use or scale we intend or need. Litigation involving patents and other intellectual property rights has become far more common and expensive in recent years, and we face the risk of additional litigation relating to our use or future use of intellectual property rights of third parties.

Despite our efforts to protect our intellectual property, unauthorized parties may attempt to copy or otherwise obtain and use our proprietary information and technology. Monitoring unauthorized use of our intellectual property is difficult, and unauthorized use of our intellectual property may occur. We cannot be certain that trademark registrations will be issued, nor can we be certain that any issued trademark registrations will give us adequate protection from competing products. For example, others may develop competing technologies or databases on their own. Moreover, there is no assurance that our confidentiality agreements with our employees or third parties will be sufficient to protect our intellectual property and proprietary information.

Third-party infringement claims and any related litigation against us could subject us to liability for damages, significantly increase our costs, restrict us from using and providing our technologies, products or services or operating our business generally, or require changes to be made to our technologies, products, and services. We may also be subject to such infringement claims against us by third parties and may incur substantial costs and devote significant management resources in responding to such claims. We have been, and continue to be, obligated under some agreements to indemnify our clients as a result of claims that we infringe on the proprietary rights of third parties. These costs and distractions could cause our business to suffer. In addition, if any party asserts an infringement claim, we may need to obtain licenses to the disputed intellectual property. We cannot provide assurance, however, that we will be able to obtain these licenses on commercially reasonable terms or that we will be able to obtain any licenses at all. The failure to obtain necessary licenses or other rights may have an adverse effect on our ability to provide our products and services.

Breaches of security, or the perception that e-commerce is not secure, could severely harm our business and reputation.

Business-to-business and business-to-consumer electronic commerce requires the secure transmission of confidential information over public networks. Some of our products and services are accessed through, or are otherwise dependent on the internet. Security breaches in connection with the delivery of our products and services, or well-publicized security breaches that may affect us or our industry (such as database intrusion) could be severely detrimental to our business, operating results, and financial condition. We cannot be certain that advances in criminal capabilities, cryptography, or other fields will not compromise or breach the technology protecting the information systems that deliver our products, services, and proprietary database information.

Data suppliers could withdraw data that we rely on for our products and services.

We purchase or license much of the data we use for ourselves and for our clients. Our ability to provide our customers with data is somewhat dependent on the ability to obtain this data. There could be a material adverse impact on our

business if owners of the data we use were to curtail access to the data or materially restrict the authorized uses of their data. Data providers could withdraw their data for a number of reasons, including but not limited to, if there is a competitive reason to do so, if there is pressure from the consumer community, or if additional regulations are adopted restricting the use of the data. We also rely upon data from other external sources to maintain our proprietary and non-proprietary databases, including data received from customers and various government and public records. If a substantial number of data providers or other key data sources were to withdraw or restrict their data, if we were to lose access to data due to government regulation or if the collection of data becomes uneconomical, our ability to provide products and services to our clients could be materially and adversely affected, which could result in decreased revenues, net income and earnings per share.

Risks Related to our Capital Structure and Common Stock

The covenants in the Credit Facility may limit the Company's operating and financial flexibility.

The Credit Facility and the terms under which we borrow money under any future credit facilities or other agreements could have significant consequences for our business. The Credit Facility includes covenants currently restricting or potentially restricting the Company's and its subsidiaries' ability to create, incur, assume or become liable for indebtedness; make certain investments; pay dividends or repurchase the Company's stock; create, incur or assume liens, consummate mergers or acquisitions, liquidate, dissolve, suspend or cease operations, or modify accounting or tax reporting methods (other than as required by the generally accepted accounting principles in the United States of America).

Covenant and ratio requirements may limit the manner in which we can conduct our business, and we may be unable to engage in favorable business activities or finance future operations and capital needs. Specifically, the amount and terms of the Company's indebtedness could:

- limit our flexibility in planning for, or reacting to, changes in our business and the industries in which we operate, including limiting our ability to invest in our strategic initiatives, and consequently, place us at a competitive disadvantage;
- reduce the availability of our cash flows that would otherwise be available to fund working capital, capital expenditures, acquisitions, and other general corporate purposes; and
- result in higher interest expense in the event of increases in interest rates, as discussed below under the Risk Factor "Interest rate increases could affect our results of operations, cash flows, and financial position."

In addition, a failure to comply with these restrictions or to maintain the financial measures and ratios contained in the Credit Facility or future debt instruments could lead to an event of default that could result in an acceleration of debt repayment obligations, and refinancing existing letters of credit.

Risks related to our pension benefit plans may adversely impact our results of operations and cash flows.

Pension benefits represent significant financial obligations. As of December 31, 2023, we had approximately $37.7 million of unfunded pension liabilities. Because of the uncertainties involved in estimating the timing and amount of future payments and asset returns, significant estimates are required to calculate pension expense and liabilities related to our plans. We utilize the services of independent actuaries, whose models are used to facilitate these calculations. Several key assumptions are used in the actuarial models to calculate pension expense and liability amounts recorded in the consolidated financial statements. In particular, significant changes in actual investment returns on pension assets, discount rates, or legislative or regulatory changes could impact future results of operations and required pension contributions. Differences between actual pension expenses and liability amounts from these estimated expense and liabilities may adversely impact our results of operations and cash flows.

Our operations are located on leasehold property, and our inability to renew our leases on commercially acceptable terms or at all may adversely affect our results of operations.

Our sites operate on leasehold property. Our leases are subject to renewal and we may be unable to renew such leases on commercially acceptable terms or at all. Our inability to renew our leases, or a renewal of our leases with a rental rate higher than the prevailing rate under the applicable lease prior to expiration, may cause an increase in operating costs, or may cause additional cost due to relocation.

Fluctuation in our revenue and operating results and other factors may impact the volatility of our stock price.

The price at which our common stock has traded in recent years has fluctuated greatly and has declined significantly. Our common stock price may continue to be volatile due to several factors including the following (some of which are beyond our control):

- variations in our operating results from period to period and variations between our actual operating results and the expectations of securities analysts, investors, and the financial community;
- the development and sustainability of an active trading market for our common stock;
- unanticipated developments with client engagements or client demand, such as variations in the size, budget, or progress of engagements, variability in the market demand for our services, client consolidations, and the unanticipated termination of several major client engagements;
- announcements of developments affecting our businesses;
- competition and the operating results of our competitors;
- the overall strength of the economies of the markets we serve and general market volatility; and
- other factors discussed elsewhere in this Item 1A, “Risk Factors.”

Because of these and other factors, investors in our common stock may not be able to resell their shares at or above their original purchase price.

Our certificate of incorporation and bylaws contain anti-takeover protections that may discourage or prevent strategic transactions, including a takeover of our company, even if such a transaction would be beneficial to our stockholders.

Provisions contained in our certificate of incorporation and bylaws, in conjunction with provisions of the Delaware General Corporation Law, could delay or prevent a third party from entering a strategic transaction with us, even if such a transaction would benefit our stockholders. For example, our certificate of incorporation and bylaws do not allow written consents by stockholders and have strict advance notice and disclosure requirements for nominees and stockholder proposals.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 1C. CYBERSECURITY

We rely on our technology infrastructure and information systems to interact with our clients, our employees, to sell our services, to utilize our data, to support and grow our client base, and to bill, collect, and make payments. Our technology infrastructure and information systems also support and form the foundation for our accounting and finance systems and form an integral part of our disclosure and accounting control environment. Our internally developed system and processes, as well as those systems and processes provided by third-party vendors that we contract with, may be susceptible to damage or interruption from cybersecurity threats, which include any unauthorized access to our information systems, and which may result in adverse effects on the confidentiality, integrity, or availability of such systems or the related information. Potential cybersecurity threats include terrorist or hacker attacks, the introduction of malicious computer viruses, ransomware, falsification of banking and other information, insider risk, or other security breaches. Such attacks have become more and more sophisticated over time, especially as threat actors have become increasingly well-funded by, or themselves include, governmental actors or other actors with significant means. We expect that sophistication of cyber-threats will continue to evolve as threat actors increase their use of AI and machine-learning technologies.

We have implemented robust processes to assess, identify, and manage cybersecurity risks, including potentially material risks, related to our internal information systems and our products. Our Board of Directors, our internal Risk Steering Committee, in conjunction with our Chief Security Officer ("CSO"), have direct oversight of our management of cybersecurity risks.

Our CSO and the Risk Steering Committee ("RSC") oversees our enterprise risk management process. Under the direction and supervision of our CSO, we conduct an annual comprehensive enterprise risk assessment, which includes details of our management of enterprise-wide risk topics, such as those related to cybersecurity risks. The Board of Directors receives the full results of the annual enterprise risk assessment, including an evaluation of cybersecurity risks presented, a detailed description of the actions we have taken to mitigate these risks, and an analysis of cybersecurity threats and incidents

across the industry. The CSO and RSC reviews the results of the enterprise risk assessment in detail with management on a regular basis and reports its findings, as needed, to the Board of Directors.

Our CSO, reporting to our Chief Technology Officer, and in conjunction with our IT Department, has principal responsibility for assessing and managing cybersecurity risks and threats, implementing the systems necessary to address such risks and threats and preparing updates for the Board of Directors. Our CSO has 3 decades of information technology and cybersecurity experience with the last 6 years leading the cybersecurity activities at Harte Hanks, as well as participating in numerous cyber readiness exercises with US Government agencies, and has specialized training in cybersecurity risk management, cloud security and holds a CISSP certification offered by ISC2. Our CSO is also responsible for the operation of our cybersecurity program, and management of our cybersecurity incident response team.

As mentioned above, in response to the increasing threats presented by cyber incidents, in 2020 we established the RSC, which meets regularly. This committee is comprised of our Chief Technology Officer, our General Counsel / Privacy Officer, our Head of Human Resources, each Director of Operations of each of our business units, our Chief Financial Officer and our Chief Executive Officer, as well as other key leaders. The RSC (in conjunction with the CSO), oversees activities related to the monitoring, prevention, detection, mitigation and remediation of cybersecurity risks. The RSC, along with our CSO, develops and implements cybersecurity risk mitigation strategies and activities throughout the year, including the management of comprehensive incident response plans, oversees the cybersecurity risks posed by third-party vendors, and receives regular updates on cybersecurity-related matters.

We have adopted the National Institute of Standards and Technology ("NIST") Cybersecurity Framework to continually evaluate and enhance our cybersecurity procedures. Activities include mandatory yearly online training for all employees, technical security controls, enhanced data protection, the maintenance of backup and protective systems, policy review and implementation, the evaluation and retention of cybersecurity insurance, periodic assessments of third-party service providers to assess cyber preparedness of key vendors, and running simulated cybersecurity drills, including vulnerability scanning, penetration testing and disaster recovery exercises, throughout the organization. These cybersecurity drills are performed both in-house and by third-party service providers. We use automated tools that monitor, detect, and prevent cybersecurity risks and have a security operations center that operates 24 hours a day to alert us to any potential cybersecurity threats. As noted above, our RSC also has effected comprehensive incident response plans that outline the appropriate communication flow and response for certain categories of potential cybersecurity incidents. The RSC escalates events, including to the Chief Executive Officer and Board of Directors, as relevant, according to pre-defined criteria.

ITEM 2. PROPERTIES

Our headquarters is located in Chelmsford, MA. We lease office and fulfillment facilities around the world, primarily in the United States, Europe and Asia.

As of December 31, 2023, we operated the following types of facilities in the following locations:

Domestic Offices	**International Offices**	**Operational Warehouses**
Chelmsford, Massachusetts	Hasselt, Belgium	East Bridgewater, Massachusetts
St. Petersburg, Florida	Iasi, Romania	Kansas City, Kansas
Deerfield Beach, Florida	Manila, Philippines	Lenexa, Kansas
	Uxbridge, United Kingdom	Hasselt, Belgium

As of December 31, 2023, our operational facilities were for the following use and square footage by segment:

Description of Use	United States	International	Total
Office space	24,313	60,650	84,963
Fulfillment facilities	736,845	35,725	772,570
Total	761,158	96,375	857,533

Segment	Leased Sq Ft
Customer Care	54,964
Fulfillment & Logistics	772,570
Marketing Services	23,748
	851,282
Corporate office	6,251
Total	857,533

We believe our facilities to be adequate for our business and operations as currently administered.

ITEM 3. LEGAL PROCEEDINGS

In the ordinary course of its business, the Company is involved in various legal proceedings involving a variety of matters. The Company does not believe there are any pending legal proceedings that will have a material impact on the Company's financial position or results of operations.

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

Our common stock is listed for trading on the NASDAQ under the symbol "HHS". As of January 31, 2024, there were approximately 743 common stockholders of record. The following tables set forth for the periods indicated, the high and low sale prices per share of the common stock as quoted by the NASDAQ.

Year Ended December 31, 2023	High	Low
1st Quarter	$14.24	$8.70
2nd Quarter	$9.50	$5.00
3rd Quarter	$6.70	$5.01
4th Quarter	$7.72	$5.39

Year Ended December 31, 2022	High	Low
1st Quarter	8.19	6.34
2nd Quarter	12.89	7.15
3rd Quarter	17.88	10.02
4th Quarter	12.84	9.81

Dividend Policy

The Company currently does not pay any dividends and any future payment is at the discretion of the Board of Directors.

Issuer Purchases of Equity Securities

The following table contains information about our purchases of equity securities during the fourth quarter of 2023:

Period	Total number of shares purchased	Average price paid per share	Total number of shares purchased as part of a publicly announced plan	Maximum dollar amount that may yet be purchased under the program[(1)] (in thousands)
October 1 - 31, 2023	—	$ —	—	$ 4,131
November 1 - 30, 2023	—	$ —	—	$ 4,131
December 1 - 31, 2023	—	$ —	—	$ 4,131
Total	—	$ —	—	

(1) During the fourth quarter of 2023, we did not purchase any shares of our common stock through our stock repurchase program that was publicly announced on May 2, 2023. Under this program, our Board had authorized us to spend up to $6.5 million to repurchase shares of our outstanding common stock. After giving effect to these repurchases, we have remaining authority of $4.1 million to repurchase shares remaining under the program.

ITEM 6. SELECTED FINANCIAL DATA

Not applicable.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Cautionary Note About Forward-Looking Statements

This report, including this Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A"), contains "forward-looking statements" within the meaning of the federal securities laws. All such statements are qualified by the cautionary note included under "Forward-Looking Statements" above, which is provided pursuant to the safe harbor provisions of Section 27A of the Securities Act of 1933, as amended and Section 21E of the Securities Exchange Act of 1934, as amended. Actual results may vary materially from what is expressed in or indicated by the forward-looking statements, for the reasons described in this MD&A, in the Risk Factors in Item 1A above or elsewhere in this Annual Report on Form 10-K.

Overview

The following MD&A section is intended to help the reader understand the results of operations and financial condition of Harte Hanks. This section is provided as a supplement to, and should be read in conjunction with, our Consolidated Financial Statements and the accompanying notes included herein.

Harte Hanks, Inc. is a leading global customer experience company operating in three business segments: Marketing Services, Customer Care, and Fulfillment & Logistics Services. Our mission is to partner with clients to provide them with a robust customer-experience, or CX strategy, data-driven analytics, and actionable insights combined with seamless program execution to better understand, attract, and engage their customers. Our services include strategic planning, data strategy, performance analytics, creative development, and execution; technology enablement; marketing automation; B2B and B2C e-commerce; cross-channel customer care; and product, print, and mail fulfillment.

We are affected by the general, national, and international economic and business conditions in the markets where we and our customers operate. Marketing budgets are largely discretionary in nature and, as a consequence, are easier for our clients to reduce in the short-term than other expenses. Our revenues are also affected by the economic fundamentals of each industry that we serve, various market factors, including the demand for services by our clients, the financial condition of and budgets available to our clients, and regulatory factors, among other factors. Due to the recent increases in inflation and interest rates throughout the globe, and other geopolitical uncertainties, including but not limited to the ongoing armed conflicts in multiple regions, there is continued uncertainty and significant volatility and disruption in the global economy and financial markets. We remain committed to making the investments necessary to execute our multichannel strategy while also continuing to adjust our cost structure to appropriately reflect our operations and outlook.

Management is closely monitoring inflation and wage pressure in the market, and the potential impact on our business. While inflation has not had a material impact on our business, it is possible a material increase in inflation could have an impact on our clients, and in turn, on our business.

Recent Developments

Project Elevate

Our management team continuously reviews and adjusts our cost structure and operating footprint to optimize our operations, and invest in improved technology. During the second half of 2023, we engaged a consulting firm to help review and analyze the structure and operations of the Company. This review included greater than 200 meetings with personnel at all levels of the firm and led to the initiation of our transformation program named "Project Elevate". The program involves the optimization and rationalization of our business resources as well as the partial reinvestment of savings into the company's sales and marketing team, technology, and strategy. A business transformation office was established at the beginning of 2024 to manage and measure these initiatives. Reorganization savings from Project Elevate executed from 2024 to 2026 are estimated to be $16 million.

Results of Operations

Operating results from operations were as follows:

	Year Ended December 31,		
In thousands, except per share amounts	**2023**	**% Change**	**2022**
Operating revenue	$ 191,492	-7.2%	$ 206,278
Operating expenses	188,133	-1.6%	191,171
Operating income	$ 3,359	-77.8%	$ 15,107
Operating margin	1.8 %	-76.0%	7.3 %
Other expense (income), net	5,278	-225.5%	(4,206)
Income tax benefit	(349)	-98.0%	(17,463)
Net (loss) income	$ (1,570)	-104.3%	$ 36,776
Diluted EPS from operations	$ (0.21)	-104.5%	$ 4.75

Year Ended December 31, 2023 vs. Year Ended December 31, 2022

Consolidated Results

Revenues

Revenues of $191.5 million for the year ended December 31, 2023 decreased $14.8 million, or 7.2%, when compared to $206.3 million for the year ended December 31, 2022. Revenue in our Marketing Services declined $9.8 million, or 18.4%, to $43.2 million, revenue in our Customer Care segment declined $3.9 million, or 5.8%, to $63.3 million and revenue in our Fulfillment & Logistics Services declined $1.1 million, or 1.3%, to $85.0 million.

Operating Expenses

Operating expenses of $188.1 million for the year ended December 31, 2023 decreased $3.0 million, or 1.6%, when compared to $191.2 million for the year ended December 31, 2022.

Labor costs decreased by $6.7 million, or 6.4%, when compared to the year ended December 31, 2022, primarily due to the reduction in workforce in our Customer Care and Marketing Service segment as a result of the lower revenue which was partially offset by higher severance expenses.

Production and Distribution expenses decreased $2.4 million, or 3.8%, when compared to the year ended December 31, 2022, primarily driven by lower brokered cost, or outsourced costs due to the lower brokered revenue.

Advertising, Selling and General and Administrative expenses decreased $1.2 million or 5.6%, when compared to the year ended December 31, 2022 primarily due to the reduced professional service expense.

Depreciation expense increased $1.5 million, or 55.3%, when compared to the year ended December 31, 2022, primarily due to the addition of our new ERP system.

Restructuring expenses were $5.7 million for the year ended December 31, 2023. The restructuring expenses included $4.6 million of consulting expenses, $0.8 million in lease impairment expense, $0.2 million of severance charges, and $0.1 million of facility related and other expenses.

The largest components of our operating expenses are labor, transportation expenses and outsourced costs. Each of these costs is, at least in part, variable and tends to fluctuate in line with revenues and the demand for our services. Transportation rates have increased over the last few years due to demand and supply fluctuations within the transportation industry. Future changes in transportation expenses will continue to impact our total production costs and total operating expenses and in turn our margins, which may have an impact on future demand for our supply chain management services. Postage costs of mailings are borne by our clients and are not directly reflected in our revenues or expenses.

Other Expense (Income), net

Interest income, net, for the year ended December 31, 2023 was $135 thousand as compared to the interest expense, net of $438 thousand for the year ended December 31, 2022. The $573 thousand improvement was primarily contributed by the interest income we received from our tax refund claims during the first quarter of 2023.

Total other expense, net was $5.4 million for the year ended December 31, 2023, when compared to other income, net of $4.6 million for the year ended December 31, 2022. This $10.0 million increase in other expense was primarily attributable to a $8.9 million change in foreign currency revaluation gain as well as $2.5 million gain from the sale of unused IP addresses which were no longer useful to the Company in 2022. We do not expect the sale of IP addresses, in the future, if any, to generate a significant amount of other income.

Income Tax Benefit

Our 2023 income tax benefit was $0.3 million for the year ended December 31, 2023, when compared to tax benefit of $17.5 million for the year ended December 31, 2022. The decrease in benefit of $17.1 million was primarily related to the removal of the majority of the U.S. valuation allowance for the year ended December 31, 2022.

Segment Results

The following is a discussion and analysis of the results of our reporting segments for the years ended December 31, 2023 and 2022. There are three principal financial measures reported to our CEO (the chief operating decision maker) for use in assessing segment performance and allocating resources. Those measures are revenues, operating income and operating income plus depreciation and amortization ("EBITDA").

Marketing Services:

	Year Ended December 31,		
In thousands	**2023**	**% Change**	**2022**
Operating revenues	$ 43,204	-18.4%	$ 52,975
EBITDA	5,425	-26.1%	7,344
Operating Income	5,113	-26.8%	6,982
Operating Income % of Revenue	11.8 %	-10.2%	13.2 %

Marketing Services segment revenue declined $9.8 million, or 18.4%, due to the decline of marketing spend and the loss of a customer. Operating income for the year ended December 31, 2023 decreased $1.9 million due to the reduction in contribution margin from the revenue decrease, which was partially offset by reductions in operating expense associated with lower revenue.

Customer Care:

	Year Ended December 31,		
In thousands	**2023**	**% Change**	**2022**
Operating revenues	$ 63,327	-5.8%	$ 67,205
EBITDA	10,702	-12.0%	12,167
Operating Income	9,422	-16.5%	11,283
Operating Income % of Revenue	14.9 %	-11.4%	16.8 %

Customer Care segment revenue declined $3.9 million, or 5.8%, primarily due to the decrease in both non-recurring pandemic-related projects and a large non-recurring recall project in 2022 which was partially offset by $9.7 million revenue from InsideOut. Operating Income for the year ended December 31, 2023 was $9.4 million, a decrease of $1.9 million when compared to the prior year due to lower revenue which was partially offset by lower operating expense driven by improved operational efficiency.

Fulfillment & Logistics:

In thousands	Year Ended December 31, 2023	% Change	2022
Operating revenues	$ 84,961	-1.3%	$ 86,098
EBITDA	8,857	-16.4%	10,593
Operating Income	7,714	-21.0%	9,769
Operating Income % of Revenue	9.1 %	-20.0%	11.3 %

Fulfillment & Logistics Services segment revenue declined $1.1 million, or 1.3%, primarily due to the lower revenue from the existing customers. For the year ended December 31, 2023 operating income was $7.7 million, a decrease of $2.1 million when compared to the prior year primarily due to the change in revenue mix and higher transportation costs.

Liquidity and Capital Resources

Sources and Uses of Cash

Our cash and cash equivalent balances were $18.4 million and $10.4 million as of December 31, 2023, and 2022, respectively. As of December 31, 2023, we had the ability to borrow an additional $24.2 million under our Credit Facility. The money deposited in an escrow account to satisfy the contingent payment obligations for the acquisition of InsideOut is not included in our cash and cash equivalent balances as of December 31, 2023.

We received $2.5 million in tax refund in 2022 and received an additional tax refund of $5.3 million in March 2023, as a result of the change to the tax NOL carryback provisions included in the CARES Act.

Our principal sources of liquidity are cash on hand, cash provided by operating activities, and borrowings available under our Credit Facility. Our cash is primarily used for general corporate purposes, working capital requirements, and capital expenditures. At this time, we believe that we will be able to continue to meet our liquidity requirements and fund our fixed obligations such as finance and operating leases and unfunded pension plan benefit payments and other needs for our operations in the short term and beyond. Although the Company believes that it will be able to meet its cash needs for the short and medium term, if unforeseen circumstances arise the company may need to seek alternative sources of liquidity.

Operating Activities

Net cash provided by operating activities was $10.5 million for the year ended December 31, 2023, when compared to cash provided by operating activities of $28.8 million for the year ended December 31, 2022. The $18.3 million year-over-year decrease in cash provided by operating activities was primarily due to the $38.3 million lower net income which was partially offset by absorption of deferred taxes of $18.4 million in the year ended December 31, 2023, and smaller year over year changes in current assets and liabilities.

Investing Activities

Net cash used in investing activities was $2.3 million for the year ended December 31, 2023, compared to cash used in investing activities of $11.5 million for the year ended December 31, 2022. The $9.2 million decrease was mainly due to the $6.3 million of cash used and returned from escrow from acquisition activities and $3.0 million less cash used to purchase property, plant and equipment in the year ended December 31, 2023, when compared to the year ended December 31, 2022.

Financing Activities

Net cash used in financing activities was $3.2 million for the year ended December 31, 2023, compared to $15.8 million net cash used in financing activities for the year ended December 31, 2022. The $12.6 million decrease in cash used in financing activities was primarily due to the $10.0 million used for the repurchase of preferred stock and the $5.0 million repayment of the borrowings under our Credit Facility in the year ended December 31, 2022, as compared to the $2.4 million used for the repurchase of common stock in the year ended December 31, 2023.

Foreign Holdings of Cash

Consolidated foreign holdings of cash as of December 31, 2023, and 2022 were $5.4 million and $3.4 million, respectively. The Company will repatriate foreign cash holdings when and if it is financially efficient to do so.

Long Term Debt

On December 21, 2021, the Company entered into a three-year, $25.0 million asset-based revolving credit facility (the “Credit Facility”) with Texas Capital Bank ("TCB"). The Company’s obligations under the Credit Facility are guaranteed on a joint and several basis by the Company’s material subsidiaries (the “Guarantors”). The Credit Facility is secured by substantially all the assets of the Company and the Guarantors pursuant to a Pledge and Security Agreement, dated as of December 21, 2021, between the Company, TCB and the Guarantors (the “Security Agreement”). On December 31, 2023, the Company extended the maturity date for the Credit Facility by a period of six (6) months, up to June 30, 2025. The extension extended the Credit Facility under substantially similar terms and conditions as originally executed.

The Credit Facility provides for loans up to the lesser of (a) $25.0 million, and (b) the amount available under a “borrowing base” calculated primarily by reference to the Company's cash and cash equivalents and accounts receivables. The Credit Facility allows the Company to use up to $3.0 million of its borrowing capacity to issue letters of credit.

The loans under the Credit Facility accrue interest at a varying rate equal to the Secured Overnight Financing Rate (SOFR) plus a margin of 2.25% per annum. The outstanding amounts advanced under the Credit Facility are due and payable in full on June 30, 2025.

The Company may repay and reborrow all or any portion of the loans advanced under the Credit Facility at any time, without premium or penalty. The Credit Facility is subject to mandatory prepayments (i) from the net proceeds of asset dispositions not otherwise permitted under the Credit Facility; (ii) if the unpaid principal balance under the Credit Facility plus the aggregate face amount of all outstanding letters of credit exceeds the borrowing base; (iii) in an amount equal to 50% of the net proceeds of issuances of capital stock (subject to customary exceptions); or (iv) in an amount equal to the net proceeds from any issuance of debt not otherwise permitted under the Credit Facility.

The Credit Facility contains certain covenants restricting the Company's and its subsidiaries' ability to create, incur, assume or become liable for indebtedness; make certain investments; pay dividends or repurchase the Company's stock; create, incur or assume liens, consummate mergers or acquisitions, liquidate, dissolve, suspend or cease operations, or modify accounting or tax reporting methods (other than as required by U.S. GAAP).

As of December 31, 2023 and 2022, the Company had no borrowings outstanding under the Credit Facility. At each of December 31, 2023, and 2022, the Company had letters of credit in the amount of $0.8 million outstanding. No amounts were drawn against these letters of credit as of December 31, 2023, and 2022. These letters of credit exist to support insurance programs relating to workers’ compensation, and general liability. We had no other off-balance sheet financing arrangements as of December 31, 2023, and 2022.

As of December 31, 2023, we had the ability to borrow an additional $24.2 million under the Credit Facility.

Dividends

We did not pay any dividends in either 2023 or 2022. Any future dividend declaration can be made only upon, and subject to, approval of our Board of Directors, based on its business judgment.

Share Repurchase

On May 2, 2023, the Board of Directors of Harte Hanks approved a share repurchase program to maximize shareholder value with authorization to repurchase $6.5 million of the Company’s Common Stock. During 2023, we repurchased 0.4 million shares of common stock for a total combined purchase price of $2.4 million.

Outlook

We consider such factors as total cash and cash equivalents and restricted cash, current assets, current liabilities, total debt, revenues, operating income, cash flows from operations, investing activities, and financing activities when assessing our liquidity. Our management of cash is designed to optimize returns on cash balances and to ensure that it is readily available to meet our operating, investing, and financing requirements as they arise. We believe that there are no conditions or events, considered in the aggregate, that raise substantial doubt about our ability to continue as a going concern for the twelve months following the issuance of the Consolidated Financial Statements.

Critical Accounting Estimates

Our Consolidated Financial Statements are prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"), which requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, costs and expenses, and related disclosures. On an ongoing basis, we evaluate our estimates and assumptions based on historical experience and on various other assumptions that we believe are reasonable under the circumstances. Our actual results could differ from these estimates under different assumptions or conditions. The areas that we believe involve the most significant management estimates and assumptions are detailed below. On an ongoing basis, management reviews its estimates and assumptions based on currently available information.

See Note B of the Notes to Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K for a summary of significant accounting policies and the effect on our financial statements.

Income Taxes

We are subject to income taxes in the United States and numerous other jurisdictions. Significant judgment is required in determining our provision for income taxes and income tax assets and liabilities, including evaluating uncertainties in the application of accounting principles and complex tax laws.

We record a provision for income taxes for the anticipated tax consequences of the reported results of operations using the asset and liability method. Under this method, we recognize deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the financial reporting and tax basis of assets and liabilities, as well as for operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using the tax rates that are expected to apply to taxable income for the years in which those tax assets and liabilities are expected to be realized or settled. We record a valuation allowance to reduce our deferred tax assets to the net amount that we believe is more likely than not to be realized. A material valuation allowance is recorded for foreign and specific state jurisdictions.

We recognize tax benefits from uncertain tax positions only if we believe that it is more likely than not that the tax position will be sustained on examination by the taxing authorities based on the technical merits of the position. Although we believe that we have adequately reserved for our uncertain tax positions, we can provide no assurance that the final tax outcome of these matters will not be materially different. We adjust these reserves when facts and circumstances change, such as the closing of a tax audit or the refinement of an estimate. To the extent that the final tax outcome of these matters is different than the amounts recorded, such differences will affect the provision for income taxes in the period in which such determination is made and could have a material impact on our financial condition and operating results. The provision for income taxes includes the effects of any reserves that we believe are appropriate, as well as the related net interest and penalties.

Legal and Other Contingencies

The Company is subject to various legal proceeding and claims that arise in the ordinary course of business, the outcomes of which are inherently uncertain. The Company records a liability when it is probable that a loss has been incurred and the amount is reasonably estimable, the determination of which requires significant judgement. Resolution of legal matters in a manner inconsistent with management's expectations could have a material impact on the Company's financial condition and operating results.

Recent Accounting Pronouncements

In October 2021, the Financial Accounting Standards Board (FASB) issued accounting standards update ("ASU") 2021-08, “Business Combinations (Topic 805): Accounting for Contract Assets and Liabilities from Contracts with Customers.” This ASU requires an acquiring entity to recognize and measure contract assets and contract liabilities acquired in a business combination in accordance with Topic 606. The Company adopted this standard on January 1, 2023, on a prospective basis and did not have a material impact on the Company's financial statements.

In December 2019, the Financial Accounting Standards Board (the “FASB”) issued new guidance that simplified the accounting for income taxes. This standard became effective for the Company in fiscal year 2022 and did not have a material impact on the consolidated financial statements.

In November 2023, the FASB issued ASU 2023-07, which enhances the disclosures required for reportable segments in annual and interim consolidated financial statements. ASU 2023-07 is effective for the Company for annual reporting periods beginning with the fiscal year ending November 30, 2025 and for interim reporting periods beginning in fiscal year 2026. Early adoption is permitted. The Company is currently evaluating the impact that this update will have on its consolidated financial statements disclosure.

In December 2023, the FASB issued ASU 2023-09, which requires enhanced income tax disclosures, including disaggregation of information in the rate reconciliation table and disaggregated information related to income taxes paid. The amendments in ASU 2023-09 are effective for the fiscal year ending after November 30, 2026. The Company is currently evaluating the impact that this update will have on its disclosures in the consolidated financial statements.

No other new accounting pronouncements recently adopted or issued had or are expected to have a material impact on the consolidated financial statements.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

Not applicable.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The Financial Statements required to be presented under Item 8 are presented in the Consolidated Financial Statements and the notes thereto beginning at page 35 of this Form 10-K (Financial Statements).

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to management, including our Chief Executive Officer (“CEO”) and Chief Financial Officer (“CFO”) as appropriate to allow timely decisions regarding required disclosure.

Our management, including our CEO and CFO, evaluated the effectiveness of our disclosure controls and procedures pursuant to Rules 13a-15(e) and 15d-15(e) under the Exchange Act as of December 31, 2023. Based upon such evaluation, our CEO and CFO concluded that the design and operation of these disclosure controls and procedures were effective, at the “reasonable assurance” level, to ensure information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms.

Management's Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)). Our internal control over financial reporting is a process designed by, or under the supervision of our CEO and CFO to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the Company's financial statements for external purposes in accordance with U.S. GAAP.

Management evaluated, under the supervision of our CEO and CFO, the design and effectiveness of the Company's internal control over financial reporting based on the framework in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organization of the Treadway Commission ("COSO"). Based on this assessment, management concluded that internal control over financial reporting was effective.

Changes in Internal Control over Financial Reporting

There were no changes in our internal controls over financial reporting during our most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. We have not experienced any material impact to our internal controls over financial reporting even though most of our employees have work remotely. We are continually monitoring and assessing the impact of this remote working arrangement on our internal controls to minimize the impact on their design and operating effectiveness.

ITEM 9B. OTHER INFORMATION

None.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

Not applicable

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Information required by this item is incorporated herein by reference as a definitive proxy statement to be filed with the SEC within 120 days of the fiscal year ended December 31, 2023.

ITEM 11. EXECUTIVE COMPENSATION

Information required by this item will be included in an amendment hereto or a definitive proxy statement to be filed with the SEC within 120 days of the fiscal year ended December 31, 2023.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Information required by this item will be included in an amendment hereto or a definitive proxy statement to be filed with the SEC within 120 days of the fiscal year ended December 31, 2023.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

Information required by this item will be included in an amendment hereto or a definitive proxy statement to be filed with the SEC within 120 days of the fiscal year ended December 31, 2023.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

Information required by this item will be included in an amendment hereto or a definitive proxy statement to be filed with the SEC within 120 days of the fiscal year ended December 31, 2023.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

15(a)(1) Financial Statements

The financial statements filed as part of this report and referenced in Item 8 are presented in the Consolidated Financial Statements and the notes thereto beginning at page 35 of this Form 10-K (Financial Statements).

15(a)(2) Financial Statement Schedules

All schedules for which provision is made in the applicable rules and regulations of the SEC have been omitted as the schedules are not required under the related instructions, are not applicable, or the information required thereby is set forth in the Consolidated Financial Statements or notes thereto.

15(a)(3) Exhibits

The Exhibit Index following the Notes to Consolidated Financial Statements in this Form 10-K lists the exhibits that are filed or furnished, as applicable, as part of this Form 10-K.

INDEX TO EXHIBITS

We are incorporating certain exhibits listed below by reference to other Harte Hanks filings with the Securities and Exchange Commission, which we have identified in parentheses after each applicable exhibit.

Exhibit No.	Description of Exhibit
*3.1	Amended and Restated Certificate of Incorporation as amended through May 5, 1998.
*3.2	Certificate of Amendment of Incorporation dated January 31, 2018.
3.3	Certificate of Designation of Series A Preferred Stock of Harte Hanks, Inc. (filed as Exhibit 3.1 to the company's form 8-K dated January 29, 2018).
*3.4	Fifth Amended and Restated Bylaws.
3.5	Elimination of Certificate of Designation of Rights, Preferences and Privileges of Series A Preferred Stock of Harte Hanks, Inc. (filed as Exhibit 3.1 to the Company's Form 8-K dated March 24, 2023).
*10.01	Loan Agreement, dated December 21, 2021, among Harte Hanks, Inc. the subsidiary guarantors party thereto and Texas Capital Bank, National Association.
*10.02	Security Agreement, dated December 21, 2021, between Harte Hanks, Inc. and Texas Capital Bank, National Association.
10.03	Harte Hanks, Inc. Restoration Pension Plan (As Amended and Restated Effective January 1, 2008) (filed as Exhibit 10.1 to the Company's Form 8-K dated June 27, 2008).
10.04	First Amendment to the Harte Hanks, Inc. Amended & Restated Restoration Pension Plan, dated October 11, 2016 (filed as Exhibit 10.1 to the Company's Form 8-K dated October 14, 2016).
10.05	Securities Purchase Agreement, dated January 23, 2018, by and between Harte Hanks, Inc. and Wipro, LLC (filed as Exhibit 10.1 to the company's Form 8-K dated January 29, 2018).
10.06	Amended and Restated Harte Hanks 2013 Omnibus Incentive Plan effective September 13,2018 (filed on Form S-8 file number 333-227325 as exhibit 4.1).
*10.07	Harte Hanks, Inc. 2020 Equity Incentive Plan, dated August 3, 2020 (as filed S-8 file number 333-240325).
10.08	Employment Agreement between the Company and Brian Linscott, effective as of June 23, 2021 (filed as Exhibit 10.2 to the company's Form 8-K, dated June 23, 2021).
10.09	Employment Agreement between the Company and Kirk Davis, effective as of June 19, 2023 (filed as Exhibit 10.1 to the company's Form 8-K, dated June 20, 2023).
*10.10	Separation Agreement between the Company and Brian Linscott effective as of June 21, 2023.
10.11	Hart Hanks Inc. 2023 Inducement Equity Incentive Plan (Filed as Exhibit 99.01 to the company's Form S-8 on August 25, 2023 as file number 333-274226).
10.12	Separation Agreement between the Company and Lauri Kearnes effective as of October 15, 2025 (filed as Exhibit 10.1 to the company's Form 8-K, dated October 17, 2023).
10.13	First Amendment to Loan Agreement, effective December 29, 2023, among Harte Hanks Inc. the subsidiary guarantors party thereto and with Texas Capital Bank (filed as Exhibit 10.1 on 8-K dated January 5, 2024).
*21.1	Subsidiaries of Harte Hanks, Inc.
*23.1	Consent of Baker Tilly US LLP.
*31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
*31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
*32.1	Furnished Certification of Chief Executive Officer pursuant to 18 U.S.C Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
*32.2	Furnished Certification of Chief Financial Officer pursuant to 18 U.S.C Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
*97	Harte Hanks Clawback Policy.

* Filed or furnished herewith, as applicable

INDEX TO EXHIBITS *(continued)*

Exhibit No.	Description of Exhibit
*101.INS	Inline XBRL Instance Document - the instance document does not appear in the Interactive Data Files because its XBRL tags are embedded within the Inline XBRL Document.
*101.SCH	Inline XBRL Taxonomy Extension Schema Document.
*101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
*101.LAB	Inline XBRL Taxonomy Extension Labels Linkbase Document.
*101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
*101.DEF	Inline XBRL Definition Linkbase Document.
*104	Cover Page Interactive Data File (embedded within the Inline XBRL and contained in Exhibit 101).

* Filed or furnished herewith, as applicable

SIGNATURES

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

HARTE HANKS, INC.

By: /s/ Kirk Davis
Kirk Davis
Chief Executive Officer

Date: April 1, 2024

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.

/s/ Kirk Davis
Kirk Davis
Chief Executive Officer
Date: April 1, 2024

/s/ David Garrison
David Garrison
Chief Financial Officer
Date: April 1, 2024

/s/ John H. Griffin, Jr.
John H. Griffin Jr., Director
Date: April 1, 2024

/s/ Genevieve C. Combes
Genevieve C. Combes, Director
Date: April 1, 2024

/s/ David L. Copeland
David L. Copeland, Director
Date: April 1, 2024

/s/ Radoff, Bradley L
Bradley L. Radoff, Director
Date: April 1, 2024

/s/ Liz Ross
Liz Ross, Director
Date: April 1, 2024

Harte Hanks, Inc. and Subsidiaries
Index to Consolidated Financial Statements

All schedules for which provision is made in the applicable rules and regulations of the SEC have been omitted as the schedules are not required under the related instructions, are not applicable, or the information required thereby is set forth in the consolidated financial statements or notes thereto.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the shareholders and the board of directors of Harte Hanks, Inc. and Subsidiaries:

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Harte Hanks, Inc. and Subsidiaries (the "Company") as of December 31, 2023 and 2022, the related consolidated statements of comprehensive income, changes in stockholders' equity (deficit), and cash flows, for each of the two years in the period ended December 31, 2023, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 2022, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2023, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing separate opinions on the critical audit matter or on the accounts or disclosures to which it relates.

Revenue from Contract with Customers

As described in Note C to the consolidated financial statements, the Company has three key revenue streams which consists of marketing services, customer care services, and fulfillment and logistics services. The nature of the services offered by each revenue stream is different, and the Company's process for revenue recognition differs between each of the discrete revenue streams. Additionally, each revenue stream has a high volume of transactions where each contract has disparate pricing, including fixed price and variable, and performance obligations.

We identified revenue from contracts with customers as a critical audit matter. Obtaining an understanding of the complex process and accounting used in the Company's revenue recognition and evaluating the processes for multiple revenue streams required significant auditor effort. Additionally, determining the nature and extent of our audit procedures and evaluating the overall sufficiency of the audit evidence required subjective auditor judgment.

Addressing the critical audit matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures include, among others:

a. We tested a sample of revenue transactions and compared the amount of revenue recorded with underlying supporting documentation, including third party source documents.
b. We obtained and read the customer contracts and evaluated the completeness of the performance obligations identified by management.
c. We tested the mathematical accuracy of management's calculations of revenue and the associated timing of revenue recognized in the consolidated financial statements.
d. We evaluated the Company's contracts and determined that management applied the appropriate accounting for each, including the identification of variable consideration, where applicable.

/s/ Baker Tilly US, LLP

We have served as the Company's auditor since 2019.

Tewksbury, Massachusetts
April 1, 2024

Harte Hanks, Inc. and Subsidiaries Consolidated Balance Sheets	December 31,	
In thousands, except per share and share amounts	**2023**	**2022**
ASSETS		
Current assets		
Cash and cash equivalents	$ 18,364	$ 10,364
Accounts receivable (less allowance of $474 and $163 at December 31, 2023 and 2022)	34,313	39,700
Contract assets and unbilled accounts receivable	7,935	8,202
Prepaid expenses	1,915	2,176
Prepaid income tax and income tax receivable	1,758	4,262
Other current assets	928	1,607
Total current assets	65,213	66,311
Net property, plant and equipment	8,855	10,523
Right-of-use assets	25,417	19,169
Other assets		
Intangible assets, net	2,820	3,540
Goodwill	1,926	2,398
Deferred tax assets, net	17,268	16,306
Other long-term assets	1,258	1,737
Total other assets	23,272	23,981
Total assets	$ 122,757	$ 119,984
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities		
Accounts payable and accrued expenses	$ 23,176	$ 22,465
Accrued payroll and related expenses	5,615	6,679
Deferred revenue and customer advances	3,195	4,590
Customer postage and program deposits	1,815	1,223
Other current liabilities	9,495	2,862
Short-term lease liabilities	4,815	5,747
Total current liabilities	48,111	43,566
Pension liabilities - Qualified plans	10,540	18,674
Pension liabilities - Nonqualified plan	18,630	19,098
Long-term lease liabilities	23,691	16,575
Other long-term liabilities	1,928	3,263
Total liabilities	102,900	101,176
Stockholders' equity		
Common stock, $1 par value, 25,000,000 shares authorized,12,221,484 shares issued, 7,224,718 and 7,402,614 shares outstanding at December 31, 2023 and 2022, respectively	12,221	12,221
Additional paid-in capital	157,889	218,411
Retained earnings	844,920	846,490
Less treasury stock, 4,996,766 shares at cost at December 31, 2023 and 4,818,870 shares at cost at December 31, 2022	(951,083)	(1,010,012)
Accumulated other comprehensive loss	(44,090)	(48,302)
Total stockholders' equity	19,857	18,808
Total liabilities and stockholders' equity	$ 122,757	$ 119,984

See Accompanying Notes to Consolidated Financial Statements.

Harte Hanks, Inc. and Subsidiaries Consolidated Statements of Comprehensive Income

In thousands, except per share amounts	Year Ended December 31, 2023	2022
Operating revenue	$ 191,492	$ 206,278
Operating expenses		
Labor	97,968	104,620
Production and distribution	59,568	61,930
Advertising, selling, general and administrative	20,673	21,893
Restructuring expense	5,687	—
Depreciation and amortization expense	4,237	2,728
Total operating expenses	188,133	191,171
Operating income	3,359	15,107
Other expense (income), net		
Interest (income) expense, net	(135)	438
Other expense (income), net	5,413	(4,644)
Total other expense (income), net	5,278	(4,206)
(Loss) income before income taxes	(1,919)	19,313
Income tax benefit	(349)	(17,463)
Net (loss) income	$ (1,570)	$ 36,776
Less: Loss from redemption of Preferred stock	—	1,380
Less: Preferred stock dividends	—	—
Less: Earnings attributable to participating securities	—	—
(Loss) income attributable to common stockholders	$ (1,570)	$ 35,396
(Loss) earnings per common share		
Basic	$ (0.21)	$ 4.98
Diluted	$ (0.21)	$ 4.75
Weighted-average shares used to compute income per share attributable to common shares		
Basic	7,310	7,101
Diluted	7,310	7,457
Comprehensive income, net of tax		
Net (loss) income	$ (1,570)	$ 36,776
Adjustment to pension liability	1,664	10,274
Foreign currency translation adjustments	2,548	(5,248)
Total other comprehensive income, net of tax	4,212	5,026
Comprehensive income	$ 2,642	$ 41,802

See Accompanying Notes to Consolidated Financial Statements.

Harte Hanks, Inc. and Subsidiaries Consolidated Statements of Changes in Stockholders' Equity (Deficit)

In thousands	Preferred Stock	Common Stock	Additional Paid-in Capital	Retained Earnings	Treasury Stock	Accumulated Other Comprehensive (loss) income	Total Stockholders' Equity (Deficit)
Balance at December 31, 2021	$ 9,723	$ 12,121	$ 290,711	$ 811,094	$ (1,085,313)	$ (53,328)	$ (24,715)
Redemption of preferred stock	(9,723)	—	—	(1,380)	—	—	(1,380)
Issuance of common stock in connection with redemption of preferred stock	—	100	977	—	—	—	1,077
Stock-based compensation	—	—	2,493	—	—	—	2,493
Vesting of RSU's and issuance of Treasury stocks in connection with acquisition (see Note L)	—	—	(75,770)	—	75,301	—	(469)
Net income	—	—	—	36,776	—	—	36,776
Other comprehensive income						5,026	5,026
Balance at December 31, 2022	$ —	$ 12,221	$ 218,411	$ 846,490	$ (1,010,012)	$ (48,302)	$ 18,808
Stock-based compensation	—	—	1,418	—	—	—	1,418
Vesting of RSU's and issuance of Treasury stocks in connection with acquisition (see Note L)	—	—	(61,940)	—	61,299	—	(641)
Repurchase of common stock	—	—	—	—	(2,370)	—	(2,370)
Net loss	—	—	—	(1,570)	—	—	(1,570)
Other comprehensive income	—	—	—	—	—	4,212	4,212
Balance at December 31, 2023	$ —	$ 12,221	$ 157,889	$ 844,920	$ (951,083)	$ (44,090)	$ 19,857

See Accompanying Notes to Consolidated Financial Statements.

Harte Hanks, Inc. and Subsidiaries Consolidated Statements of Cash Flows

In thousands	Year Ended December 31, 2023	2022
Cash Flows from Operating Activities		
Net (loss) income	$ (1,570)	$ 36,776
Adjustments to reconcile net (loss) income to net cash provided by operating activities		
Depreciation and amortization expense	4,237	2,728
Restructuring expense	861	—
Stock-based compensation	1,418	2,355
Net pension payment	70	(1,009)
Deferred income taxes	(1,474)	(19,843)
Changes in assets and liabilities, net of dispositions:		
Accounts receivable, net and contract assets	5,654	3,843
Prepaid expenses, income tax receivable and other current assets	3,440	2,779
Accounts payable and accrued expense	844	6,200
Deferred revenue and customer advances	(1,395)	383
Customer postage and program deposits	592	(5,273)
Other accrued expenses and liabilities	(2,200)	(147)
Net cash provided by operating activities	10,477	28,792
Cash Flows from Investing Activities		
Purchases of property, plant and equipment	(2,812)	(5,800)
Proceeds from the sale of property, plant and equipment	3	57
Acquisition of InsideOut	500	(5,750)
Net cash used in investing activities	(2,309)	(11,493)
Cash Flows from Financing Activities		
Repayment of borrowings	—	(5,000)
Debt financing costs	(45)	(131)
Payment of finance leases	(160)	(194)
Redemption of preferred stock	—	(10,026)
Repurchase common stock	(2,370)	—
Treasury stock activities	(641)	(469)
Net cash used in financing activities	(3,216)	(15,820)
Effect of exchange rate changes on cash, cash equivalents and restricted cash	2,548	(5,248)
Net increase (decrease) in cash and cash equivalents and restricted cash	7,500	(3,769)
Cash and cash equivalents and restricted cash at beginning of year	11,364	15,133
Cash and cash equivalents and restricted cash at end of year	$ 18,864 (1)	$ 11,364
(1) This amount is comprised of the below balances:		
Cash and cash equivalents	$ 18,364	$ 10,364
Cash held in Escrow account included in other assets (see Note L)	500	1,000
	$ 18,864	$ 11,364
Supplemental disclosures		
Cash paid for interest	$ 244	$ 273
Cash received for income taxes, net	$ (2,899)	$ (1,391)
Non-cash investing and financing activities		
Purchases of property, plant and equipment included in accounts payable and accrued expense	$ 1,997	$ 2,048
Issuance of common stock	$ —	$ (1,077)

See Accompanying Notes to Consolidated Financial Statements

Harte Hanks, Inc. and Subsidiaries Notes to Consolidated Financial Statements

Note A — Background and Basis of Presentation

Background

Harte Hanks, Inc. together with its subsidiaries ("Harte Hanks," "Company," "we," "our," or "us") is a leading global customer experience company. With offices in North America, Asia-Pacific and Europe, Harte Hanks works with some of the world's most respected brands.

Basis of Presentation (including principles of consolidation)

Consolidation

The accompanying audited consolidated financial statements include the accounts of Harte Hanks, Inc. and its subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. As used in this report, the terms "Harte Hanks," "the Company," "we," "us," or "our" may refer to Harte Hanks, Inc., one or more of its consolidated subsidiaries, or all of them taken as a whole, as the context may require.

Reclassifications

Certain amounts in the consolidated financial statements related to the prior years have been reclassified to conform to the current year's presentation.

Operating Expense Presentation in the Consolidated Statements of Comprehensive Income

The "Labor" line in the Consolidated Statements of Comprehensive Income includes all employee payroll and benefits costs, including stock-based compensation and temporary labor costs. The "Production and distribution" and "Advertising, selling, general and administrative" lines do not include labor, depreciation, or amortization expense.

Note B — Significant Accounting Policies

Use of Estimates

Preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported and disclosed in the financial statements and the accompanying notes. Actual results could differ materially from those estimates due to uncertainties. Such estimates include, but are not limited to, estimates related to lease accounting; pension accounting; fair value for purposes of assessing long-lived assets for impairment; revenue recognition; income taxes; stock-based compensation and contingencies. On an ongoing basis, management reviews its estimates and assumptions based on currently available information. Changes in facts and circumstances could result in revised estimates and assumptions.

Segment Reporting

The Company operates three business segments: Marketing Services; Customer Care; and Fulfillment & Logistics Services. Our Chief Executive Officer ("CEO") is considered to be our chief operating decision maker. Our CEO reviews our operating results on an aggregate basis for purposes of allocating resources and evaluating financial performance by using the three financial measures: revenue, operating income and operating income plus depreciation and amortization (EBITDA).

Cash Equivalents

All highly liquid investments with an original maturity of 90 days or less at the time of purchase are considered to be cash equivalents. Cash equivalents are carried at cost, which approximates fair value.

Restricted Cash

In our normal business operation, we receive cash from our customers for certain customer program service funding. As these programs impose legal restrictions on the commingling of funds, we present this cash as restricted cash.

Accounts Receivable and Allowance for Credit Losses

Accounts receivables are recorded and carried at the original invoiced amount less an allowance for any potential uncollectible amounts. We make estimates of expected credit and collectability trends for the allowance for credit losses based upon our assessment of various factors, including historical experience, the age of the accounts receivable balances, credit quality of our customers, current and future economic conditions that may affect the Company's expectation of the collectability in determining the allowance for credit losses. Expected credit losses are recorded in the "Advertising, selling, general, and administrative" line of our Consolidated Statements of Comprehensive Income. As of December 31, 2023 and 2022, our accounts receivables, net, was $34.3 million and $39.7 million, respectively. The Company classifies unbilled receivables as Accounts receivable. The changes in the allowance for credit losses accounts consisted of the following:

	Year Ended December 31,	
In thousands	**2023**	**2022**
Balance at beginning of year	$ 163	$ 266
Net charges to expense	321	(92)
Amounts recovered against the allowance	(10)	(11)
Balance at end of year	$ 474	$ 163

Unbilled receivables

For the majority of service contracts, the Company performs the services prior to billing the client, and this amount is captured as an unbilled receivable included in accounts receivable, net on the consolidated balance sheet. Billing usually occurs in the month after the Company performs the services or in accordance with the specific contractual provisions.

Geographic Concentrations

Depending on the needs of our clients, our services are provided through an integrated approach through eleven facilities worldwide, of which four are located outside of the U.S.

The following table provides information about the operations in different geographic area for the periods indicated:

Revenue[1]	Year Ended December 31,	
In thousands	**2023**	**2022**
United States	$ 173,162	$ 183,470
Other countries	18,330	22,808
Total revenue	$ 191,492	$ 206,278

[1] Geographic revenues are based on the location of the service being performed.

Property, plant and equipment, net[2]	December 31,	
In thousands	**2023**	**2022**
United States	$ 8,005	$ 10,219
Other countries	850	304
Total property, plant and equipment	$ 8,855	$ 10,523

[2] Property, plant and equipment are based on physical location.

Credit Risk and Concentration

Accounts receivable are typically unsecured and are derived from revenue earned from customers across different industries and countries. We perform ongoing credit evaluation of our customers and generally do not require collateral. We maintain an allowance for estimated credit losses and bad debt expense on these losses was not material during the years ended December 31, 2023 and 2022. In the event that accounts receivable collection cycle deteriorates, our operating results and financial position could be adversely affected.

Our top customer represented 11.2% and 13.0% of total accounts receivable as of December 31, 2023 and 2022, respectively.

Revenue by Top Customers

The table below sets forth the percentage of our total revenue derived from our largest customers:

	Year Ended December 31,	
	2023	**2022**
Top ten customers	48.5 %	50.6 %
Top twenty-five customers	71.7 %	72.5 %

Our top customer represented 11.2% and 12.2% of total revenue for the year ended December 31, 2023 and 2022, respectively.

Related Party Transactions

From 2016 until October 2020, we conducted business with Wipro, LLC ("Wipro"), whereby Wipro provided us with a variety of technology-related services. We have since terminated all service agreements with Wipro. Effective January 30, 2018, Wipro became a related party when it purchased 9,926 shares of our Series A Preferred Stock, for aggregate consideration of $9.9 million. On December 2, 2022, we completed the repurchase of all of our outstanding Preferred Stock from Wipro and as of said date Wipro is no longer a related party.

Revenue Recognition

We recognize revenue upon transfer of control of promised products or services to customers in an amount that reflects the consideration we expect to be entitled to receive in exchange for those products or services based on the relevant contract. We apply the following five-step revenue recognition model:

- Identification of the contract, or contracts, with a customer
- Identification of the performance obligations in the contract
- Determination of the transaction price
- Allocation of the transaction price to the performance obligations in the contract
- Recognition of revenue when (or as) we satisfy the performance obligation

Certain client programs provide for adjustments to billings based upon whether we achieve certain performance criteria. In these circumstances, revenue is recognized when the foregoing conditions are met. We record revenue net of any taxes collected from customers and subsequently remitted to governmental authorities. Any payments received in advance of the performance of services or delivery of the product are recorded as deferred revenue until such time as the services are performed or the product is delivered. Costs incurred for search engine marketing solutions payable to the engine host and postage costs of mailings are billed to our clients and are not directly reflected in our revenue.

Revenue from agency and digital services, direct mail, logistics, fulfillment and contact center is recognized as the work is performed. Fees for these services are determined by the terms set forth in each contract. These fees are typically a set fixed price or rate by transaction occurrence, service provided, time spent, or product delivered.

For arrangements requiring the design and build out of a database, revenue is not recognized until client acceptance occurs. Up-front fees billed during the setup phase for these arrangements are deferred and direct build costs are capitalized. Pricing for these types of arrangements is typically based on a fixed price determined in the contract. Revenue from other database marketing solutions is recognized ratably over the contractual service period. Pricing for these services is typically based on a fixed price per month or per contract.

Fair Value of Financial Instruments

Financial Accounting Standards Board ("FASB") Accounting Standard Codification ("ASC") 820, Fair Value Measurements and Disclosures, ("ASC 820") defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. ASC 820 also establishes a fair value hierarchy that prioritizes the inputs used in valuation methodologies into three levels:

Level 1 Quoted prices in active markets for identical assets or liabilities.

Level 2 Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

Because of their maturities and/or variable interest rates, certain financial instruments have fair values approximating their carrying values. These instruments include cash and cash equivalents and restricted cash, accounts receivable, trade payables, and long-term debt. The fair value of the assets in our funded pension plan is disclosed in Note H, *Employee Benefit Plans*.

Property, Plant and Equipment

Property, plant and equipment, net consist of the following:

	Year Ended December 31,	
In thousands	**2023**	**2022**
Property, plant and equipment		
Buildings and improvements	$ 4,635	$ 4,387
Equipment and furniture	20,881	20,478
Software	18,030	20,724
Software development and equipment installations in progress	1,842	8,947
Gross property, plant and equipment	45,388	54,536
Less accumulated depreciation	(36,533)	(44,013)
Net property, plant and equipment	$ 8,855	$ 10,523

Property, plant and equipment are stated at cost, less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. The general ranges of estimated useful lives are:

	Years
Buildings and improvements	3 to 40
Software	2 to 10
Equipment and furniture	3 to 20

For the year ended December 31, 2023, the Company recorded $3.4 million of depreciation expense compared to $2.5 million for the year ended December 31, 2022.

Long-lived assets such as property, plant and equipment are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The carrying amount of a long-lived asset group is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the asset group. We recorded $0.1 million and $0.2 million of impairment of long-lived assets in 2023 and 2022, respectively.

Leases

We determine if an arrangement is a lease at its inception. Operating and finance leases are included in the lease right-of-use ("ROU") assets and in the current portion and long-term portion of lease liabilities on our consolidated balance sheets. ROU assets represent our right to use an underlying asset for the lease term and lease liabilities represent our obligation to make lease payments arising from the lease. Operating lease ROU assets and liabilities are recognized at commencement date of each lease based on the present value of lease payments over the lease term. As most of our leases do not provide an implicit interest rate, we use our incremental borrowing rate based on the information available at commencement date of each lease to determine the present value of lease payments. The operating lease ROU assets also include any lease payments made and exclude lease incentives. Our lease terms may include options to extend or terminate the lease, which are included in the lease ROU assets when it is reasonably certain that we will exercise that option. Lease expense for lease payments is recognized on a straight-line basis over the lease term. We have lease agreements with lease and non-lease components, which are generally accounted for separately. For certain real estate leases, we account for the lease and non-lease components as a single lease component.

Capitalization of Software Development Costs

Capitalized software costs for internally developed software and implementation of third-party software are amortized over a period of three to five years. On an ongoing basis, management reviews the valuation of these software costs to determine if there has been impairment to the carrying value of these assets and adjusts this value accordingly.

Goodwill

Goodwill is the amount by which the cost of the acquired net assets in a business combination exceeds the fair value of the identifiable net assets on the date of purchase. Goodwill is not amortized. Goodwill is reviewed for impairment at least annually during the fourth quarter, or more frequently if events occur indicating the potential for impairment.

The Company has three reporting segments, but the current goodwill balance is booked in the Customer Care segment. During its goodwill impairment review, the Company may assess qualitative factors to determine whether it is more likely than not that the fair value of its reporting unit is less than its carrying amount, including goodwill. The qualitative factors include, but are not limited to, macroeconomic conditions, industry and market considerations, and the overall financial performance of the Company. If, after assessing the totality of these qualitative factors, the Company determines that it is not more likely than not that the fair value of its reporting unit is less than its carrying amount, then no additional assessment is deemed necessary. Otherwise, the Company performs a quantitative goodwill impairment test. The Company may also elect to bypass the qualitative assessment in a period and elect to proceed to perform the quantitative goodwill impairment test. There is no goodwill impairment as of December 31, 2023.

Intangible Assets

Intangible assets consist of finite-lived intangible assets acquired through the Company's business combinations. Such amounts are initially recorded at fair value and subsequently amortized over their useful lives using the straight-line method, which reflects the pattern of benefit, and assumes no residual value.

Finite-lived intangibles are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If circumstances require an intangible asset be tested for possible impairment, the Company first compares undiscounted cash flows expected to be generated by that intangible asset to its carrying amount. If the carrying amount of the intangible asset is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying amount exceeds its fair value. Fair value is determined through various valuation techniques, including discounted cash flow models, quoted market values, and third-party independent appraisals, as considered necessary.

The factors that drive the estimate of useful life are often uncertain and are reviewed on a periodic basis or when events occur that warrant review. Recoverability is measured by comparing the assets' book value to future net undiscounted cash flows that the assets are expected to generate to determine if a write-down to the recoverable amount is appropriate. If such assets are written down, an impairment will be recognized as the amount by which the book value of the asset group exceeds the recoverable amount. There is no impairment of our intangible assets as of December 31, 2023.

Income Taxes

Income tax expense includes U.S. and international income taxes accounted for under the asset and liability method. Certain income and expenses are not reported in tax returns and financial statements in the same year. Such temporary differences are reported as deferred tax. Deferred tax assets are reported net of valuation allowances where we have assessed that it is more likely than not that a tax benefit will not be realized.

Earnings Per Share

Basic earnings per common share is based upon the weighted-average number of common shares outstanding during the period. Diluted earnings per common share is based upon the weighted-average number of common shares and dilutive common stock equivalents outstanding during the period. Dilutive common stock equivalents are calculated based on the assumed exercise of stock options and vesting of unvested shares using the treasury stock method.

Stock-Based Compensation

All share-based awards are recognized as operating expense in the "Labor" line of the Consolidated Statements of Comprehensive Income. Calculated expense is based on the fair values of the awards on the date of grant and is recognized over the requisite service period or performance period of the awards.

Reserve for Healthcare, Workers' Compensation, Automobile and General Liability

We are self-insured for the majority of our healthcare insurance. We pay actual medical claims up to a stop loss limit of $0.3 million. Our workers' compensation programs are a guaranteed cost program. The reserve is estimated using current claims activity, historical experience, and claims incurred but not reported. We use loss development factors that consider both industry norms and company specific information. Our liability is recorded at the estimate of the ultimate cost of claims at the balance sheet date. On December 31, 2023 and 2022, our reserve for healthcare, workers' compensation, net, automobile, and general liability was $1.1 million, for the year ended December 31, 2023 and 2022, respectively. Periodic changes to the reserve for workers' compensation, automobile and general liability are recorded as increases or decreases to insurance expense, which is included in the "Advertising, selling, general and administrative" line of our Consolidated Statements of Comprehensive Income. Periodic changes to the reserve for healthcare are recorded as increases or decreases to employee benefits expense, which is included in the "Labor" line of our Consolidated Statements of Comprehensive Income.

Foreign Currencies

In most instances the functional currencies of our foreign operations are the local currencies. Assets and liabilities recorded in foreign currencies are translated in U.S. dollars at the exchange rate on the balance sheet date. Revenue and expenses are translated at average rates of exchange prevailing during a given month. Adjustments resulting from this translation are charged or credited to other comprehensive income.

Recent Accounting Guidance Not Yet Adopted

In November 2023, the FASB issued accounting standards update ("ASU") 2023-07, which enhances the disclosures required for reportable segments in annual and interim consolidated financial statements. ASU 2023-07 is effective for the Company for annual reporting periods beginning with the fiscal year ending November 30, 2025, and for interim reporting periods beginning in fiscal year 2026. Early adoption is permitted. The Company is currently evaluating the impact that this update will have on its disclosures in the consolidated financial statements.

In December 2023, the FASB issued ASU 2023-09, which requires enhanced income tax disclosures, including disaggregation of information in the rate reconciliation table and disaggregated information related to income taxes paid. The amendments in ASU 2023-09 are effective for the fiscal year ending after November 30, 2026. The Company is currently evaluating the impact that this update will have on its disclosures in the consolidated financial statements.

No other new accounting pronouncements recently adopted or issued had or are expected to have a material impact on the consolidated financial statements.

Note C - Operating revenue from Contracts with Customers

Under Accounting Standards Update (ASU) 2014-09, Revenue from Contracts with Customers ("ASC 606"), an entity recognizes revenue when its customer obtains control of promised goods or services, in an amount that reflects the consideration the entity expects to receive in exchange for those goods or services. To determine revenue recognition for arrangements that are within the scope of the new standard, the entity performs the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the entity satisfies a performance obligation. This standard requires disclosure of the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers. This standard also includes criteria for the capitalization and amortization of certain contract acquisition and fulfillment costs.

Under ASC 606, revenue is recognized when control of the promised goods or services is transferred to the customer, in an amount that reflects the consideration we expect to be entitled to in exchange for those goods or services. Our contracts with customers state the terms of sale, including the description, quantity, and price of the product sold or service provided. Payment terms can vary by contract, but the period between invoicing and when payment is due is not significant. The Company's contracts with its customers generally do not include rights of return or a significant financing component.

Consistent with legacy U.S. GAAP, we present sales taxes assessed on revenue-producing transactions on a net basis.

Disaggregation of Revenue

We disaggregate revenue by three key revenue streams which are aligned with our business segments. The nature of the services offered by each key revenue stream is different. The following tables summarize revenue from contracts with customers for the years ended December 31, 2023, and 2022 from our three business segments and the pattern of revenue recognition:

	For the Year Ended December 31, 2023		
In thousands	**Revenue for performance obligations recognized over time**	**Revenue for performance obligations recognized at a point in time**	**Total**
Marketing Services	$ 38,950	$ 4,254	$ 43,204
Customer Care	63,327	—	63,327
Fulfillment & Logistics Services	69,038	15,923	84,961
Total Revenue	$ 171,315	$ 20,177	$ 191,492

	For the Year Ended December 31, 2022		
In thousands	**Revenue for performance obligations recognized over time**	**Revenue for performance obligations recognized at a point in time**	**Total**
Marketing Services	$ 45,020	$ 7,955	$ 52,975
Customer Care	67,205	—	67,205
Fulfillment & Logistics Services	75,081	11,017	86,098
Total Revenue	$ 187,306	$ 18,972	$ 206,278

Our contracts with customers may consist of multiple performance obligations. If the contract contains a single performance obligation, the entire transaction price is allocated to the single performance obligation. Contracts that contain multiple performance obligations require an allocation of the transaction price to each performance obligation based on a relative standalone selling price ("SSP") basis unless the transaction price is variable and meets the criteria to be allocated entirely to a performance obligation or to a distinct good or service that forms part of a single performance obligation. For most performance obligations, we determine SSP based on the price at which the performance obligation is sold separately. Although uncommon, if the SSP is not observable through past transactions, we estimate the SSP taking into account available information such as market conditions and internally approved pricing guidelines related to the performance obligations. Further discussion of other performance obligations in each of our major revenue streams follows:

Marketing Services

Our Marketing Services segment delivers strategic planning, data strategy, performance analytics, creative development and execution, technology enablement, marketing automation, and database management. We create relevancy by leveraging data, insight, and our extensive experience in leading clients as they engage their customers through digital, traditional, and emerging channels. We are known for helping clients build deep customer relationships, create connected customer experiences, and optimize each and every customer touch point in order to deliver desired business outcomes.

Most marketing services performance obligations are satisfied over time and often offered on a project basis. We have concluded that the best approach to measure the progress toward completion of the project-based performance obligations is the input method, which is based on either the costs or labor hours incurred to date depending upon whether costs or labor hours more accurately depict the transfer of value to the customer.

Our database solutions are built around centralized marketing databases with services rendered to build custom databases, database hosting services, customer or target marketing lists and data processing services.

These performance obligations, including services rendered to build a custom database, database hosting services, customer or target marketing lists and data processing services, may be satisfied over time or at a point in time. We provide SaaS solutions to host data for customers and have concluded that they are stand-ready obligations to be recognized over time on a monthly basis. Our promise to provide certain data related services meets the over-time recognition criteria because our services do not create an asset with an alternative use, and we have an enforceable right to payment. For performance obligations recognized over time, we choose either the input (i.e., labor hour) or output method (i.e., number of customer records) to measure the progress toward completion depending on the nature of the services provided. Some of our other data-related services do not meet the over-time criteria and are therefore, recognized at a point-in-time, typically upon the delivery of a specific deliverable.

Our contracts may include outsourced print production work for our clients. These contracts may include a promise to purchase postage on behalf of our clients. In such cases, we have determined we are an agent, rather than principal and therefore recognize net consideration as revenue.

Customer Care

We deliver customer care services in the United States, Asia and Europe to provide advanced solutions such as voice, SMS/chat, email, integrated voice response, web self-service, social cloud monitoring and analytics.

Performance obligations are stand-ready obligations and are satisfied over time. With regard to account management and software as a service (“SaaS”), we use a time-elapsed output method to recognize revenue. For performance obligations where we charge customers a transaction-based fee, we use the output method based on transaction quantities. In most cases, our contracts provide us the right to invoice for services provided, therefore, we generally use the “as invoiced” practical expedient to recognize revenue associated with these performance obligations unless significant discounts are offered in a contract and prices for services do not represent their SSPs.

Fulfillment & Logistics Services

Our services, delivered internally and with our partners, include: printing, lettershop, advanced mail optimization (including commingling services), logistics and transportation optimization, monitoring and tracking, to support traditional and specialized mailings. Our print and fulfillment centers in Massachusetts and Kansas provide custom kitting services, print on demand, product recalls, trade marketing fulfillment, ecommerce product fulfillment, sampling programs, and freight optimization, thereby allowing our customers to distribute literature and other marketing materials.

Most performance obligations offered within this revenue stream are satisfied over time and utilize the input or output method, depending on the nature of the service, to measure progress toward satisfying the performance obligation. For performance obligations where we charge customers a transaction-based fee, we utilize the output method based on the quantities fulfilled. Services provided through our fulfillment centers are typically priced at a per transaction basis and our contracts provide us the right to invoice for services provided and reflects the value to the customer of the services transferred to date. In most cases, we use the “as invoiced” practical expedient to recognize revenue associated with these performance obligations unless significant discounts are offered in a contract and prices for services do not represent their standalone selling prices. Prior to the closure of our direct mail production facilities, our direct mail business contracts

may have included a promise to purchase postage on behalf of our clients; in such cases, we have determined we are an agent, rather than principal and therefore recognize net consideration as revenue.

Transaction Price Allocated to Future Performance Obligations

We have elected to apply certain optional exemptions that limit the disclosure requirements over remaining performance obligations at period end to exclude performance obligations that have an original expected duration of one year or less, transactions using the "as invoiced" practical expedient, or when a performance obligation is a series and we have allocated the variable consideration directly to the services performed. As of December 31, 2023, we had no transaction prices allocated to unsatisfied or partially satisfied performance obligations.

Contract Balances

We record a receivable when revenue is recognized prior to invoicing when we have an unconditional right to consideration (only the passage of time is required before payment of that consideration is due) and a contract asset when the right to payment is conditional upon our future performance such as delivery of an additional good or service (e.g. customer contract requires customer's final acceptance of custom database solution or delivery of final marketing strategy delivery presentation before customer payment is required). If invoicing occurs prior to revenue recognition, the unearned revenue is presented on our Consolidated Balance Sheets as a contract liability, referred to as deferred revenue. The following table summarizes our contract balances as of December 31, 2023 and 2022:

In thousands	December 31, 2023	December 31, 2022
Contract assets	$ 258	$ 309
Deferred revenue and customer advances	3,195	4,590
Deferred revenue included in other long-term liabilities	294	432

Revenue recognized during the year ended December 31, 2023 from amounts included in deferred revenue as of December 31, 2022 was approximately $4.3 million. Revenue recognized during the year ended December 31, 2022 from amounts included in deferred revenue as of December 31, 2021 was approximately $3.7 million.

Costs to Obtain and Fulfill a Contract

We recognize an asset for the direct costs incurred to obtain and fulfill our contracts with customers to the extent that we expect to recover these costs and if the benefit is longer than one year. These costs are amortized to expense over the expected period of the benefit in a manner that is consistent with the transfer of the related goods or services to which the asset relates. We impair the asset when recoverability is not anticipated. We capitalized a portion of commission expense, implementation and other costs that represents the cost to obtain a contract. The remaining unamortized contract costs were $0.6 million and $1.0 million as of December 31, 2023 and 2022, respectively. They are included in other current assets and other assets on our balance sheet. For the years presented, no impairment was recognized.

Note D - Leases

We have operating and finance leases for corporate and business offices, service facilities, call centers and certain equipment. Leases with an initial term of 12 months or less are generally not recorded on the balance sheet, unless the arrangement includes an option to purchase the underlying asset, or an option to renew the arrangement, that we are reasonably certain to exercise (short-term leases). Our leases have remaining lease terms of one year to seven years, some of which may include options to extend the leases for up to an additional five years.

We sublease our Fullerton (CA), Jacksonville (FL) and Uxbridge (UK) facilities. The lease and sublease for Fullerton (CA) facility expired in April 2023, the lease and sublease for Uxbridge (UK) facility expired in October 2023, and the lease and sublease for Jacksonville (FL) facility will expire at the end of July 2024.

As of December 31, 2023, assets recorded under finance and operating leases were approximately $0.1 million and $25.3 million respectively, and accumulated amortization associated with finance leases was $0.1 million. As of December 31, 2022 assets recorded under finance and operating leases were approximately $0.6 million and $18.6 million respectively, and accumulated depreciation associated with finance leases was $1.0 million. Operating lease right of use assets and lease liabilities are recognized at the lease commencement date based on the present value of lease payments over the lease term.

The discount rate used to determine the commencement date present value of lease payment is the interest rate implicit in the lease, or when that is not readily determinable, we utilized our incremental borrowing rate, which is the rate incurred to borrow on a collateralized basis over a similar term at an amount equal to the lease payments in a similar economic environment. Certain adjustments to the right-of-use asset may be required for items such as initial direct costs paid or incentives received.

During the year ended December 31, 2023, we impaired two leases for the facilities we no longer occupied. The resulting impairment and early termination charges are included in our restructuring expenses for the year ended December 31, 2023. There is no impairment of leases in the year ended December 31, 2022.

The following tables present supplemental balance sheet information related to our financing and operating leases:

	As of December 31, 2023			As of December 31, 2022		
In thousands	Operating Leases	Finance Leases	Total	Operating Leases	Finance Leases	Total
Right-of-use Assets	$ 25,288	$ 129	$ 25,417	$ 18,574	$ 595	$ 19,169
Liabilities:						
Short-term lease liabilities	4,773	42	4,815	5,587	160	5,747
Long-term lease liabilities	23,687	4	23,691	16,523	52	16,575
Total Lease Liabilities	$ 28,460	$ 46	$ 28,506	$ 22,110	$ 212	$ 22,322

For the years ended December 31, 2023 and 2022, the components of lease expense were as follows:

In thousands	Year Ended December 31, 2023	Year Ended December 31, 2022
Operating lease cost	$ 5,526	$ 5,832
Finance lease cost		
Amortization of right-of-use assets	123	166
Interest on lease liabilities	7	16
Total Finance lease cost	130	182
Variable lease cost	2,068	1,899
Sublease income	(834)	(828)
Total lease cost, net	$ 6,890	$ 7,085

Other information related to leases was as follows:

In thousands	Year Ended December 31, 2023	Year Ended December 31, 2022
Supplemental Cash Flows Information		
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	$ 12,525	$ 12,698
Operating cash flows from finance leases	21	15
Financing cash flows from finance leases	160	194
Weighted Average Remaining Lease term *(in years)*		
Operating leases	6.84	5.92
Finance leases	1.04	1.36
Weighted Average Discount Rate		
Operating leases	5.65 %	3.55 %
Finance leases	7.76 %	5.70 %

The maturities of the Company's finance and operating lease liabilities as of December 31, 2023 are as follows:

In thousands	Operating Leases[1]	Finance Leases
Year Ending December 31,		
2024	$ 6,173	$ 44
2025	4,648	3
2026	4,219	1
2027	4,191	—
2028	4,094	—
2028 & Beyond	11,397	—
Total future minimum lease payments	34,722	48
Less: Imputed interest	6,262	2
Total lease liabilities	$ 28,460	$ 46

[1] Non-cancelable sublease proceeds for the fiscal year ending December 31, 2024 of $0.4 million, is not included in the table above.

As of December 31, 2023, we have no new operating leases that have not yet commenced.

Note E - Convertible Preferred Stock and Share Repurchase Program

Convertible Preferred Stock

Our Amended and Restated Certificate of Incorporation authorizes us to issue 1.0 million shares of preferred stock. On June 30, 2022, the Company entered into a share repurchase agreement (the "Repurchase Agreement") with Wipro, pursuant to which the Company agreed to repurchase all 9,926 shares of the Preferred Stock then outstanding in exchange for (i) a cash payment equal to its liquidation value, or total cash payment of $9,926,000 and (ii) 100,000 shares of the Company's common stock, par value $1.00 per share (the "Common Stock"). The cash portion of the repurchase price was previously paid into escrow at the signing of the Repurchase Agreement on June 30, 2022 and held in escrow until the closing of the repurchase by PNC Bank, National Association, pending the re-issuance of the Preferred Stock from the State of New Jersey. Other than the release of previously escrowed funds, no additional cash was paid by Harte Hanks at closing. On December 2, 2022, we completed the closing of our June 30, 2022 definitive agreement with Wipro.

On March 20, 2023, the Company cancelled all shares of Series A Preferred Stock pursuant to the Certificate of Elimination filed with the Secretary of State of Delaware.

Share Repurchase Program

On May 2, 2023, the Board of Directors of Harte Hanks approved a share repurchase program to maximize shareholder value with authorization to repurchase $6.5 million of the Company's Common Stock. In the year ended December 31, 2023, we repurchased 0.4 million shares of common stock for $2.4 million.

Note F — Long-Term Debt

Credit Facility

On December 21, 2021, the Company entered a new three year, $25.0 million asset-based revolving credit facility (the "Credit Facility") with Texas Capital Bank ("TCB"). The Company's obligations under the Credit Facility are guaranteed on a joint and several basis by the Company's material subsidiaries (the "Guarantors"). The Credit Facility is secured by substantially all the assets of the Company and the Guarantors pursuant to a Pledge and Security Agreement, dated as of December 21, 2021, between the Company, TCB and the other Guarantors party thereto (the "Security Agreement"). On December 29, 2023, the Company extended the agreement six months to June 30, 2025. The extension was executed with substantially similar terms and conditions.

The Credit Facility provides for loans up to the lesser of (a) $25.0 million, and (b) the amount available under a “borrowing base” calculated primarily by reference to the Company's cash and cash equivalents and accounts receivables. The Credit Facility allows the Company to use up to $3.0 million on of its borrowing capacity to issue letters of credit.

The loans under the Credit Facility accrue interest at a varying rate equal to the Secured Overnight Financing Rate (SOFR) plus a margin of 2.25% per annum. The interest rate was 7.64% as of December 31, 2023. The outstanding amounts advanced under the Credit Facility are due and payable in full on June 30, 2025. As of December 31, 2023 and 2022, we had no borrowings outstanding under the Credit Facility. As of December 31, 2023 and 2022, we had letters of credit outstanding in the amount of $0.8 million. No amounts were drawn against these letters of credit as of December 31, 2023 . These letters of credit exist to support insurance programs relating to workers‘ compensation, automobile, and general liability. Unused commitment balances accrued fees at a rate of 0.25%.

As of December 31, 2023, we had the ability to borrow an additional $24.2 million under the Credit Facility.

Cash payments for interest were $0.2 million and $0.3 million for the years ended December 31, 2023 and 2022, respectively.

Note G — Stock-Based Compensation

We maintain stock incentive plans for the benefit of certain officers, directors, and employees. Our stock incentive plans provide for the ability to issue stock options, cash stock appreciation rights, performance stock units, phantom stock units and cash performance stock units. Our cash stock appreciation rights, phantom stock units and cash performance stock units settle solely in cash and are treated as the current liability, which are adjusted each reporting period based on changes in our stock price.

Compensation expense for stock-based awards is based on the fair values of the awards on the date of grant and is recognized on a straight-line basis over the vesting period of the entire award in the “Labor” line of the Consolidated Statements of Comprehensive Income. We recognized $1.4 million and $2.4 million of stock-based compensation expense for the years ended December 31, 2023 and 2022, respectively.

In May 2013, our stockholders approved the 2013 Omnibus Incentive Plan (“2013 Plan”), pursuant to which we may issue up to 500,000 shares of stock-based awards to directors, employees, and consultants, as adjusted for the reverse stock split. The 2013 Plan replaced the stockholder-approved 2005 Omnibus Incentive Plan (“2005 Plan”), pursuant to which we issued equity securities to directors, officers, and key employees. No additional stock-based awards will be granted under the 2005 Plan, but awards previously granted under the 2005 Plan will remain outstanding in accordance with their respective terms. In August 2018, we filed a Form S-8 to increase the total registered shares under 2013 Plan to 553,673 shares. As of December 31, 2023 and 2022, there were 190,187 and 188,582 shares available, respectively, for grant under the 2013 Plan.

In 2020, we established our 2020 Equity Incentive Plan ("2020 Plan") which replaced the 2013 Equity Incentive Plan (“2013 Plan”). Any shares of common stock that remained eligible for issuance under the 2013 Plan are now instead eligible for issuance under the 2020 Plan. In August 2020, we filed a Form S-8 to register up to an aggregate of 2,521,244 shares that may be issued under the 2020 Plan. The 2020 Plan provides for the issuance of stock-based awards to directors, employees and consultants. No additional stock-based awards will be granted under the 2013 Plan, but awards previously granted under the 2013 Plan will remain outstanding in accordance with their respective terms. As of December 31, 2023 and 2022, there were 1.3 million and 1.3 million shares available, respectively, for grant under the 2020 Plan.

In August 2023, we established the 2023 Inducement Equity Incentive Plan ("2023 Plan"), pursuant to which the Company issued 240,000 shares of stock option awards, which is the limit of the plan.

Stock Options

Options granted under the 2023 Plan have an exercise price equal to the closing market price of our common stock on the date prior to the grant date. These options become exercisable in 33.3% increments on the first three anniversaries of their date of grant and expire on the tenth anniversary of their date of grant. Options to purchase 240,000 shares granted under 2023 Plan awards were outstanding as of December 31, 2023, with exercise prices ranging from $5.59 to $76.80 per share.

Options granted under the 2020 Plan, 2013 Plan or as inducement awards have an exercise price equal to the market value of the common stock on the grant date. These options become exercisable in 25% increments on the first four anniversaries of their date of grant and expire on the tenth anniversary of their date of grant. There were no options outstanding under the 2020 plan as of December 31, 2023 and 2022.

Options to purchase 6,663 shares granted under 2013 Plan awards were outstanding as of December 31, 2023, with exercise prices ranging from $5.59 to $116.40 per share. Options to purchase 8,268 shares granted under 2013 Plan awards were outstanding as of December 31, 2022, with exercise prices ranging from $76.80 to $115.20 per share.

Options under the 2005 Plan were granted at exercise prices equal to the market value of the common stock on the grant date. All such awards have met their respective vesting dates. There were no options outstanding under the 2005 Plan as of December 31, 2023. Options to purchase 4,400 shares were outstanding under the 2005 Plan as of December 31, 2022, with exercise prices ranging from $76.80 to $115.20 per share.

Options granted to officers after April 2015 vest in full upon a change in control if such options are not assumed or replaced by a publicly traded successor with an equivalent award (as defined in such officers' change in control severance agreements).

The following summarizes all stock option activity during the years ended December 31, 2023 and 2022:

In thousands	Number of Shares	Weighted-Average Exercise Price	Weighted- Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value (Thousands)
Options outstanding at December 31, 2021	37,615	$ 80.21	1.36	$ —
Adjustment and Correction	(20,000)			
Granted in 2022	—	—	—	—
Exercised in 2022	—	—	—	—
Unvested options forfeited in 2022	—	—	—	—
Vested options expired in 2022	(4,947)	95.80	—	—
Options outstanding at December 31, 2022	12,668	$ 78.88	1.16	$ —
Granted in 2023	240,000	$ 5.59	9.67	288
Exercised in 2023	—	—	—	—
Unvested options forfeited in 2023	—	—	—	—
Vested options expired in 2023	(6,005)	77.38	—	—
Options outstanding at December 31, 2023	246,663	$ 7.61	9.38	$ 288
Vested and expected to vest at December 31, 2023	246,663	$ 7.61	9.38	$ 288
Exercisable at December 31, 2023	6,663	$ 80.24	0.49	$ —

The aggregate intrinsic value at year end in the table above represents the total pre-tax intrinsic value that would have been received by the option holders if all of the in-the-money options were exercised on December 31, 2023. The pre-tax intrinsic value is the difference between the closing price of our common stock on December 31, 2023, and the exercise price for each in-the-money option. This value fluctuates with the changes in the price of our common stock.

The following table summarizes information about stock options outstanding at December 31, 2023:

Range of Exercise Prices	Number Outstanding	Weighted-Average Exercise Price	Weighted-Average Remaining Life (Years)	Number Exercisable	Weighted-Average price per share Outstanding and Vested
$5.59 - 76.80	242,010	$ 6.18	9.55	2,010	$ 76.80
$77.60 - 116.40	4,653	$ 81.72	0.37	4,653	$ 81.72

There were 240,000 options granted during 2023 and no options were granted during 2022. As of December 31, 2023, there was $0.8 million of unrecognized compensation cost related to unvested stock options.

Cash Stock Appreciation Rights

In 2016 and 2017, the Board of Directors approved grants of cash settling stock appreciation rights under the 2013 Plan. Cash stock appreciation rights vest in 25% increments on the first four anniversaries of the date of grant and expire after 10 years. Cash stock appreciation rights settle solely in cash and are treated as a liability.

There were no cash stock appreciation rights issued during 2023 and 2022.

The fair value of each cash stock appreciation right is estimated on the date of grant using the Black-Scholes Option-Pricing Model and is revalued at the end of each period. Changes in fair value are recorded in the income statement as changes to expense. As of December 31, 2023, there was no unrecognized compensation cost related to unvested cash stock appreciation right grants.

Restricted Stock Units

Restricted stock units granted as inducement awards or under the 2020 Plan and 2013 Plan vest in three equal increments on the first three anniversaries of their date of grant. Restricted stock units settle in treasury stock or newly issued shares and are treated as equity. Outstanding restricted stock units granted to officers as inducement awards or under the 2013 Plan vest in full (to the extent not previously vested) upon a change in control if such unvested shares are not assumed or replaced by a publicly traded successor with an equivalent award (as such terms are defined in such officers' change-in-control severance agreements).

The following summarizes all restricted stock units' activity during 2023 and 2022:

	Number of Shares	Weighted-Average Grant Date Fair Value
Unvested shares outstanding at December 31, 2021	646,439	$4.41
Adjustment and Correction	40,000	—
Granted in 2022	208,165	8.93
Vested in 2022	(296,161)	4.85
Forfeited in 2022	(82,267)	3.29
Unvested shares outstanding at December 31, 2022	516,176	$6.43
Granted in 2023	80,225	5.73
Vested in 2023	(308,523)	5.53
Forfeited in 2023	(44,437)	7.02
Unvested shares outstanding at December 31, 2023	243,441	$7.24

The fair value of each restricted stock unit is estimated on the date of grant as the closing market price of our common stock on the date prior to the grant. As of December 31, 2023, there was $1.1 million of total unrecognized compensation cost related to restricted stock units. This cost is expected to be recognized over a weighted average period of approximately 1.18 years.

Phantom Stock Units

In 2016 and 2017, the Board of Directors approved grants of phantom stock units under the 2013 Plan. Phantom stock units vest in 25% increments on the first four anniversaries of the date of grant. Phantom stock units settle solely in cash and are treated as a liability. Grants of phantom stock units made to officers under the 2013 Plan vest in full (to the extent not previously vested) upon a change in control if they are not assumed or replaced by a publicly traded successor with an equivalent award (as such terms are defined in such officers' change-in-control severance agreements).

There were no cash stock appreciation rights issued during 2023 and 2022.

The fair value of each phantom stock unit is estimated on the date of grant as the closing market price of our common stock on the date prior to the grant. Changes in our stock price will result in adjustments to compensation expense and the corresponding liability over the applicable service period. As of December 31, 2023, there was no unrecognized compensation cost related to phantom stock units.

Performance Stock Units

Performance stock units are a form of share-based award similar to unvested shares, except that the number of shares ultimately issued is based on our performance against specific performance goals over a roughly three-year period. At the end of the performance period, the number of shares of stock issued will be determined in accordance with the specified performance target(s) in a range between 0% and 100%. Performance stock units vest solely in common stock and are treated as equity. Upon a change in control, performance stock units granted to officers vest on a pro-rated basis (based on time elapsed from the grant) to the extent not previously settled if they are not assumed or replaced by a publicly traded successor with an equivalent award (as such terms are defined in such officers' change-in-control severance agreements). Performance Stock Units have been issued under the 2013 Plan, and the 2020 Plan as inducement awards.

The following summarizes all performance stock unit activity during 2023 and 2022:

	Number of Units	Weighted-Average Grant Date Fair Value
Performance stock units outstanding as of December 31, 2021	94,110	$ 5.41
Granted in 2022	117,000	$ 7.77
Settled in 2022	(69,110)	5.44
Forfeited in 2022	—	—
Performance stock units outstanding as of December 31, 2022	142,000	$ 7.34
Granted in 2023	—	$ —
Settled in 2023	—	—
Forfeited in 2023	(99,000)	7.14
Performance stock units outstanding as of December 31, 2023	43,000	$ 7.80

The fair value of each performance stock unit is estimated on the date of grant as the closing market price of our common stock on the date prior to the grant, minus the present value of anticipated dividend payments. Periodic compensation expense is based on the current estimate of future performance against specific performance goals over a three-year period and is adjusted up or down based on those estimates. As of December 31, 2023, the total unrecognized compensation cost related to performance stock units was approximately $29,770. This cost is expected to be recognized over a weighted average period of approximately 0.44 years.

Cash Performance Stock Units

In 2016 and 2017, the Board of Directors approved grants of cash performance stock units under the 2013 Plan. Cash performance stock units are a form of share-based award similar to phantom stock units, except that the number of units ultimately issued is based on our performance against specific performance goals measured after a three-year period. At the end of the performance period, the number of units vesting will be determined in accordance with specified performance target(s) in a range between 0% and 100%. Cash performance stock units settle solely in cash and are treated as a liability. Upon a change in control, cash performance stock units granted to officers, vest on a pro-rated basis (based on time elapsed from the grant) to the extent not previously settled if they are not assumed or replaced by a publicly traded successor with an equivalent award (as such terms are defined in such officers' change-in-control severance agreements).

There was no cash performance stock unit issued during 2023 and 2022.

The fair value of each cash performance stock unit is estimated on the date of grant as the closing market price of our common stock on the date prior to the grant, minus the present value of anticipated dividend payments. Periodic compensation expense is based on the current estimate of future performance against specific performance goals over a

three-year period and is adjusted up or down based on those estimates. As of December 31, 2023, there was no unrecognized compensation cost related to cash performance stock units.

Note H — Employee Benefit Plans

Prior to January 1, 1999, we provided a defined benefit pension plan for which most of our employees were eligible to participate (the "Qualified Pension Plan"). In conjunction with significant enhancements to our 401(k) plan, we elected to freeze benefits under the Qualified Pension Plan as of December 31, 1998.

In 1994, we adopted a non-qualified, unfunded, supplemental pension plan (the "Restoration Pension Plan") covering certain employees, which provides for incremental pension payments so that total pension payments equal those amounts that would have been payable from the principal pension plan were it not for limitations imposed by income tax regulation. The benefits under the Restoration Pension Plan were intended to provide benefits equivalent to our Qualified Pension Plan as if such plan had not been frozen. We elected to freeze benefits under the Restoration Pension Plan as of April 1, 2014.

At the end of 2021, the Board of Directors of the Company approved the division of the Qualified Pension Plan into two distinct plans, "Qualified Pension Plan I" and "Qualified Pension Plan II." The assets and liabilities of the Qualified Pension Plan that were attributable to certain participants in Qualified Pension Plan II were spun off and transferred into Qualified Pension Plan II effective as of the end of December 31, 2021, in accordance with Internal Revenue Code section 414 (I) and ERISA Section 4044.

In January 2023, the Board of Directors of the Company approved the termination of the Qualified Pension Plan I. The termination process will take approximately eighteen months to complete and will result in the transfer of our obligations pursuant to this pension plan to a third-party provider. We expect to make a cash contribution of $7.6 million to terminate the Qualified Pension Plan I.

The overfunded or underfunded status of our defined benefit post-retirement plans is recorded as an asset or liability on our consolidated balance sheets. The funded status is measured as the difference between the fair value of plan assets and the projected benefit obligation. Periodic changes in the funded status are recognized through other comprehensive income in the Consolidated Statements of Comprehensive Income. We currently measure the funded status of our defined benefit plans as of December 31, the date of our year-end Consolidated Balance Sheets.

The status of the defined benefit pension plans at year-end was as follows:

	Year Ended December 31,	
In thousands	**2023**	**2022**
Change in benefit obligation		
Benefit obligation at beginning of year	$ 143,521	$ 186,041
Interest cost	7,088	5,040
Actuarial gain (loss)	1,465	(37,014)
Benefits paid	(10,647)	(10,546)
Benefit obligation at end of year	$ 141,427	$ 143,521
Change in plan assets		
Fair value of plan assets at beginning of year	$ 103,891	$ 131,741
Actual return on plan assets	7,128	(20,358)
Contributions	3,324	3,053
Benefits paid	(10,647)	(10,545)
Fair value of plan assets at end of year	$ 103,696	$ 103,891
Funded status at end of year	$ (37,731)	$ (39,630)

The following amounts have been recognized in the Consolidated Balance Sheets as of December 31:

In thousands	2023	2022
Current pension liabilities	$ 8,561	$ 1,858
Long term pension liabilities - Qualified plans	10,540	18,674
Long term pension liabilities - Nonqualified plan	18,630	19,098
Total pension liabilities	$ 37,731	$ 39,630

The following amounts have been recognized in accumulated other comprehensive loss, net of tax, as of December 31:

In thousands	2023	2022
Net loss	$ 42,456	$ 44,120

Based on current estimates, we will be required to make $2.0 million in cash contributions to our Qualified Pension Plan II, in 2024.

We are not required to make and do not intend to make any contributions to our Restoration Pension Plan in 2023 other than to the extent needed to cover benefit payments. We made benefit payments under this supplemental plan of $1.8 million in 2023.

The following information is presented for pension plans with an accumulated benefit obligation in excess of plan assets:

In thousands	2023	2022
Projected benefit obligation	$ 141,427	$ 143,521
Accumulated benefit obligation	$ 141,427	$ 143,521
Fair value of plan assets	$ 103,696	$ 103,891

The Restoration Pension Plan had an accumulated benefit obligation of $20.5 million and $21.0 million as of December 31, 2023, and 2022, respectively.

The following table presents the components of net periodic benefit cost and other amounts recognized in other comprehensive income in the Consolidated Statements of Comprehensive Income for both plans:

	Year Ended December 31,	
In thousands	2023	2022
Net Periodic Benefit Cost		
Interest cost	$ 7,088	$ 5,040
Expected return on plan assets	(6,216)	(5,872)
Recognized actuarial loss	2,521	2,876
Net periodic benefit cost	3,393	2,044
Amounts Recognized in Other Comprehensive Income		
Adjustment to pension liabilities	(1,723)	(10,274)
Net cost recognized in net periodic benefit cost and other comprehensive income	$ 1,670	$ (8,230)

The components of net periodic benefit costs other than the service cost component are included in Other, net in our Consolidated Statement of Comprehensive Income. The estimated net loss for the defined benefit pension plans that will be amortized from accumulated other comprehensive income (loss) into net periodic benefit cost in 2024 is $1.5 million. The period over which the net loss from the Qualified Pension Plan is amortized into net periodic benefit cost was the average future lifetime of all participants (approximately 15.7 years for Qualified Pension Plan I and approximately 24.8 years for Qualified Pension Plan II). The Qualified Pension Plan is frozen and almost all of the plan's participants are not active employees.

The weighted-average assumptions used for measurement of the defined pension plans were as follows:

Weighted-average assumptions used to determine net periodic benefit cost	**Year Ended December 31,**	
	2023	**2022**
Discount rate		
Qualified Plan I	5.13 %	2.75 %
Qualified Plan II	5.18 %	2.92 %
Restoration Plan	5.12 %	2.73 %
Expected return on plan assets		
Qualified Plan I	5.95 %	4.25 %
Qualified Plan II	7.05 %	5.75 %
Restoration Plan	n/a	n/a

Weighted-average assumptions used to determine benefit obligations	**December 31,**	
	2023	**2022**
Discount rate		
Qualified Plan I	5.64 %	5.13 %
Qualified Plan II	4.99 %	5.18 %
Restoration Plan	4.92 %	5.12 %

The discount rate assumptions are based on current yields of investment-grade corporate long-term bonds. The expected long-term return on plan assets is based on the expected future average annual return for each major asset class within the plan's portfolio (which is principally comprised of equity investments) over a long-term horizon. In determining the expected long-term rate of return on plan assets, we evaluated input from our investment consultants, actuaries, and investment management firms, including their review of asset class return expectations, as well as long-term historical asset class returns. Projected returns by such consultants and economists are based on broad equity and bond indices. Additionally, we considered our historical 15-year compounded returns, which have been in excess of the forward-looking return expectations.

The funded pension plan assets as of December 31, 2023 and 2022, by asset category, were as follows:

In thousands	**2023**	**%**	**2022**	**%**
Equity securities	$ 20,635	20 %	$ 50,090	48 %
Debt securities	76,036	73 %	49,846	48 %
Other	7,025	7 %	3,955	4 %
Total plan assets	$ 103,696	100 %	$ 103,891	100 %

The fair values presented have been prepared using values and information available as of December 31, 2023 and 2022.

The following tables present the fair value measurements of the assets in our funded pension plan:

In thousands	December 31, 2023	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Equity securities	$ 20,635	$ 20,635	$ —	$ —
Debt securities	76,036	66,847	9,189	—
Total investments, excluding investments valued at NAV	96,671	87,482	9,189	—
Investments valued at NAV[1]	7,025	—	—	—
Total plan assets	$ 103,696	$ 87,482	$ 9,189	$ —

In thousands	December 31, 2022	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Equity securities	$ 50,090	$ 50,090	$ —	$ —
Debt securities	$ 49,846	35,575	14,271	—
Total investments, excluding investments valued at NAV	99,936	85,665	14,271	—
Investments valued at NAV[1]	$ 3,955	—	—	—
Total plan assets	$ 103,891	$ 85,665	$ 14,271	$ —

[1] Investment valued at net asset value ("NAV") are comprised of cash, cash equivalents, and short-term investments used to provide liquidity for the payment of benefits and other purposes. The commingled funds are valued at NAV based on the market value of the underlying investments, which are primarily government issued securities.

The investment policy for the Qualified Pension Plans focuses on the preservation and enhancement of the corpus of the plan's assets through prudent asset allocation, quarterly monitoring and evaluation of investment results, and periodic meetings with investment managers.

The investment policy's goals and objectives are to meet or exceed the representative indices over a full market cycle (3-5 years). The policy establishes the following investment mix, which is intended to subject the principal to an acceptable level of volatility while still meeting the desired return objectives:

Qualified Pension Plan I	Target	Acceptable Range	Benchmark Index
Equities	—%	0% - 20%	
U.S. Large Cap	—%	0% - 10%	Russell 1000 TR
U.S. Mid Cap	—%	0% - 5%	Russell Mid Cap Index TR
U.S. Small Cap	—%	0% - 5%	Russell 2000 TR
International Equity			
Developed	—%	0% - 5%	MSCI EAFE Net TR USD Index
Emerging Markets	—%	0% - 5%	MSCI Emerging Net Total Return
Fixed Income	95%	0% - 100%	
Investment Grade	95%	0% - 100%	BBG BARC US Aggregate Bond Index
Cash Equivalent	5%	0%-100%	ICE BofA US 3-Month Treasury Bill Index TR

Qualified Pension Plan II	Target	Acceptable Range	Benchmark Index
Equities	77%	62% - 87%	
U.S. Large Cap	28%	18% - 38%	Russell 1000 TR
U.S. Mid Cap	18%	13% - 23%	Russell Mid Cap Index TR
U.S. Small Cap	9%	4% - 14%	Russell 2000 TR
International Equity			
Developed	16%	11% - 21%	MSCI EAFE Net TR USD Index
Emerging Markets	6%	0% - 9%	MSCI Emerging Net Total Return
Fixed Income	21%	11% - 31%	
Investment Grade	21%	11% - 31%	BBG BARC US Aggregate Bond Index
Cash Equivalent	2%	0%-40%	ICE BofA US 3-Month Treasury Bill Index TR

The funded pension plans provide for investment in various investment types. Investments, in general, are exposed to various risks, such as interest rate, credit, and overall market volatility risk. Due to the level of risk associated with investments, it is reasonably possible that changes in the value of investments will occur in the near term and may impact the funded status of these plans. To address the issue of risk, the investment policy places high priority on the preservation of the value of capital (in real terms) over a market cycle. Investments are made in companies with a minimum five-year operating history and sufficient trading volume to facilitate, under most market conditions, prompt sale without severe market effect. Investments are diversified across numerous market sectors and individual companies. Reasonable concentration in any one issue, issuer, industry, or geographic area is allowed if the potential reward is worth the risk.

Investment managers are evaluated by the performance of the representative indices over a full market cycle for each class of assets. The Pension Plan Committee reviews, on a quarterly basis, the investment portfolio of each manager, which includes rates of return, performance comparisons with the most appropriate indices, and comparisons of each manager's performance with a universe of other portfolio managers that employ the same investment style.

The expected future benefit payments for both pension plans over the next ten years as of December 31, 2023, are as follows:

In thousands		
2024	$	89,460
2025		4,017
2026		4,111
2027		4,217
2028		4,327
2029 - 2033		22,809
Total	$	128,941

The Company also has two pension plans in its foreign jurisdictions, the associated pension liabilities are not material.

We also sponsored a 401(k) retirement plan in which we matched a portion of employees' voluntary before-tax contributions prior to 2018. Under this plan, both employee and matching contributions vest immediately. We stopped this 401(k) match program in 2018 and resumed it in 2023. We incurred $1.2 million in 401k match expense in both 2023 and 2022.

Note I — Income Taxes

Coronavirus Aid, Relief and Economic Security Act

The CARES Act, signed in March 2020, lifts certain deduction limitations originally imposed by the Tax Cuts and Jobs Act of 2017 ("2017 Tax Act"). Under the CARES Act, corporate taxpayers may carryback net operating losses (" NOLs") realized during 2018 through 2020 for up to five years, which was not previously allowed under the 2017 Tax Act. The CARES Act also eliminates the 80% of taxable income limitations by allowing corporate entities to fully utilize NOL carryforwards to offset taxable income in 2018, 2020 or 2021. Taxpayers may generally deduct interest up to the sum of 50% of adjusted taxable income plus business interest income (30% limit under the 2017 Tax Act) for tax years beginning January 1, 2019 and 2020. The CARES Act allows taxpayers with alternative minimum tax credits to claim a refund in 2020 for the entire amount of the credits instead of recovering the credits through refunds over a period of years, as originally enacted by the 2017 Tax Act. In addition, the CARES Act raises the corporate charitable deduction limit to 25% of taxable income and makes qualified improvement property generally eligible for 15-year cost-recovery and 100% bonus depreciation. As of December 31, 2020, the Company filed federal net operating loss carryback claims resulting in an income tax refund for $6.4 million and $3.2 million for tax years 2019 and 2018, respectively. As of December 31, 2022, the Company has received the tax refunds for the tax years 2019 and 2018 and $2.5 million of income tax refunds from the carryback of the loss generated in 2020. We have received the remaining tax refund of $5.3 million in March 2023.

The components of income tax benefit are as follows:

	Year Ended December 31,	
In thousands	**2023**	**2022**
Current		
Federal	$ (10)	$ 60
State and local	264	774
Foreign	871	1,546
Total current	$ 1,125	$ 2,380
Deferred		
Federal	$ (1,340)	$ (11,496)
State and local	(216)	(8,347)
Foreign	82	—
Total deferred	$ (1,474)	$ (19,843)
Total income benefit	$ (349)	$ (17,463)

The U.S. and foreign components of income (loss) before income taxes were as follows:

	Year Ended December 31,	
In thousands	**2023**	**2022**
United States	$ (7,546)	$ 10,252
Foreign	5,627	9,061
Total (loss) income before income taxes	$ (1,919)	$ 19,313

The provision (benefit) for income taxes is based on the various rates set by federal, foreign and local authorities and is affected by permanent and temporary differences between financial accounting and tax reporting requirements. The principal reasons for the difference between the statutory rate and the annual effective rate for 2023 were the state taxes, change in valuation allowance, federal and foreign income tax credits and the benefit of excess stock benefits on vested restricted stock, offset by flow-through partnership income from a United Kingdom affiliate. The principal reasons for the difference between the statutory rate and the annual effective rate for 2022 were the impact of the release of the majority of the U.S. valuation allowance, federal and foreign income tax credits, and the benefit of excess stock benefits on vested restricted stock, offset by flow-through partnership income from a United Kingdom affiliate.

The differences between total income tax expense (benefit) and the amount computed by applying the statutory federal income tax rate of 21% to income (loss) before income taxes were as follows:

	Year Ended December 31,	
In thousands	**2023**	**2022**
Computed expected income tax (benefit) expense	$ (403)	$ 4,056
Net effect of state income taxes	(206)	1,074
Foreign subsidiary dividend inclusions	507	639
Foreign tax rate differential	(257)	(349)
Change in valuation allowance	(562)	(18,243)
Return to Provision	706	(141)
Change in Rate	165	(2,172)
Credits	(543)	(1,126)
Adjustments to State Attributes	(137)	(1,330)
Other Adjustments, net	381	129
Income tax benefit	$ (349)	$ (17,463)

Total income tax benefit was allocated as follows:

	Year Ended December 31,	
In thousands	**2023**	**2022**
Loss from operations	$ (349)	$ (17,463)
Stockholders' equity (deficit)	—	—
Total	$ (349)	$ (17,463)

The tax effects of temporary differences that gave rise to significant portions of the deferred tax assets and deferred tax liabilities were as follows:

	Year Ended December 31,	
In thousands	**2023**	**2022**
Deferred tax assets		
Deferred compensation and retirement plan	$ 9,667	$ 10,246
Accrued expenses not deductible until paid	1,177	33
Lease liability	6,979	5,591
Investment in foreign subsidiaries, outside basis difference	1,604	1,047
Interest Expense limitations	971	913
Other, net	1,320	1,667
Foreign net operating loss carryforwards	1,382	1,623
State net operating loss carryforwards	5,309	5,184
Foreign tax credit carryforwards	3,730	4,212
General Business Credit Carryovers	538	546
Total gross deferred tax assets	32,677	31,062
Less valuation allowances	(7,091)	(7,652)
Net deferred tax assets	$ 25,586	$ 23,410
Deferred tax liabilities		
Property, plant and equipment	$ (1,485)	$ (2,024)
Right-of-use asset	(6,144)	(4,765)
Other, net	(689)	(315)
Total gross deferred tax liabilities	(8,318)	(7,104)
Net deferred tax assets	$ 17,268	$ 16,306

In assessing the realizability of deferred tax assets, we consider whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. After considering the weight of available evidence, both positive and negative (most notably the Company's sustained growth over the past two years), the Company concluded that it is more-likely-than-not that it will realize the majority of its U.S. deferred tax assets. Certain foreign tax credits as well as certain state net operating loss carryovers will continue to have a valuation allowance until there is substantial evidence that enough future taxable income exists at a more likely than not level in order to utilize those deferred tax assets. The valuation allowance for deferred tax assets was $7.1 million and $7.7 million as of December 31, 2023 and 2022, respectively. The change in the valuation allowance is $0.6 million for the year ended December 31, 2023.

We or one of our subsidiaries file income tax returns in the U.S. federal, U.S. state, and foreign jurisdictions. For U.S. state, federal and foreign returns, we are no longer subject to tax examinations for years prior to 2018.

There is no balance of unrecognized tax benefits as of December 31, 2023 and 2022. Any adjustments to this liability as a result of the finalization of audits or potential settlements would not be material.

We have elected to classify any interest and penalties related to income taxes within income tax expense in our Consolidated Statements of Comprehensive Income (loss).

For U.S. tax return purposes, net operating losses and tax credits are normally available to be carried forward to future years, subject to limitations as discussed below. As of December 31, 2023, the Company had no federal net operating loss carryforward. The federal foreign tax carryforward credits of $3.7 million will expire on various dates from 2023 to 2032. Federal general business credit carryforwards of $0.5 million will begin to expire on various dates from 2037 to 2042. The Company has state NOL carryforwards of $109.0 million, and foreign NOL carryforwards of $4.4 million.

Deferred income taxes have not been provided on the undistributed earnings of our foreign subsidiaries as these earnings have been, and under current plans will continue to be, permanently reinvested in these subsidiaries. It is not practicable to

estimate the amount of additional taxes which may be payable upon the distribution of these earnings. However, because of the provisions in the Tax Reform Act, the tax cost of repatriation is immaterial and limited to foreign withholding taxes, currency translation and state taxes.

Note J — Earnings Per Share

In periods in which the Company has net income, the Company is required to calculate earnings per share ("EPS") using the two-class method. The two-class method is required because the Company's Series A Preferred Stock is considered a participating security with objectively determinable and non-discretionary dividend participation rights. Series A Preferred stockholders have the right to participate in dividends above their five percent dividend rate should the Company declare dividends on its common stock at a dividend rate higher than the five percent (on an as-converted basis). Under the two-class method, undistributed and distributed earnings are allocated on a pro-rata basis to the common and the preferred stockholders. The weighted-average number of common and preferred stock outstanding during the period is then used to calculate EPS for each class of shares.

In December 2022, we repurchased all 9,926 shares of the Company's Series A Preferred Stock then outstanding.

In periods in which the Company has a net loss, basic loss per share is calculated using the treasury stock method. The treasury stock method is calculated by dividing the net loss by the weighted-average number of common shares outstanding during the period. The two-class method is not used, because the calculation would be anti-dilutive.

Reconciliations of basic and diluted EPS are as follows:

	Year Ended December 31,	
In thousands, except per share amounts	**2023**	**2022**
Numerator:		
Net (loss) income	$ (1,570)	$ 36,776
Less: Loss from redemption of Preferred stock	—	1,380
Numerator for basic and diluted EPS: income attributable to common stockholders	(1,570)	35,396
Denominator:		
Basic EPS denominator: weighted-average common shares outstanding	7,310	7,101
Diluted EPS denominator	7,310	7,457
Basic (loss) income per common share	$ (0.21)	$ 4.98
Diluted (loss) income per common share	$ (0.21)	$ 4.75

For the years ended December 31, 2023 and 2022, respectively, the following shares have been excluded from the calculation of shares used in the diluted EPS calculation: 99,791 and 13,366 shares of anti-dilutive market price options; 37,653 and 24,918 anti-dilutive unvested shares.

Note K — Comprehensive Income

Comprehensive income (loss) for a period encompasses net income (loss) and all other changes in equity other than from transactions with our stockholders.

Changes in accumulated other comprehensive loss by component were as follows:

In thousands	Defined Benefit Pension Items	Foreign Currency Items	Total
Balance at December 31, 2021	$ (54,394)	$ 1,066	$ (53,328)
Other comprehensive loss, net of tax, before reclassifications	—	(5,248)	(5,248)
Amounts reclassified from accumulated other comprehensive loss, net of tax	10,274	—	10,274
Net current period other comprehensive income (loss), net of tax	10,274	(5,248)	5,026
Balance at December 31, 2022	$ (44,120)	$ (4,182)	$ (48,302)
Other comprehensive income, net of tax, before reclassifications	—	2,548	2,548
Amounts reclassified from accumulated other comprehensive loss, net of tax	1,664	—	1,664
Net current period other comprehensive income, net of tax	1,664	2,548	4,212
Balance at December 31, 2023	$ (42,456)	$ (1,634)	$ (44,090)

Reclassification amounts related to the defined pension plans are included in the computation of net period pension benefit cost (see Note H, Employee Benefit Plans).

Note L — Acquisition of InsideOut Solutions, LLC

On December 1, 2022 (the "Closing Date"), we purchased substantially all of the assets (the "Transaction") of InsideOut Solutions, LLC, a Florida limited liability company ("InsideOut"), for an aggregate purchase price of approximately $7.5 million (the "Purchase Price") pursuant to an asset purchase agreement, dated as of December 1, 2022, by and between Harte Hanks and InsideOut (the "Asset Purchase Agreement"). The acquisition of InsideOut further expands our capabilities into premium sales enablement within the customer care segment and strengthens our ability to drive profitable revenue growth within our sales enablement offerings, including: (i) demand generation which creates qualified marketing leads for our clients, and (ii) inside sales offerings to further promote a client's internal growth objectives.

Pursuant to the Asset Purchase Agreement, $5.75 million of the Purchase Price was paid in cash at closing, $1.0 million in cash was placed in escrow to satisfy indemnification obligations, and earn-outs related to future revenue performance. Separately, $0.75 million of the Purchase Price was paid at closing in 70,956 shares of Harte Hanks common stock. The share amount was based on the volume weighted closing price over the 15 trading days ending on November 28, 2022. In the year ended December 31, 2023, InsideOut didn't meet the performance requirement to earn the 1st installment of $0.5 million of the $1.0 million in escrow. As a result, $0.50 million was refunded from the escrow account and our goodwill amount was decreased by $0.5 million. The remaining $0.5 million cash in escrow account is included in other assets in our balance sheet as of December 31, 2023.

The acquisition was accounted for under the acquisition method of accounting with the Company treated as the acquiring entity. Accordingly, the consideration paid by the Company to complete the acquisition has been recorded to the assets acquired and liabilities assumed based upon their estimated fair values as of the date of the acquisition. The carrying values for current assets and liabilities were deemed to approximate their fair values due to the short-term nature of these assets and liabilities. The following table shows the amounts recorded as of their acquisition date.

in thousands	Amount
Accounts receivable	$1,445
Prepaid expenses	148
Property, plant and equipment	177
Total assets acquired	1,770
Less: Current liabilities assumed	(761)
Net assets acquired	$1,009

The Purchase Price was subject to a post-closing net working capital true-up. The true up made was immaterial.

We recognized $3.6 million of intangible assets and $2.4 million of goodwill associated with this acquisition. The amount of goodwill recorded reflects expected earning potential and synergies with our Customer Care segment. We are amortizing the intangible assets on a straight-line basis over its useful life of five years. A summary of the Company's intangible asset as of December 31, 2023, is as follows:

In thousands	Weighted Average Amortization Period	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Customer Relationships	5 years	$ 3,600	$ 780	$ 2,820

Estimated future amortization expense related to intangible assets as of December 31, 2023, is as follows:

In thousands

Year Ending December 31,	Amount
2024	$ 720
2025	720
2026	720
2027	660
Total	$ 2,820

The Company's results of operations for the year ended December 31, 2023 includes revenue of $9.7 million from the InsideOut operation.

Note M — Litigation and Contingencies

In the normal course of our business, we are obligated under some agreements to indemnify our clients as a result of third party claims that we infringe on the proprietary rights of third parties, or third party claims relating to other *ad hoc* contract obligations. The terms and duration of these commitments vary and, in some cases, may be indefinite, and some of these contractual commitments do not limit the maximum amount of future payments we could become obligated to make thereunder; accordingly, our actual aggregate maximum exposure related to these types of commitments is not reasonably estimable. Historically, we have not been obligated to make significant payments for obligations of this nature, and no liabilities have been recorded for these obligations in our consolidated financial statements.

We are also subject to various claims and legal proceedings in the ordinary course of conducting our business and, from time to time, we may become involved in additional claims and lawsuits incidental to our business. We routinely assess the likelihood of adverse judgments or outcomes to these matters, as well as ranges of probable losses; to the extent losses are reasonably estimable. Accruals are recorded for these matters to the extent that management concludes a loss is probable and the financial impact, should an adverse outcome occur, is reasonable estimable.

In the opinion of management, appropriate and adequate accruals for legal matters have been made, and management believes that the probability of a material loss beyond the amounts accrued is remote. Nevertheless, we cannot predict the impact of future developments affecting our pending or future claims and lawsuits. We expense legal costs as incurred, and all recorded legal liabilities are adjusted as required as better information becomes available to us. The factors we consider when recording an accrual for contingencies include, among others: (i) the opinions and views of our general counsel and outside legal counsel; (ii) our previous experience with similar claims; and (iii) the decision of our management as to how we intend to respond to the complaints.

Note N — Restructuring Activities

For the year ended December 31, 2023, we recorded restructuring charges of $5.7 million. The 2023 restructuring charges included $4.6 million of consulting expenses, $0.8 million in lease impairment expense, $0.2 million of severance charges, and $0.1 million of facility related and other expenses.

The following table summarizes the restructuring charges which are recorded in "Restructuring Expense" in the Consolidated Statement of Comprehensive Income.

In thousands	Year Ended December 31, 2023
Consulting expense	$ 4,579
Severance	169
Facility, asset impairment and other expense	
Lease impairment and termination expense	798
Fixed Asset disposal and impairment charges	63
Facility and other expenses	78
Total facility, asset impairment and other expense	939
Total	$ 5,687

The following table summarizes the changes in liabilities related to restructuring activities:

	Year Ended December 31, 2023			
In thousands	Consulting	Severance	Facility, asset impairment and other expense	Total
Beginning balance:	$ —	$ —	$ —	$ —
Additions	4,579	169	78	4,826
Payments and adjustment	(1,005)	(25)	(40)	(1,070)
Ending balance:	$ 3,574	$ 144	$ 38	$ 3,756

In connection with our cost-saving and restructuring initiatives, we expect to incur total restructuring charges of $10.1 million through the end of 2024.

Note O — Segment Reporting

Harte Hanks is a leading global customer experience company. We have organized our operations into three business segments based on the types of products and services we provide: Marketing Services, Customer Care, and Fulfillment & Logistics.

Our Marketing Services segment leverages data, insight, and experience to support clients as they engage customers through digital, traditional, and emerging channels. We partner with clients to develop strategies and tactics to identify and prioritize customer audiences in B2C and B2B transactions. Our key service offerings include strategic business, brand, marketing and communications planning, data strategy, audience identification and prioritization, predictive modeling, creative development and execution across traditional and digital channels, website and app development, platform architecture, database build and management, marketing automation, and performance measurement, reporting and optimization.

Our Customer Care segment offers intelligently responsive contact center solutions, which use real-time data to effectively interact with each customer. Customer contacts are handled through phone, e-mail, social media, text messaging, chat and digital self-service support. We provide these services utilizing our advanced technology infrastructure, human resource management skills and industry experience.

Our Fulfillment & Logistics segment consists of mail and product fulfillment and logistics services. We offer a variety of product fulfillment solutions, including printing on demand, managing product recalls, and distributing literature and promotional products to support B2B trade, drive marketing campaigns, and improve customer experience. We are also a provider of third-party logistics and freight optimization in the United States.

There are three principal financial measures reported to our CEO (the chief operating decision maker) for use in assessing segment performance and allocating resources. Those measures are revenue, operating income and operating income plus depreciation and amortization ("EBITDA"). Operating income for segment reporting, disclosed below, is revenues less operating costs and allocated corporate expenses. Segment operating expenses are generally directly attributed to our segments and also include allocations of certain centrally incurred costs such as employee benefits, occupancy, information systems, accounting services, internal legal staff, and human resources administration. These costs are allocated based on actual usage or other appropriate methods. Unallocated corporate expenses are corporate overhead expenses not attributable to the operating groups. Interest income and expense are not allocated to the segments. The Company does not allocate assets to our reportable segments for internal reporting purposes, nor does our CEO evaluate operating segments using discrete asset information. The accounting policies of the segments are consistent with those described in the Note B, Significant Accounting Policies.

The following table presents financial information by segment year ended December 31, 2023:

(In thousands)	**Marketing Services**	**Customer Care**	**Fulfillment & Logistics**	**Restructuring**	**Unallocated Corporate**	**Total**
Operating revenue	$ 43,204	$ 63,327	$ 84,961	$ —	$ —	$ 191,492
Segment operating expense	34,795	49,851	73,213	—	20,350	178,209
Restructuring expense	—	—	—	5,687	—	5,687
Contribution margin	$ 8,409	$ 13,476	$ 11,748	$ (5,687)	$ (20,350)	$ 7,596
Overhead Allocation	2,984	2,774	2,891	—	(8,649)	—
EBITDA	$ 5,425	$ 10,702	$ 8,857	$ (5,687)	$ (11,701)	$ 7,596
Depreciation and amortization expense	312	1,280	1,143	—	1,502	4,237
Operating income (loss)	$ 5,113	$ 9,422	$ 7,714	$ (5,687)	$ (13,203)	$ 3,359

The following table presents financial information by segment year ended December 31, 2022:

(In thousands)	**Marketing Services**	**Customer Care**	**Fulfillment & Logistics**	**Restructuring**	**Unallocated Corporate**	**Total**
Operating revenue	$ 52,975	$ 67,205	$ 86,098	$ —	$ —	$ 206,278
Segment operating expense	41,241	52,173	72,180	—	22,849	188,443
Restructuring expense	—	—	—	—	—	—
Contribution margin	$ 11,734	$ 15,032	$ 13,918	$ —	$ (22,849)	$ 17,835
Overhead allocation	4,390	2,865	3,325	—	(10,580)	—
EBITDA	$ 7,344	$ 12,167	$ 10,593	$ —	$ (12,269)	$ 17,835
Depreciation and amortization expense	362	884	824	—	658	2,728
Operating income (loss)	$ 6,982	$ 11,283	$ 9,769	$ —	$ (12,927)	$ 15,107

AS AMENDED
THROUGH 5/5/98
AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
HARTE-HANKS, INC.

The undersigned, Larry D. Franklin certifies that he is the President and Chief Executive Officer of Harte-Hanks, Inc., a Delaware corporation (the "Corporation"), and further certifies as follows:

1. The name of the Corporation is Harte-Hanks, Inc.

2. The name under which the Corporation was originally incorporated was Harte-Hanks Newspapers, Inc., and the original certificate of incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on October 1, 1970.

This Amended and Restated Certificate of Incorporation was duly adopted by written consent of the holders of not less than a majority of the outstanding stock of the Corporation entitled to vote, and written notice of the Corporation action has been given to the stockholders of the Corporation who have not so consented in writing, all in accordance with the provisions of the Sections 228, 245 and 242 of the Delaware General Corporation Law ("DGCL").

4. The text of the Restated Certificate of Incorporation of the Corporation as amended hereby is restated to read in its entirety, as follows:

FIRST. The name of the Corporation is HARTE-HANKS, INC.

SECOND. The name of its registered agent and the address of its registered office in the State of Delaware are The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

THIRD. The purpose of the Corporation is to engage in any lawful activity for which corporations may be organized under the DGCL.

FOURTH. The aggregate number of shares of capital stock that the Company shall have the authority to issue is two hundred fifty-one million (251,000,000), of which two hundred fifty million (250,000,000) shares shall be Common Stock of the Corporation, par value $1.00 per share, and one million (1,000,000) shares shall be Preferred Stock, par value $1.00 per share. Shares of Preferred Stock may be issued from time to time in one or more series, each such series to have such distinctive designation or title as may be fixed by the Board of Directors prior to the issuance of any shares thereof. Each share of any series of Preferred Stock shall be identical with all other shares of such series, except as to the date from which accumulated preferred dividends, if any, shall be cumulative. Each such series shall have such voting powers, if any, and such preferences and relative, participating, optional or other special rights, with such qualifications, limitations or restrictions of such preferences and/or rights, and the benefit of such affirmative or negative covenants as shall be stated in the resolution or resolutions adopted by the Board of Directors providing for the issue of such series of Preferred Stock, including, but without limiting the generality of the foregoing, the following:

(a) The rates and times at which, and the terms and conditions on which, dividends on Preferred Stock or series thereof shall be paid;

(b) The right, if any, of the holders of Preferred Stock or series thereof to convert the same into, or exchange the same for, shares of other classes or series of stock of the Corporation and the terms and conditions of such conversion or exchange;

(c) The redemption price or prices, if any, and the time or times at which, and the terms and condition of which, Preferred Stock or series thereof may be redeemed;

(d) The rights of the holders of Preferred Stock or series thereof, if any, upon the voluntary or involuntary liquidation, merger, consolidation, distribution or winding up of the Corporation;

(e) The terms of the sinking fund or redemption or purchase account, if any, to be provided for the Preferred Stock or series thereof; and

(f) Such other relative, participating, optional or other special rights and qualifications, limitations or restrictions thereof, all as may be stated in a resolution or resolutions providing for the issue of such Preferred Stock.

After the requirements with respect to preferential dividends on the Preferred Stock (fixed in accordance with the provisions of this Article FOURTH) shall have been met and after the Corporation shall have complied with all the requirements, if any, with respect to the setting aside of sums as sinking funds or redemption or purchase accounts (fixed in accordance with the provisions of this Article FOURTH), then, and not otherwise, the holders of Common Stock shall be entitled to receive such dividends as may be declared from time to time by the Board of Directors.

After distribution in full of the preferential amount (fixed in accordance with the provisions of this Article FOURTH) to be distributed to the holders of Preferred Stock in the event of the voluntary or involuntary liquidation, distribution or sale of assets, dissolution or winding-up, of the Corporation, the holders of the Common Stock shall be entitled to receive ratably all of the remaining assets of the Corporation available for distribution to stockholders.

Except as may otherwise be required by law or provided herein, each holder of Common Stock shall have one vote in respect of each share of stock held by such holder on all matters voted upon by stockholders.

No holder of stock of any class of the Corporation shall be entitled as of right to subscribe for or purchase any shares of stock of any class whether now or hereafter authorized, or any bonds, debentures, or other evidences of indebtedness whether or not convertible into or exchangeable for stock.

FIFTH. (a) Classified Board of Directors. The number of directors of the Corporation shall be as from time to time fixed by, or in the manner provided in, the By-laws of the Corporation. The directors shall be divided into three classes, designated Class I, Class II and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of directors constituting the entire Board of Directors. The term of the initial Class I directors shall terminate on the date of the 1994 annual meeting of stockholders; the term of the initial Class II directors shall terminate on the date of the 1995 annual meeting of stockholders; and the term of the initial Class III directors shall terminate on the date of the 1996 annual meeting of stockholders. At each annual meeting of stockholders beginning in 1994, successors to the class of directors whose term expires at that annual meeting shall be elected for a three-year term. If the number of directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of directors in each class as nearly equal as possible, and any additional directors of any class elected to fill a vacancy resulting from an increase in such class shall hold office for a term that shall coincide with the remaining term of that class, but in no case will a decrease in the number of directors shorten the term of any incumbent director. A director shall hold office until the annual meeting for the year in which his term expires and until his successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office. Any vacancy on the Board of Directors, however resulting, may be filled by a majority of the directors then in office, even if less than a quorum, or by a sole remaining director. Any director elected to fill a vacancy shall hold office for a term that shall coincide with the term of the class to which such director shall have been elected.

Notwithstanding the foregoing, whenever the holders of any one or more classes or series of Preferred Stock issued by the Corporation shall have the right, voting separately by class or series, to elect directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorships shall be governed by the terms of this Restated Certificate of Incorporation or the resolution or resolutions adopted by the Board of Directors pursuant to Article FOURTH applicable thereto, and such directors so elected shall not be divided into classes pursuant to this Article FIFTH unless expressly provided by such terms.

(b) Removal of Directors. Subject to the rights, if any, of the holders of shares of Preferred Stock then outstanding, any or all of the directors of the Corporation may be removed from office at any time, but only for

cause and only by the affirmative vote of the holders of a majority of votes represented by the outstanding shares of the Corporation then entitled to vote generally in the election of directors, considered for purposes of this Article FIFTH as one class.

SIXTH. (a) Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any action, suit, or proceeding whether civil, criminal, administrative, or investigative ("proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director or officer of another corporation or as its representative in a partnership, joint venture, trust, or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, representative or in any other capacity while serving as a director, officer, or representative, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expenses, liability and loss (including attorneys' fees, judgments, fines, excise taxes under the Employee Retirement Income Security Act or penalties, and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer or representative and shall inure to the benefit of the indemnitee's heirs, executors and administrators; provided, however, that, except as provided in paragraph (b) hereof with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such person seeking indemnity in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. Such rights shall be contract rights and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of such proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it should ultimately be determined by final judicial decision from which there is no further right to appeal that such director or officer is not entitled to be indemnified under this paragraph (a) or otherwise.

(b) Right of Claimant to Bring Suit. If a claim under paragraph (a) is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part in any such suit, or in a suit brought by the Corporation against the claimant to recover an advancement of expenses pursuant to the terms of an undertaking referred to in paragraph (a) hereof, the claimant shall be entitled to be paid also the expense of prosecuting or defending such claim. In any suit brought by the claimant to enforce a right to indemnification hereunder, and in any suit by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover any advanced expenses upon a final adjudication that the claimant has not met the standards of conduct that make it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of providing such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant had not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant had not met the applicable standard of conduct.

(c) Non-Exclusivity of Rights. The rights conferred on any person by paragraphs (a) and (b) shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Amended and Restated Certificate of Incorporation, By-laws, agreement, vote of stockholders or disinterested directors, or otherwise.

(d) Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any such director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

(e) Continuance. Any repeal or modification of the foregoing paragraphs of this Article SIXTH by the stockholders of the Corporation shall not adversely affect any right or protection of an officer, director or representative of the Corporation existing at the time of such repeal or modification.

SEVENTH. Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under the provisions of section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under the provisions of section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

EIGHTH. The Bylaws of the Corporation may be adopted, repealed, altered, amended, or rescinded by (a) a majority of the authorized number of directors and, if one or more interested stockholders (as defined in Section 203 of the DGCL) exists, by a majority of the directors who are Continuing Directors or (b) the affirmative vote of the holders of not less than 66 2/3% of the voting power of the Company's capital stock and if such adoption, repeal, alteration, amendment, or rescission is proposed by or on behalf of an interested stockholder or a director affiliated with an interested stockholder, by a majority of the disinterested shares. "Continuing Director" means a director of the corporation who (i) was a member of the Board of the Corporation as of September 20, 1993, or (ii) is a beneficial owner, or affiliate of such beneficial owner, of less than 20% of the Common Stock of the Corporation and who became a director of the Corporation subsequent to September 20, 1993 and whose initial election or initial nomination for election was approved by a majority of the Continuing Directors then on the Board of Directors of the Corporation. The provisions of this Amended and Restated Certificate of Incorporation may be altered, amended or repealed by the affirmative vote of the holders a majority of the issued and outstanding stock having voting power provided, that with respect to the provisions of Articles Fifth, Seventh, Eighth, Tenth and Eleventh, the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 2/3%) of the issued and outstanding stock having voting power shall be required.

NINTH. The Corporation may in its Bylaws by amendment thereto make any lawful restriction upon the sale or transfer of stock of the Corporation held by its stockholders; and all persons subscribing for stock of the Corporation or purchasing stock, whether from the Corporation itself or from any stockholder, shall take notice of and be bound by such lawful restrictions, and shall be deemed to agree thereto.

TENTH. (a) A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived any improper personal benefit. If the DGCL is amended after approval by the stockholders of this article to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

(b) Any repeal of modification of the foregoing paragraph by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

ELEVENTH. Any action required or permitted to be taken at any annual or special meeting of stockholders may be taken only upon the vote of the stockholders at an annual or special meeting duly noticed and called, as provided in the By-laws of the Corporation, and may not be taken by a written consent of the stockholders.

Special meetings of the stockholders of the Corporation for any purpose or purposes may be called at any time by the chief executive officer or by a majority of the members of the Board of Directors. Special meetings of the stockholders of the Corporation may not be called by any other person or persons.

IN WITNESS WHEREOF, Harte-Hanks has caused this Amended and Restated Certificate of Incorporation to be signed by its duly authorized officers, this 30th day of September 1993. [as amended through May 5, 1998]

HARTE-HANKS , INC.

By: /s/ Larry D. Franklin

Larry D. Franklin
President

[SEAL]

ATTEST:

By: /s/ Donald R. Crews

Donald R. Crews
Secretary

CERTIFICATE OF AMENDMENT
OF THE
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF
HARTE HANKS, INC.

Harte Hanks, Inc. (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), hereby certifies as follows:

FIRST: The Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on October 1, 1970 and was amended by an Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on October 4, 1993 (as amended to date, the "Certificate of Incorporation").

SECOND: The Board of Directors of the Corporation, acting in accordance with the provisions of Section 141 and Section 242 of the DGCL, has duly adopted resolutions approving an amendment to the Certificate of Incorporation by deleting the first sentence of Article Fourth in its entirety and replacing it with the following two paragraphs:

FOURTH: The aggregate number of shares of capital stock that the Corporation shall have the authority to issue is 26,000,000, of which 25,000,000 shares shall be Common Stock of the Corporation, par value $1.00 per share, and 1,000,000 shares shall be Preferred Stock, par value $1.00 per share.

Effective upon the filing of this Certificate of Amendment with the Secretary of State of the State of Delaware (the "Effective Time"), each 10 shares of the Corporation's Common Stock issued and outstanding immediately prior to the Effective Time and issued and held in the treasury of the Corporation immediately prior to the Effective Time shall, automatically and without any action on the part of the Corporation or the respective holders thereof, be combined and reclassified into one validly issued, fully paid and nonassessable share of Common Stock without increasing or decreasing the par value of each share of Common Stock (the "Reverse Stock Split"); provided, however, that no fractional shares of Common Stock shall be issued as a result of the Reverse Stock Split and, in lieu thereof, any person who would otherwise be entitled to a fractional share of the Corporation's Common Stock as a result of the Reverse Stock Split shall be entitled to receive a cash payment (without interest) equal to the fair value thereof, as determined in good faith by the Board of Directors. Each stock certificate that, immediately prior to the Effective Time, represented shares of Common Stock that were issued and outstanding immediately prior to the Effective Time shall, from and after the Effective Time, automatically and without the necessity of presenting the same for exchange, represent that number of whole shares of Common Stock into which the shares of Common Stock formerly represented by such certificate shall have been reclassified (as well as the right to receive cash in lieu of fractional shares of Common Stock after the Effective Time).

THIRD: The foregoing amendment was duly adopted by the stockholders of the Corporation in accordance with Section 242 of the DGCL.

FOURTH: The terms and provisions of this Certificate of Amendment shall become effective upon the filing of this Certificate of Amendment with the Secretary of State of the State of Delaware.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be duly adopted and executed in its corporate name and on its behalf by its duly authorized officer as of the 30th day of January, 2018.

HARTE HANKS, INC.
By: /s/ Robert L. R. Munden
Robert L. R. Munden
Executive Vice President,
General Counsel & Secretary

HARTE HANKS, INC.
(a Delaware corporation)
FIFTH AMENDED AND RESTATED BY-LAWS
Adopted December 22, 2015

ARTICLE I
STOCKHOLDERS

Section 1.1 Annual Meetings. An annual meeting of the stockholders, for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held on such date and at such time as the Board of Directors of the Corporation (the "Board") shall each year fix. An annual meeting may be held either at a place, within or without the State of Delaware, or by means of remote communication as the Board in its sole discretion may determine.

Section 1.2 Special Meetings. Special meetings of the stockholders, for any purpose or purposes prescribed in the notice of the meeting, may be called by the Board, the Chairman of the Board or the Chief Executive Officer of the Corporation and shall be held on such date and at such time as the Board or such officer shall fix. A special meeting may be held either at a place, within or without the State of Delaware, or by means of remote communication as the Board in its sole discretion may determine.

Section 1.3 Notice of Stockholder Business; Nominations.

(1) No business may be transacted at an annual meeting of stockholders, other than business that is either (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board (or any duly authorized committee thereof), (ii) otherwise properly brought before the annual meeting by or at the direction of the Board (or any duly authorized committee thereof) or (iii) otherwise properly brought before the annual meeting by any stockholder of the Corporation (1) who is a stockholder of record on the date of the giving of the notice provided for in this Section 1.3 and on the record date for the determination of stockholders entitled to vote at such annual meeting and (2) who complies with the notice procedures set forth in this Section 1.3. The requirements of this Section 1.3 shall apply to any business or nominations to be brought before an annual meeting by a stockholder whether such business or nominations are to be included in the Corporation's proxy statement or presented to stockholders by means of an independently financed proxy solicitation. For business to be properly brought before an annual meeting by a stockholder, including a nomination of a person for election to the Board to be made by a stockholder, such stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation and such business must otherwise be a proper matter for stockholder action.

No business may be transacted at a special meeting of stockholders other than business that is specified in the Corporation's notice of such meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of such meeting (a) by or at the direction of the Board or (b) provided that the Board has determined that directors shall be elected at such special meeting, by any stockholder who shall be entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.3.

(2) To be timely, a stockholder's notice to the Secretary of the Corporation must be delivered to or mailed and received at the principal executive offices of the Corporation (i) in the case of an annual meeting, not less than 90 days nor more than 120 days prior to the anniversary date of the immediately preceding annual meeting of stockholders; provided, however, that if no annual meeting was held in the previous year or the date of the annual meeting of Stockholders has been changed by more than 30 calendar days from the date of the previous year's annual meeting, the notice must be received by the Corporation not less than 90 days nor more than 120 days prior to such annual meeting date or, if the public disclosure of such annual meeting is less than 100 days prior to the date of such annual meeting, the tenth day following the day on which the public disclosure of the date of such meeting was made; and (ii) in the case of a special meeting of stockholders called for the purpose of electing directors, not later than the close of business on the tenth day following the day on which public disclosure of the date of the special meeting was made. For purposes of the foregoing, "public disclosure" means the disclosure in a press

release reported by the PR Newswire, Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Commission pursuant to Section 13, 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

(3) To be in proper written form with respect to all business other than director nominations, a stockholder's notice to the Secretary of the Corporation must set forth as to each matter such stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at the annual meeting and the text of any proposal to be presented and (ii) any interest of the stockholder or any Stockholder Associated Person in such business.

As to the stockholder giving such notice and, where noted below, each Stockholder Associated Person, the stockholder's written notice shall set forth and include the following:

a) a description of each agreement, arrangement or understanding (whether written or oral) with any Stockholder Associated Person;

b) the name and record address, as they appear on the Corporation's books, of the stockholder proposing such business, such stockholder's principal occupation and the name and address of any Stockholder Associated Person;

c) the class or series and number of equity and other securities of the Corporation which are, directly or indirectly, held of record or beneficially owned (as determined under Regulation 13D (or any successor provision thereto) under the Exchange Act by such stockholder or by any Stockholder Associated Person, the dates on which such stockholder or any Stockholder Associated Person acquired such securities and documentary evidence of such record or beneficial ownership;

d) a list of all of the derivative securities (as defined under Rule 16a-1 under the Exchange Act or any successor provision thereto) and other derivatives or similar agreements or arrangements with an exercise or conversion privilege or a periodic or settlement payment or payments or mechanism at a price or in an amount or amounts related to any security of the Corporation or with a value derived or calculated in whole or in part from the value of the Corporation or any security of the Corporation, in each case, directly or indirectly held of record or beneficially owned by such stockholder or any Stockholder Associated Person and each other direct or indirect opportunity of such stockholder or any Stockholder Associated Person to profit or share in any profit derived from any increase or decrease in the value of any security of the Corporation, in each case, regardless of whether (i) such interest conveys any voting rights in such security to such stockholder or Stockholder Associated Person, (ii) such interest is required to be, or is capable of being, settled through delivery of such security or (iii) such person may have entered into other transactions that hedge the economic effect of such interest (any such interest described in this clause d) being a "Derivative Interest");

e) the name of each person with whom such stockholder or Stockholder Associated Person has any agreement, arrangement or understanding (whether written or oral) (i) for the purposes of acquiring, holding, voting (except pursuant to a revocable proxy given to such person in response to a public proxy or consent solicitation made generally by such person to all holders of shares of the Corporation) or disposing of any shares of capital stock of the Corporation, (ii) to cooperate in obtaining, changing or influencing the control of the Corporation (except independent financial, legal and other advisors acting in the ordinary course of their respective businesses), (iii) with the effect or intent of increasing or decreasing the voting power of, or that contemplates any person voting together with, any such stockholder or Stockholder Associated Person with respect to any shares of the capital stock of the Corporation or any business proposed by the stockholder or (iv) otherwise in connection with any business proposed by a stockholder and a description of each such agreement, arrangement or understanding (any agreement, arrangement or understanding described in this clause e) being a "Voting Agreement");

f) details of all other material interests of each stockholder or any Stockholder Associated Person in such proposal or any security of the Corporation (including, without limitation, any rights to dividends or performance-related fees based on any increase or decrease in the value of such security or Derivative Interests) (collectively, "Other Interests");

g) a description of all economic terms of all such Derivative Interests, Voting Agreements or Other Interests and copies of all agreements and other documents (including, without limitation, master agreements, confirmations and all ancillary documents and the names and details of counterparties to, and brokers involved in, all such transactions) relating to each such Derivative Interest, Voting Agreement or Other Interest;

h) a list of all transactions by such stockholder and any Stockholder Associated Person involving any securities of the Corporation or any Derivative Interests, Voting Agreements or Other Interests within the six-month period prior to the date of the notice;

i) any other information relating to such stockholder and any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the proposal pursuant to Regulation 14A of the Exchange Act (or any successor provision thereto); and

j) a representation that the stockholder is a holder of record of capital stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business.

"Stockholder Associated Person" of any stockholder means (i) any beneficial owner of shares of stock of the Corporation on whose behalf any proposal or nomination is made by such stockholder; (ii) any affiliates or associates of such stockholder or any beneficial owner described in clause (i); and (iii) each other person with whom any of the persons described in the foregoing clauses (i) and (ii) either is acting in concert with respect to the Corporation or has any agreement, arrangement or understanding (whether written or oral) for the purpose of acquiring, holding, voting (except pursuant to a revocable proxy given to such person in response to a public proxy solicitation made generally by such person to all stockholders entitled to vote at any meeting) or disposing of any capital stock of the Corporation or to cooperate in obtaining, changing or influencing the control of the Corporation (except independent financial, legal and other advisors acting in the ordinary course of their respective businesses).

(4) To be in proper written form with respect to stockholder nominations for director, a stockholder's notice to the Secretary must set forth (a) as to each person whom the stockholder proposes to nominate for election as a director (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by the person and (iv) any other information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act, and the rules and regulations promulgated thereunder; and (b) as to the stockholder giving the notice and, where referred to in subsections (3)a)-h) of Section 1.3 or noted below, each Stockholder Associated Person: (i) the information that would have been required by subsections (3)a)-h) of Section 1.3 if subsection (3) of Section 1.3 were applicable to nominations of persons for election to the Board and the references therein to "proposing such business", "business proposed" and "such proposal" were to "proposing such nomination," "nominees for election to the Board proposed" and "such nomination," respectively; (ii) any other information relating to such stockholder and any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the election of directors in a contested election (even if a contested election is not involved) pursuant to Regulation 14A of the Exchange Act (or any successor provision thereto); (iii) a representation that the stockholder is a holder of record of capital stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such nomination; and (iv) a representation as to whether the stockholder or any Stockholder Associated Person intends, or is part of a group that intends, to (1) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the outstanding capital stock of the Corporation required to elect the nominee or (2) otherwise solicit proxies or votes

from stockholders in support of such nomination. Such notice must be accompanied by a written consent of each proposed nominee to being named as a nominee and to serve as a director if elected.

(5) No business shall be conducted at the annual meeting of stockholders except business brought before the annual meeting in accordance with the procedures set forth in this Section 1.3, provided, however, that, once business has been properly brought before the annual meeting in accordance with such procedures, nothing in this Section 1.3 shall be deemed to preclude discussion by any stockholder of any such business. If the presiding officer at an annual meeting determines that business was not properly brought before the annual meeting in accordance with the foregoing procedures, the presiding officer shall declare to the meeting that the business was not properly brought before the meeting and such business shall not be transacted.

(6) To be eligible to be a nominee for election or reelection as a director of the Corporation, a person must deliver (in accordance with the time periods prescribed for delivery of notice under this Section 1.3) to the Secretary at the principal executive offices of the corporation a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the Secretary upon written request) and a written representation and agreement (in the form provided by the Secretary upon written request) that such person (a) is not and will not become a party to (i) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation or (ii) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, (b) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director, and (c) in such person's individual capacity and on behalf of any person or entity on whose behalf the nomination is being made, would be in compliance, if elected as a director of the Corporation, and will comply with all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation. The Corporation may also require any proposed nominee to furnish such other information as may reasonably be required by the Corporation (i) to determine the eligibility of such proposed nominee to serve as a director of the Corporation, including with respect to qualifications established by any committee of the Board, (ii) to determine whether such nominee qualifies as an "independent director" or "audit committee financial expert" under applicable law, securities exchange rule or regulation, or any publicly-disclosed corporate governance guideline or committee charter of the Corporation, and (iii) that could be material to a reasonable stockholder's understanding of the independence and qualifications, or lack thereof, of such nominee.

No person shall be eligible for election as a stockholder nominee of the Corporation unless nominated in accordance with the procedures set forth in this Section 1.3. If the presiding officer of the meeting determines that a nomination was not made in accordance with the foregoing procedures, the presiding officer shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded.

Notwithstanding the foregoing provisions of this Section 1.3, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth herein. Nothing in this Section 1.3 shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

Section 1.4 Notice of Meetings. Notice of all meetings of the stockholders shall be given in writing or by electronic transmission in the manner provided by law (meaning, here and hereinafter, as required from time to time by the Delaware General Corporation Law (the "DGCL") or the Certificate of Incorporation of the Corporation) stating the date, time and place, if any, of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called. Such notice shall be given not less than ten nor more than 60 days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting, except as otherwise provided herein or required by law.

Any meeting of the stockholders, annual or special, may be adjourned from time to time to reconvene at the same or some other place and time. When a meeting is adjourned to another date, time or place (if any) written notice need not be given of the adjourned meeting if the date, time or place (if any) thereof are announced at the meeting at which the adjournment is taken; provided, however, that if the date of any adjourned meeting is more than 30 days after the date for which the meeting was originally noticed, or if a new record date is fixed for the adjourned meeting, written notice of the date, time and place (if any) of the adjourned meeting shall be given in conformity herewith. At any adjourned meeting, any business may be transacted which might have been transacted at the original meeting.

Section 1.5 Quorum. At any meeting of the stockholders, the holders of a majority of all of the shares of the stock entitled to vote at the meeting, present in person or by proxy, shall constitute a quorum for all purposes, unless or except to the extent that the presence of a larger number may be required by law. A quorum, once established, shall not be broken by the subsequent withdrawal of enough votes to leave less than a quorum. Where a separate vote by class or classes is required, a majority of the outstanding shares of such class or classes, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter.

When any meeting is convened, the presiding officer, if directed by the Board, may adjourn the meeting if (a) no quorum is present for the transaction of business, or (b) the Board determines that adjournment is necessary or appropriate to enable the stockholders (i) to consider fully information which the Board determines has not been made sufficiently or timely available to stockholders or (ii) otherwise to exercise effectively their voting rights. Prior to the time when any meeting is convened the officer who would be the presiding officer at such meeting, if directed by the Board, may postpone the meeting if the Board determines that postponement is necessary or appropriate to enable the stockholders (a) to consider fully information which the Board determines has not been made sufficiently or timely available to stockholders or (b) otherwise to exercise effectively their voting rights.

Section 1.6 Organization. The Chairman of the Board or such person as the Board may have designated or, in the absence of such a person, the Chief Executive Officer of the Corporation or, in his or her absence, such person as may be chosen by the holders of a majority of the shares entitled to vote who are present, in person or by proxy, shall call to order any meeting of the stockholders and act as chairman of the meeting. In the absence of the Secretary of the Corporation, the secretary of the meeting shall be such person as the chairman appoints.

Section 1.7 Conduct of Business. The chairman of any meeting of stockholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him or her in order.

Section 1.8 Proxies and Voting. At any meeting of the stockholders, every stockholder entitled to vote may vote in person or by proxy. Such a proxy may be prepared, transmitted and delivered in any manner established for the meeting and permitted by law.

Each stockholder shall have one vote for every share of stock entitled to vote which is registered in his or her name on the record date for the meeting, except as otherwise provided herein or required by law.

All voting, including on the election of directors but excepting where otherwise required by law, may be by a voice vote; provided, however, that upon demand therefore by a stockholder entitled to vote or his or her proxy, a stock vote shall be taken. Every stock vote shall be taken by ballots, each of which shall state the name of the stockholder or proxy voting and such other information as may be required under the procedure established for the meeting and, if authorized by the Board, the ballot may be submitted by electronic transmission in the manner provided by law. Every vote taken by ballots shall be counted by an inspector or inspectors.

A nominee for director shall be elected to the Board if a majority of the votes cast in respect of such nominee are in favor of such nominee's election (excluding from consideration any shares abstaining or for which the stockholder gave no authority or direction); provided, however, that, if the number of nominees for director exceeds the number of directors to be elected, directors shall be elected by a plurality of the votes of the shares represented in person or by proxy at any meeting of stockholders held to elect directors and entitled to vote on such election of directors. Except as otherwise required by law, all other matters shall be determined by a majority of the votes cast. Where a separate vote by class is required, unless otherwise prescribed by law, the affirmative vote of a majority of the shares of such class or classes present in person or represented by proxy at the meeting shall be the act of such class.

Section 1.9 Stock List. A complete list of stockholders entitled to vote at any meeting of stockholders, arranged in alphabetical order for each class of stock and showing the record address of each such stockholder and the number of shares registered in his or her name, shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours for a period of at least ten days prior to the meeting, either on a reasonably accessible electronic network as permitted by law (provided that the information required to gain access to the list is provided with the notice of the meeting) or during normal business hours at the principal place of business of the Corporation. If the meeting is to be held at a place, the list shall also be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present at the meeting. If the meeting is held solely by means of remote communication, then the list shall be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access the list shall be provided with the notice of the meeting. This list shall presumptively determine the identity of the stockholders entitled to vote at the meeting and the number of shares held by each of them.

Section 1.10 Inspectors at Meetings of Stockholders. The Board, in advance of a meeting of stockholders, or the chairman of the meeting, may, and shall if required by law, appoint one or more inspectors, who may be employees of the Corporation, to act at the meeting or any adjournment thereof and make a written report thereof. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall (a) ascertain the number of shares outstanding and the voting power of each, (b) determine the shares represented at the meeting, the existence of a quorum and the validity of proxies and ballots, (c) count all votes and ballots, (d) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors and (e) certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of their duties. Unless otherwise provided by the Board, the date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be determined by the person presiding at the meeting and shall be announced at the meeting. No ballot, proxies, votes or any revocation thereof or change thereto, shall be accepted by the inspectors after the closing of the polls unless the Court of Chancery of the State of Delaware upon application by a stockholder shall determine otherwise. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders, the inspectors may consider such information as is permitted by applicable law. No person who is a candidate for office at an election may serve as an inspector at such election.

ARTICLE II
BOARD OF DIRECTORS

Section 2.1 Number and Term of Office. The number of directors who shall constitute the whole board shall be such number as the Board shall at the time have designated, except that in the absence of any such designation, such number shall be seven. Each director shall be elected for a term of three years and until his or her successor is elected and qualified, except as otherwise provided herein or required by law.

Whenever the authorized number of directors is increased between annual meetings of the stockholders, a majority of the directors then in office shall have the power to elect such new directors for the balance of a term and until their successors are elected and qualified. Any decrease in the authorized number of directors shall not become effective until the expiration of the term of the directors then in office unless, at the time of such decrease, there shall be vacancies on the Board which are being eliminated by the decrease.

Section 2.2 Vacancies. If the office of any director becomes vacant by reason of death, resignation, disqualification, removal or other cause, a majority of the directors remaining in office, although less than a quorum, may elect a successor for the unexpired term and until his or her successor is elected and qualified.

Section 2.3 Regular Meetings. Regular meetings of the Board shall be held at such place or places on such date or dates, and at such time or times as shall have been established by the Board and publicized among all directors. Further notice of each regular meeting shall not be required.

Section 2.4 Special Meetings. Special meetings of the Board may be called by (i) one-third of the directors then in office (rounded up to the nearest whole number), (ii) the Chairman or (iii) by the Chief Executive Officer of the Corporation, and shall be held at such place, on such date, and at such time as they or such officer shall fix. Notice of the place, date, and time of each such special meeting shall be given each director by whom it is not waived at least five days before the meeting if the notice is mailed, or at least 24 hours before the meeting if such notice is given by telephone, hand delivery, facsimile, electronic mail or other means of electronic transmission. Unless otherwise indicated in the notice thereof, any and all business may be transacted at a special meeting.

Section 2.5 Quorum. At any meeting of the Board, a majority of the members then serving on the Board shall constitute a quorum for all purposes. If a quorum shall fail to attend any meeting, a majority of those present may adjourn the meeting to another place, date, or time, without further notice or waiver thereof.

Section 2.6 Remote Meetings Permitted. Members of the Board, or of any committee thereof, may participate in a meeting of the Board or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other and such participation pursuant to a conference telephone or other communications equipment shall constitute presence in person at such meeting.

Section 2.7 Conduct of Business. At any meeting of the Board, business shall be transacted in such order and manner as the Board may from time to time determine, and all matters shall be determined by the vote of a majority of the directors present, except as otherwise provided herein or required by law. Action may be taken by the Board without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 2.8 Powers. The Board may, except as otherwise required by law, exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, including, without limiting the generality of the foregoing, the unqualified power:
(1) To declare dividends from time to time in accordance with law;
(2) To purchase or otherwise acquire any property, rights or privileges on such terms as it shall determine;

(3) To authorize the creation, making and issuance, in such form as it may determine, of written obligations of every kind, negotiable or non-negotiable, secured or unsecured, and to do all things necessary in connection therewith;
(4) To remove any officer of the Corporation with or without cause, and from time to time to devolve the powers and duties of any officer upon any other person for the time being;
(5) To confer upon any officer of the Corporation the power to appoint, remove and suspend subordinate officers, employees and agents;
(6) To adopt from time to time such stock, option, stock purchase, bonus or other compensation plans for directors, officers, employees and agents of the Corporation and its subsidiaries as it may determine;
(7) To adopt from time to time such insurance, retirement, and other benefit plans for directors, officers, employees and agents of the Corporation and its subsidiaries as it may determine;
(8) To adopt from time to time regulations, not inconsistent with these By-laws, for the management of the Corporation's business and affairs; and
(9) To appoint a Chairman of the Board to preside at meetings of the Board and to perform such other duties as may be specified from time to time by the Board.

Section 2.9 Compensation of Directors. Directors, as such, may receive, pursuant to resolution of the Board, fixed fees and other compensation for their services as directors, including, without limitation, their services as members of committees of the Board.

ARTICLE III
COMMITTEES

Section 3.1 Committees of the Board of Directors. The Board may from time to time designate committees of the Board, with such lawfully delegable powers and duties as it thereby confers, to serve at the pleasure of the Board and shall, for those committees and any others provided for herein, elect a director or directors to serve as the member or members, designating, if it desires, other directors as alternate members who may replace any absent or disqualified member at any meeting of the committee unless otherwise prohibited by applicable law. Any committee so designated may exercise the power and authority of the Board to declare a dividend, to authorize the issuance of stock, or to adopt a certificate of ownership and merger pursuant to Section 253 of the DGCL, if the resolution which designates the committee or a supplemental resolution of the Board shall so provide. In the absence or disqualification of any member of any committee and any alternate member in his or her place, the member or members of the committee present at the meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may by unanimous vote appoint another member of the Board to act at the meeting in the place of the absent or disqualified member.

Section 3.2 Conduct of Business. Each committee may determine the procedural rules for meeting and conducting its business and shall act in accordance therewith, except as otherwise provided herein or required by law. Adequate provision shall be made for notice to members of all meetings. A majority of the members of a committee shall constitute a quorum unless the committee shall consist of one or two members, in which event one member shall constitute a quorum. All matters shall be determined by a majority vote of the members present. Action may be taken by any committee without a meeting if all members thereof consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of the proceedings of such committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

ARTICLE IV
OFFICERS

Section 4.1 Officers Designated. The officers of the Corporation shall be the Chairman of the Board, the Chief Executive Officer, the President, one or more Vice Presidents, the Secretary and the Chief Financial Officer or Treasurer, all of whom shall be elected at the annual organizational meeting of the Board. The order of the seniority of the Vice Presidents shall be in the order of their nomination, unless otherwise determined by the Board. The Board may also appoint one or more Assistant Secretaries, Assistant Treasurers, and such other officers and agents with such powers and duties as it shall deem necessary. The Board may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one person may hold any number of offices of the corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the corporation shall be fixed by or in the manner designated by the Board.

Section 4.2 Tenure and Duties of Officers.

(1) General. All officers shall hold office at the pleasure of the Board and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board may be removed at any time by the Board. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board.

(2) Duties of Chairman of the Board of Directors. The Chairman of the Board shall be chosen from among the directors and may be the Chief Executive Officer. The Chairman of the Board, when present, shall preside at all meetings of the stockholders and the Board. The Chairman of the Board shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Board shall designate from time to time.

(3) Duties of Chief Executive Officer. Subject to the control of the Board, the Chief Executive Officer of the Corporation shall have general supervision, direction, and control of the business and the officers of the Corporation, and shall perform the duties of the President at such times when the President is absent. He shall have the general powers and duties of management usually vested in the office of Chief Executive Officer of a Corporation and shall have such other powers and duties as may be prescribed by the Board or these By-laws. Unless the Board otherwise determines (including by election of a President), the Chief Executive Officer shall hold the office and perform the duties of the President at such times when a President is not in office. When there is a Chief Executive Officer, references to the President shall be deemed to refer to the Chief Executive Officer.

(4) Duties of President. The President shall preside at all meetings of the stockholders and at all meetings of the Board, unless the Chairman of the Board has been appointed and is present. Unless the Board shall designate otherwise, the President shall be the Chief Executive Officer of the Corporation and shall, subject to the control of the Board, have general supervision, direction and control of the business and officers of the corporation. The President shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Board shall designate from time to time.

(5) Duties of Vice Presidents. The Vice Presidents, in the order of their seniority, may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice Presidents shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board or the President shall designate from time to time.

(6) Duties of Secretary. The Secretary shall attend all meetings of the stockholders and of the Board, and shall record all acts and proceedings thereof in the minute book of the corporation. The Secretary shall give notice in conformity with these By-laws of all meetings of the stockholders, and of all meetings of the Board and any committee thereof requiring notice. The Secretary shall perform all other duties given him in these By-laws and other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Board shall designate from time to time The President may direct any Assistant Secretary to assume

and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform, other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Board or the President shall designate from time to time.

(7) Duties of Chief Financial Officer or Treasurer. The Chief Financial Officer or Treasurer shall keep or cause to be kept the books of account of the Corporation in a thorough and proper manner, and shall render statements of the financial affairs of the corporation in such form and as often as required by the Board or the President. The Chief Financial Officer or Treasurer, subject to the order of the Board, shall have the custody of all funds and securities of the corporation. The Chief Financial Officer or Treasurer shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Board or the President shall designate from time to time. The President may direct any Assistant Treasurer to assume and perform the duties of the Chief Financial Officer or Treasurer in the absence or disability of the Chief Financial Officer or Treasurer, and each Assistant Treasurer shall perform other duties commonly incident to his office and shall also perform such other duties and have such other powers as the Board or the President shall designate from time to time.

Section 4.3 Delegation of Authority. The Board may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

Section 4.4 Resignations. Any officer may resign at any time by giving written notice to the Board or to the President or to the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the corporation under any contract with the resigning officer

Section 4.5 Removal. Any officer may be removed from office at any time, either with or without cause, by the vote or written consent of a majority of the directors in office at the time, or by any committee or superior officers upon whom such power of removal may have been conferred by the Board.

ARTICLE V
STOCK

Section 5.1 Certificates of Stock. The shares of stock of the Corporation shall be represented by certificates; provided that the Board may provide by resolution or resolutions that some or all of any class or series shall be uncertificated shares that may be evidenced by a book-entry system maintained by the registrar of such stock. If shares are represented by certificates such certificates shall be in the form approved by the Board. The certificates representing shares of stock of each class shall be signed by, or in the name of, the Corporation by the Chairman, the Chief Executive Officer, the President or a Vice President, and by the Secretary or an Assistant Secretary. Any or all such signatures may be facsimiles. Although any officer, transfer agent or registrar whose manual or facsimile signature is affixed to such a certificate ceases to be such officer, transfer agent or registrar before such certificate has been issued, it may nevertheless be issued by the Corporation with the same effect as if such officer, transfer agent or registrar were still such at the date of its issue.

Section 5.2 Transfers of Stock. Stock of the Corporation shall be transferable in the manner prescribed by law and in these By-laws. Transfers of stock shall be made on the books of the Corporation only by the person named as the holder thereof on the stock records of the Corporation, by such person’s attorney lawfully constituted in writing, and in the case of shares represented by a certificate upon the surrender of the certificate thereof, which shall be cancelled before a new certificate or uncertificated shares shall be issued. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred. The Board may appoint, or authorize any officer or officers to appoint, one or more transfer agents and one or more registrars.

Section 5.3 Record Date.

(1) For the purpose of determining the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than 60 nor less than 10 days prior to the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case, shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(2) For the purpose of determining the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto

Section 5.4 Lost, Stolen or Destroyed Certificates. The Board may direct a new certificate or uncertificated shares to be issued in place of any certificate theretofore issued by the Corporation alleged to have been lost, stolen or destroyed upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or uncertificated shares, the Board may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate, or the owner's legal representative to give the Corporation a bond sufficient to indemnify it against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed or the issuance of such new certificate or uncertificated shares.

Section 5.5 Regulations. The issue, transfer, conversion and registration of certificates of stock shall be governed by such other regulations as the Board may establish.

ARTICLE VI
NOTICES

Section 6.1 Notices. Except as otherwise specifically provided herein or required by law, all notices required to be given to any stockholder, director, officer, employee or agent shall be in writing and may in every instance be effectively given (i) by hand delivery to the recipient thereof, (ii) by depositing such notice in the mails, postage paid, (iii) by sending such notice by prepaid overnight express courier or facsimile or (iv) by appropriate electronic transmission. Any such notice shall be addressed to such stockholder, director, officer, employee or agent at his or her last known address as the same appears on the books of the Corporation. The notice shall be deemed given (a) in the case of hand delivery, when received by the person to whom notice is to be given or by any person accepting such notice on behalf of such person, (b) in the case of delivery by mail, upon deposit in the mail, (c) in the case of delivery by overnight express courier, when dispatched, and (d) in the case of delivery via facsimile or electronic transmission, when dispatched. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these By-laws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given, and shall be deemed given: (1) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice;

(2) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (3) if by any other form of electronic transmission, when directed to the stockholder. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if (i) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent and (ii) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given in writing or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated herein.

Section 6.2 Waivers. Notice of any meeting need not be given to any stockholder who shall, either before or after the meeting, submit a waiver of notice or who shall attend such meeting, except when the stockholder attends for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given. A notice may be written, signed by the person entitled to notice, or sent by electronic transmission by such person. Neither the business nor the purpose of any meeting need be specified in such a waiver.

ARTICLE VII
MISCELLANEOUS

Section 7.1 Registered Office. The Corporation shall maintain a registered office of the Corporation in the State of Delaware.

Section 7.2 Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board may from time to time determine or the business of the Corporation may require.

Section 7.3 Facsimile Signatures. In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these By-laws, facsimile signatures of any officer or officers of the Corporation may be used whenever and as authorized by the Board or a committee thereof.

Section 7.4 Corporate Seal. The Board may provide a suitable seal, containing the name of the Corporation, which seal shall be in the charge of the Secretary. If and when so directed by the Board or a committee thereof, duplicates of the seal may be kept and used by an Assistant Secretary.

Section 7.5 Reliance upon Books, Reports and Records. Each director, each member of any committee designated by the Board, and each officer of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation, including reports made to the Corporation by any of its officers, by an independent certified public accountant, or by an appraiser selected with reasonable care.

Section 7.6 Fiscal Year. The fiscal year of the Corporation shall be as fixed by the Board.

Section 7.7 Time Periods. In applying any provision of these By-laws which requires that an act be done or not done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

ARTICLE VIII
INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 8.1 Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative (a "Proceeding"), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or as its representative in a partnership, joint venture, trust, or other enterprise, including service with respect to employee benefit plans, whether the basis of such Proceeding is alleged action in an official capacity as a director, officer, employee, agent representative or in any other capacity while serving as a director, officer, employee, agent or representative, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment), against all expenses, liability and loss (including attorneys' fees, judgments, fines, excise taxes under the Employee Retirement Income Security Act or penalties, and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee, agent or representative and shall inure to the benefit of the indemnitee's heirs, executors and administrators; provided, however, that, except as provided in Section 8.2 with respect to Proceedings to enforce rights to indemnification, the Corporation shall indemnify any such person seeking indemnity in connection with a proceeding (or part thereof) initiated by such person only if such Proceeding (or part thereof) was authorized by the Board. Such rights shall be contract rights and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the DGCL requires, the payment of such expenses incurred by a director, officer, employee, agent or representative in his or her capacity as a director, officer, employee, agent or representative (and not in any other capacity in which service was or is rendered by such person while a director, officer, employee, agent or representative, including, without limitation, service to an employee benefit plan) in advance of the final disposition of such proceeding, shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it should ultimately be determined by final judicial decision from which there is no further right to appeal that such director, officer, employee, agent or representative is not entitled to be indemnified under this Section 8.1 or otherwise.

Section 8.2 Right of Claimant to Bring Suit. If a claim under Section 8.1 is not paid in full by the Corporation within 60 days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses in which case the applicable period shall be 20 days, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part in any such suit, or in a suit brought by the Corporation against the claimant to recover an advancement of expenses pursuant to the terms of an undertaking referred to in Section 8.1 hereof, the claimant shall be entitled to be paid also the expense of prosecuting or defending such claim. In any suit brought by the claimant to enforce a right to indemnification hereunder, and in any suit by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to recover any advanced expenses upon a final adjudication that the claimant has not met the standards of conduct that make it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of providing such defense shall be on the Corporation. Neither the failure of the Corporation (including the Board, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including the Board, independent legal counsel, or its stockholders) that the claimant had not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant had not met the applicable standard of conduct.

Section 8.3 Non-Exclusivity of Rights. The rights conferred on any person by Sections 8.1 and 8.2 shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision

of the Corporation's Certificate of Incorporation, these By-laws, any agreement, vote of stockholders or disinterested directors, or otherwise.

Section 8.4 Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any such director, officer, employee, agent or representative of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Section 8.5 Continuance. Any repeal or modification of the foregoing sections of this Article VIII by the stockholders of the Corporation shall not adversely affect any right or protection of an officer, director or representative of the Corporation existing at the time of such repeal or modification.

ARTICLE IX
AMENDMENTS

These By-laws may be altered, amended, rescinded or repealed by either by (a) a majority of the authorized number of directors and, if one or more interested stockholders (as defined in Section 203 of the DGCL) exists, by a majority of the directors who are Continuing Directors (as defined below) or (b) the affirmative vote of the holders of not less than sixty-six and two-thirds percent of the voting power of the Corporation's capital stock and, if such alteration, amendment, rescission of repeal is proposed by or on behalf of an interested stockholder or director affiliated with an interested stockholder, by a majority of the disinterested shares. As used herein, a "Continuing Director" means a director of the Corporation who (i) was a member of the Board as of September 20, 1993, or (ii) is a beneficial owner, or an affiliate of such beneficial owner, of less than 20 percent of the Common Stock of the Corporation and who became a director of the Corporation subsequent to September 20, 1993, and whose initial election or initial nomination for election was approved by a majority of the Continuing Directors then on the Board.

ARTICLE X
FORUM FOR ADJUDICATION OF DISPUTES

Unless the Corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director or officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the Delaware General Corporation Law or the Corporation's Certificate of Incorporation or Bylaws (as either may be amended from time to time) or (iv) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation governed by the internal affairs doctrine shall be the Court of Chancery of the State of Delaware or, if the Court of Chancery does not have jurisdiction, a state court located within the State of Delaware or, if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware.

LOAN AGREEMENT

by and among

HARTE HANKS, INC.,
as Borrower,

CERTAIN SUBSIDIARIES FROM TIME TO TIME PARTY HERETO,

as Guarantors,

and

TEXAS CAPITAL BANK,
as Lender

dated as of

December 21, 2021

LOAN AGREEMENT

THIS LOAN AGREEMENT (as amended, modified, or restated from time to time, this "Agreement") is made and entered into as of December 21, 2021 (the "Closing Date"), by and among HARTE HANKS, INC., a Delaware corporation ("Borrower"), the Guarantors from time to time party hereto, and TEXAS CAPITAL BANK, with offices at 2000 McKinney Avenue, Suite 700, Dallas (Dallas County), TX 75201 (including its successors and permitted assigns, "Lender"):

WITNESSETH:

For and in consideration of the mutual covenants and agreements herein contained and of the loans and commitment hereinafter referred to, the Loan Parties and Lender agree as follows:

ARTICLE I
GENERAL TERMS

Section 1.01 Certain Definitions. As used in this Agreement, the following terms shall have the following meanings, unless the context otherwise requires:

"Account Agings" shall have the meaning assigned to such term in Section 4.01(d).

"Accounts Advance Amount" shall mean at any time an amount equal to the sum of (a) the product of (i) all Eligible Accounts owing by Investment Grade Account Debtors times (ii) ninety percent (90%) plus (b) the product of (i) all Eligible Accounts owing by Non-Investment Grade Account Debtors times (ii) eighty-five percent (85%).

"Acquisition" means the acquisition by any Person of (a) a majority of the Stock of another Person, (b) all or substantially all of the assets of another Person or (c) all or substantially all of a business unit or line of business of another Person, in each case (i) whether or not involving a merger or consolidation with such other Person and (ii) whether in one (1) transaction or a series of related transactions.

"Affiliate" shall mean any Person controlling, controlled by or under common control with any other Person. For purposes of this definition, "control" (including "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise. Without limiting the generality of the foregoing, for purposes of this Agreement, Borrower, each Guarantor, if any, and each of Borrower's Subsidiaries, if any, shall be deemed to be Affiliates of one another.

"Affiliated Debt" has the meaning assigned to such term in Section 9.05.

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

"Applicable Bankruptcy Law" shall have the meaning assigned to such term in Section 6.01(f).

"Applicable Margin" shall mean, for any day, the rate per annum equal to 2.25%.

"Asset Disposition" shall mean the sale, lease, assignment, disposition or other transfer for value by any Loan Party to any Person (other than a Loan Party) of any Property (including, the loss, destruction or damage of any thereof or any actual condemnation, confiscation, requisition, seizure or taking thereof), other than the sale or lease of Inventory in the ordinary course of business.

"Availability" shall mean, as of any date of determination, an amount equal to (a) the Borrowing Base in effect on such date minus (b) the Revolving Credit Exposure.

“Availability Limitation” means an amount equal to (a) at any time during the Availability Limitation Period, $5,000,000, and (b) at any time after the expiration of the Availability Limitation Period, $0.00.

“Availability Limitation Period” means the period commencing on the Closing Date until the Fixed Charge Coverage Ratio as of the last day of any calendar month thereafter is greater than or equal to 1.00 to 1.00 as evidenced by a compliance certificate setting forth the information and certifying as to the matters set forth in Section 4.01(h) (with reasonably detailed calculations of the applicable Fixed Charge Coverage Ratio thereof).

“Availability Reserves” shall mean, as of any date of determination, such amounts as Lender may from time to time establish and revise in its Permitted Discretion: (a) to reflect events, conditions, contingencies or risks which would reasonably be expected to materially adversely affect either (i) the Collateral or any other Property which is security for the Indebtedness, (ii) the assets or business of Borrower and its Subsidiaries, or (iii) the security interests and other rights of Lender in the Collateral (including the enforceability, perfection and priority thereof), (b) to reflect the impact from any collateral report or financial information furnished by or on behalf of Borrower to Lender that is incomplete, inaccurate or misleading in any material respect, (c) in respect of Bank Products and Swap Agreements and (d) in respect of any Default or an Event of Default; provided that, (i) the Lender may not implement reserves that are duplicative of any other factor then in existence pursuant to the criteria contained in the definition of “Eligible Accounts” and (ii) the amount of the Availability Reserve established by Lender shall have a reasonable relationship to the event, condition or other matter that is the basis for the Availability Reserve.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 2.16(b)(iv).

“Bank Products” shall mean any of the following bank services: commercial credit cards, stored value cards, and treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services).

“Base Rate” shall mean, for any day, a fluctuating rate per annum equal to the higher of: (a) the Federal Funds Rate in effect on such date plus 1/2 of 1.00% and (b) the Prime Rate in effect on such day. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds shall be effective as of the opening of business on the day of such change in the Prime Rate or the Federal Funds Rate, respectively; provided that if the Base Rate determined in accordance with the foregoing would otherwise be less than 0%, the Base Rate shall be deemed 0% for purposes of this Agreement.

“Base Rate Advances” shall mean Revolving Advances bearing interest based on the Base Rate.

“Benchmark” shall mean, initially, BSBY; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to BSBY or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.16(b)(i).

“Benchmark Rate Advances” shall mean Revolving Advances bearing interest based on the then existing Benchmark (initially, BSBY).

“Benchmark Replacement” shall mean, for any Available Tenor, the first alternative set forth in the order below that can be determined by Lender for the applicable Benchmark Replacement Date:

(a) the sum of: (i) Term SOFR and (ii) the related Benchmark Replacement Adjustment;

(b) the sum of: (i) Daily Simple SOFR and (ii) the related Benchmark Replacement Adjustment;

(c) the sum of: (i) the alternate benchmark rate that has been selected by Lender and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for U.S. dollar-denominated credit facilities at such time and (ii) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (a), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by Lender in its reasonable discretion. If the Benchmark Replacement as determined pursuant to clauses (a), (b) or (c) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Security Instrument.

“Benchmark Replacement Adjustment” shall mean, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by Lender and the Borrower for the applicable Corresponding Tenor giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated syndicated credit facilities at such time.

“Benchmark Replacement Conforming Changes” shall mean, with respect to the use, administration of or any conventions associated with BSBY or any Benchmark Replacement, as applicable, any technical, administrative or operational changes (including changes to the definitions of “BSBY Rate”, “Business Day”, or “Interest Period”, the timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that Lender decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by Lender in a manner substantially consistent with market practice (or, if Lender decides that adoption of any portion of such market practice is not administratively feasible or if Lender determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as Lender decides is reasonably necessary in connection with the administration of this Agreement and the other Security Instruments).

“Benchmark Replacement Date” shall mean the earliest to occur of the following events with respect to the then-current Benchmark:

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

(b) in the case of clause (c) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein;

provided that if the then-current Benchmark is BSBY, “Benchmark Replacement Date” shall mean the BSBY Replacement Date.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement

Date" will be deemed to have occurred in the case of clause (a) or clause (b) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Event" shall mean the occurrence of one or more of the following events with respect to the then-current Benchmark:

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

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Board of Governors, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

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

(d) if the then current Benchmark is BSBY, the occurrence of a BSBY Transition Event.

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

"Benchmark Unavailability Period" shall mean the period (if any) (a) beginning at the time that a Benchmark Replacement Date pursuant to clauses (a) or (b) of the definition thereof has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Security Instrument in accordance with Section 2.16(b) and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Security Instrument in accordance with Section 2.16(b).

"Beneficial Ownership Certification" shall mean a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" shall mean 31 C.F.R. § 1010.230.

"BHC Act Affiliate" shall mean, as to any Person, an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such Person.

"Blocked Accounts" shall have the meaning assigned to such term in Section 2.11.

"Board of Governors" shall mean the Board of Governors of the Federal Reserve System of the United States of America.

“Borrowing Base” shall mean, at any time, an amount not to exceed the lesser of: (a) the sum of (i) the Maximum Revolving Facility minus (ii) any Availability Reserves, and (b) the sum of (i) the Accounts Advance Amount determined as of the date the Borrowing Base is calculated minus (ii) the Availability Limitation minus (iii) any Availability Reserves.

“BSBY” shall mean the Bloomberg Short-Term Bank Yield Index rate.

“BSBY Rate” shall mean, for any Interest Period with respect to a BSBY Rate Advance, the rate per annum equal to the BSBY Screen Rate two 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 on such determination date then BSBY Rate means the BSBY Screen Rate on the first Business Day immediately prior thereto; provided that if the BSBY Rate determined in accordance with the foregoing would otherwise be less than 0%, the BSBY Rate shall be deemed 0% for purposes of this Agreement.

“BSBY Rate Advances” shall mean Revolving Advances bearing interest based on the BSBY Rate.

“BSBY Replacement Date” shall have the meaning assigned to such term in Section 2.16(b)(vi).

“BSBY Screen Rate” shall mean the Bloomberg Short-Term Bank Yield Index rate administered by Bloomberg and published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by Lender from time to time).

“BSBY Transition Event” shall mean the occurrence of any of the events described in Section 2.16(b)(vi)(A) or Section 2.16(b)(vi)(B).

“Business Day” shall mean any day other than a Saturday, a Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in Dallas, Texas.

“Cash Interest Expense” shall mean, for any Person for any period, total interest expense in respect of all outstanding Debt actually paid or that is payable by such Person during such period, including, without limitation, all commissions, discounts, and other fees and charges with respect to letters of credit and all net costs under Hedge Agreements in respect of interest rates to the extent such costs are allocable to such period, but excluding interest expense not payable in cash, all as determined in accordance with GAAP.

“CFC” shall mean a “controlled foreign corporation” within the meaning of Section 957 of the Code.

“CFC Holdco” shall mean any Domestic Subsidiary that has no material assets (held directly or indirectly) other than the Stock or Indebtedness of one or more CFCs or CFC Holdcos.

“Change of Control” shall mean an event or series of events by which:

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”)), directly or indirectly, of 50% or more of the Stock of Borrower entitled to vote for members of the board of directors or equivalent governing body of Borrower on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); or

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or

equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

“Closing Fee” shall have the meaning assigned to such term in Section 2.14.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Collateral” shall have the meaning set forth in that certain Pledge and Security Agreement dated as of the Closing Date (as the same may be amended, modified or restated from time to time, the “Security Agreement”), by and among Borrower, the other Loan Parties from time to time party thereto, and Lender.

“Collateral Access Agreement” shall mean a landlord waiver, mortgagee waiver, bailee letter or similar acknowledgment of any lessor, warehouseman, processor or other person in possession of any Collateral or on whose Property any Collateral is located, in form and substance reasonably satisfactory to Lender.

“Commitment” shall mean the obligation of Lender to make revolving credit loans to Borrower under Section 2.01(a) hereof, up to the maximum amount therein stated.

“Commodity Account Control Agreement” shall have the meaning assigned to such term in the Security Agreement.

“Commodity Exchange Act” shall mean the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute, and any regulations promulgated thereunder.

“Consolidated Total Assets” shall mean, as of any date of determination, all amounts that would, in conformity with GAAP, be set forth opposite the caption “total assets” (or any like caption) on a consolidated balance sheet of the applicable Person at such date.

“Constituent Documents” shall mean (a) in the case of a corporation, its articles or certificate of incorporation and bylaws; (b) in the case of a general partnership, its partnership agreement; (c) in the case of a limited partnership, its certificate of limited partnership or certificate of formation, as applicable, and partnership agreement; (d) in the case of a trust, its trust agreement; (e) in the case of a joint venture, its joint venture agreement; (f) in the case of a limited liability company, its articles of organization, operating agreement, regulations and/or other organizational and governance documents and agreements; and (g) in the case of any other entity, its organizational and governance documents and agreements.

“Control Agreements” shall mean, collectively, the Commodity Account Control Agreements, the Deposit Account Control Agreements and the Securities Account Control Agreements, in each case, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Corresponding Tenor” means, with respect to any Available Tenor, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“Covered Entity” shall mean any of the following: (a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Covered Party” shall have the meaning assigned to such term in Section 8.26.

"Daily Simple SOFR" shall mean, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by Lender in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for business loans; provided, that if Lender decides that any such convention is not administratively feasible for Lender, then Lender may establish another convention in its reasonable discretion.

"Debt" shall mean, with respect to any Person, and without duplication: (a) all borrowed money of such Person, whether or not evidenced by bonds, debentures, notes or similar instruments; (b) all obligations of such Person as lessee under capital leases which have been or should be recorded as liabilities on a balance sheet of such Person in accordance with GAAP; (c) all obligations of such Person to pay the deferred purchase price of Property or services (excluding trade accounts payable in the ordinary course of business); (d) all indebtedness secured by a Lien on the Property of such Person, whether or not such indebtedness shall have been assumed by such Person; provided that the amount of such indebtedness shall be the lesser of the principal amount of such indebtedness secured and the fair market value of such Property; (e) all obligations, contingent or otherwise, with respect to the face amount of all letters of credit (whether or not drawn), bankers' acceptances and similar obligations issued for the account of such Person; (f) all swap, hedging and like obligations of such Person; (g) all contingent liabilities of such Person; and (h) any Stock or other equity instrument, whether or not mandatorily redeemable, that under GAAP is characterized as debt, whether pursuant to Financial Accounting Standards Board Issuance No. 150 or otherwise.

"Default" shall mean the occurrence of any of the events specified in Section 6.01 hereof, whether or not any requirement for notice or lapse of time or other condition precedent has been satisfied.

"Default Right" shall have 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.

"Deposit Account Control Agreement" shall have the meaning assigned to such term in the Security Agreement.

"Distribution" by any Person shall mean (a) with respect to any Stock issued by such Person, the retirement, redemption, purchase or other acquisition for value of any such Stock, (b) the declaration or payment of any dividend or other distribution on or with respect to such Stock, (c) any payment (whether in cash, securities or other Property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any capital stock or other Stock or on account of any return of capital to such Person's stockholders, partners or members (or the equivalent Person thereof) and (d) any payment of management, advisory or similar fees to any holders of Stock of such Person or its Affiliates.

"Domestic Subsidiary" shall mean any Subsidiary incorporated or organized under the laws of the U.S., any state thereof or the District of Columbia.

"Drawdown Termination Date" shall mean the earlier of December 20, 2024, and the date the Indebtedness is accelerated pursuant to the provisions of this Agreement and the other Security Instruments.

"DTPA" shall mean the Texas Deceptive Trade Practices Consumer Protection Act, Subchapter E of Chapter 17 of the Texas Business and Commerce Code.

"EBITDA" shall mean, for any Person for any period of determination, an amount equal to: (a) Net Income plus (b) the sum of the following to the extent deducted from Net Income: (i) interest expense; (ii) income taxes; (iii) depreciation; (iv) amortization; (v) non-cash Stock based compensation; (vi) accounting pension expense and non-cash expenses relating to employee benefit plans; and (vii) non-cash restructuring charges and related charges actually incurred prior to December 31, 2021.

"Eligible Accounts" shall mean at any time all accounts receivable of the Loan Parties for goods sold or leased or services rendered, in which Lender has a perfected, first-priority Lien or security interest, after deducting:

(a) the amount of all accounts receivable unpaid for the earlier of (i) in the case of accounts receivable owing by Investment Grade Account Debtors (other than Abbott Laboratories and Unilever), (A) sixty (60) days or more after the original due date therefor or (B) one hundred twenty (120) days or more after the date of the original invoice, (ii) in the case of accounts receivable owing by Non-Investment Grade Account Debtors (other than Abbott Laboratories and Unilever), (A) sixty (60) days or more after the original due date therefor or (B) ninety (90) days or more after the date of the original invoice and (iii) solely in the case of accounts receivable owing by Abbott Laboratories and Unilever, (A) sixty (60) days or more after the original due date therefor or (B) one hundred twenty (120) days or more after the date of the original invoice;

(b) all such accounts for which fifty percent (50%) or more of the outstanding aggregate balance owed by any account debtor is unpaid for (A) in the case of accounts receivable owing by Investment Grade Account Debtors (other than Abbott Laboratories and Unilever), one hundred (120) days or more from the date of the original invoice, (B) in the case of accounts receivable owing by Non-Investment Grade Account Debtors (other than Abbott Laboratories and Unilever), ninety (90) days or more from the date of the original invoice or (C) in the case of accounts receivable owing by Abbott Laboratories and Unilever, one hundred (120) days or more from the date of the original invoice;

(c) the amount owed by any account debtor that exceeds twenty percent (20%) (or thirty percent (30%) solely in the case of amounts owed by Home Box Office, Inc. and its Affiliates) of all Eligible Accounts of the Loan Parties;

(d) all contra-accounts, setoffs, defenses or counterclaims asserted by or available to the Persons obligated on such accounts;

(e) accounts receivable of the United States or any agency or department thereof for which Borrower has not complied with the Federal Assignment of Claims Act;

(f) all accounts owed by account debtors which are bill and hold, pre-bill, “short” pay, customer deposit, credit card, cash-on-delivery, percent completion or progress billing; provided that in the case of progress billing, such deduction will be limited to the amount set forth in the general ledger of the Loan Parties as “deferred income”;

(g) all accounts arising from bonded jobs or brokered accounts;

(h) all accounts owing by officers or employees of Borrower or by Subsidiaries or by any other Person in which Borrower or any holder of Stock in Borrower may have an equity interest;

(i) all accounts owing by individuals;

(j) the amount of all discounts, allowances, rebates, retainage, credits and adjustments to such accounts; provided that in the case of rebates, such deduction will be limited to the amount set forth in the general ledger of the Loan Parties as “customer rebate liability”;

(k) all accounts owed by an account debtor that is organized or has its principal offices or assets outside the United States or Canada, unless payment of such account is secured by an irrevocable letter of credit, in form and substance satisfactory to Lender and issued by a financial institution acceptable to Lender, in each case in Lender’s sole discretion, payable in Dollars in the full face amount of such account, and Lender has control (as defined by Section 9.107 of the UCC) of all letter of credit rights associated with such letter of credit;

(l) all accounts owed by account debtors which are insolvent or in any bankruptcy proceeding which Lender, in its sole discretion, deems not acceptable;

(m) all accounts which are evidenced by any promissory note, chattel paper or instrument; and

(n) all accounts which are owed by a Sanctioned Person.

Eligible Accounts shall not include any account which Lender deems, in its Permitted Discretion, to be ineligible (it being acknowledged and agreed that such ineligibility shall only take effect upon three (3) Business Days prior written notice (which can be via email) to Borrower; provided that such notice shall include reasonably detailed description of such ineligibility, during which period Lender shall (i) if requested, discuss any such ineligibility with Borrower and (ii) Borrower may, to the extent curable, take such action as may be required so that the event, condition or matter that is the basis for such ineligibility shall no longer exist, in each case, in a manner and to the extent satisfactory to Lender in its Permitted Discretion).

"Environmental Laws" shall mean all federal, state and local laws, rules, regulations, ordinances, permits, legally binding guidances, orders and consent decrees relating to health, safety or environmental matters.

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

"Event of Default" shall mean the occurrence of any of the events specified in Section 6.01 hereof, provided that any requirement for notice or lapse of time or any other condition precedent has been satisfied.

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

"Excluded Accounts" shall mean any commodity account, deposit account or securities account (a) established solely as a payroll account and other zero-balance disbursement accounts, (b) held exclusively in a fiduciary capacity and established in connection with employee benefit plans in the ordinary course of business or pursuant to applicable legal requirements, (c) held in trust or as an escrow or fiduciary for another Person which is not a Loan Party in the ordinary course of business, or (d) with a balance in each such account individually not exceeding $100,000 at any time and the aggregate balance of all such accounts not exceeding $500,000.

"Excluded Subsidiary" shall mean any (a) Immaterial Subsidiary, (b) any Foreign Subsidiary, (c) any CFC Holdco, and (d) any Domestic Subsidiary that is a direct or indirect Subsidiary of (i) a Foreign Subsidiary that is a CFC or (ii) a CFC Holdco.

"Excluded Swap Obligation" shall mean, with respect to any Loan Party individually determined on a Loan Party by Loan Party basis, any Indebtedness in respect of any Swap Agreement if, and solely to the extent that, all or a portion of the guarantee by such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Indebtedness in respect of any Swap Agreement (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time such guarantee or grant of a security interest becomes effective with respect to such related Indebtedness in respect of any Swap Agreement. If any Indebtedness in respect of any Swap Agreement arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Indebtedness in respect of any Swap Agreement that is attributable to swaps for which such guarantee or security interest is or becomes illegal.

"Existing Letters of Credit" shall mean the letters of credit listed on Annex I.

"FCPA" shall mean the Foreign Corrupt Practices Act of 1977, as amended.

"Federal Funds Rate" shall mean, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to Lender on such day on such transactions as determined by the Lender If the Federal Funds Rate is less than zero, it shall be deemed to be zero for purposes of this Agreement.

"Financial Covenant Testing Period" shall mean the period (a) commencing on any day that (i) an Event of Default occurs or (ii) Availability is less than the greater of (A) $3,750,000 and (B) 15% of the Borrowing Base then in effect; and (b) continuing until the date upon which both, during each of the preceding forty-five (45) consecutive days, (i) no Event of Default has occurred or is continuing and (ii) Availability has been more than the greater of (A) $3,750,000 and (B) 15% of the Borrowing Base then in effect.

"Financial Statements" shall mean the consolidated and consolidating financial statement or statements of Borrower and its Subsidiaries, if any, of the type delivered under Section 3.06, Section 4.01(a) and Section 4.01(b) hereof.

"Fixed Charge Coverage Ratio" shall mean, for any period, the ratio of (a)(i) EBITDA of Borrower and its Subsidiaries minus (ii) Unfinanced Capital Expenditures and cash tax expenses during such period, to (b) Fixed Charges of the Borrower and its Subsidiaries during such period. Unless otherwise indicated, the Fixed Charge Coverage Ratio shall be measured for the twelve (12) calendar month period ending on or most recently ended prior to the applicable date (or with respect to the calculation thereof pursuant to Section 5.13, the twelve (12) calendar month period ending on the applicable date).

"Fixed Charges" shall mean, for any period and for any Person, the sum of (a) all regularly scheduled principal payments during such period of Debt of such Person (other than scheduled payments of principal on Debt which pay such Debt in full, but only to the extent such final payment is greater than the scheduled principal payment immediately preceding such final payment), (b) all Cash Interest Expense that are paid or payable during such period in respect of all Debt of such Person, (c) Net Pension Payments during such period and (d) cash Distributions during such period.

"Floor" shall mean the benchmark rate floor, if any, provided in this Agreement initially (as of the Closing Date, the modification, amendment or renewal of this Agreement or otherwise) with respect to the BSBY Rate.

"Foreign Subsidiary" shall mean any Subsidiary that is not a Domestic Subsidiary.

"Fraudulent Transfer Laws" shall have the meaning assigned to such term in Section 9.13.

"GAAP" shall mean Generally Accepted Accounting Principles in effect in the United States applied on a consistent basis.

"Governmental Authority" shall mean the government of the United States or any other nation, or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank, tribal body 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), and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

"Guarantors" shall mean (individually and collectively) any Domestic Subsidiary of the Borrower and each other Person that at any time guarantees the payment or performance of the Indebtedness. As of the Closing Date, the Guarantors are Harte-Hanks Direct, Inc., a New York corporation, Harte-Hanks Logistics, LLC, a Florida limited liability company, Harte-Hanks Response Management/Austin, Inc., a Delaware corporation, Harte-Hanks Response Management/Boston, Inc., a Massachusetts corporation, and Harte-Hanks STS, Inc., a Delaware corporation. For the avoidance of doubt, Excluded Subsidiaries shall not constitute Guarantors.

"Guaranty Agreement" shall mean, collectively, (a) the guaranty agreement set forth in Article IX of this Agreement and (b) any other guaranty agreements executed by Guarantors in favor of Lender (in each case, as the same may be amended, modified, supplemented or restated from time to time).

“Immaterial Subsidiary” shall mean, as of the Closing Date, each of Harte Hanks Data Services LLC, Harte-Hanks Strategic Marketing, Inc., Sales Support Services, Inc., Harte-Hanks Direct Marketing/Kansas City, LLC, Harte-Hanks Direct Marketing/Baltimore, Inc., Harte-Hanks Direct Marketing/Cincinnati, Inc., Harte-Hanks Direct Marketing/Dallas, Inc., Harte-Hanks Direct Marketing/Fullerton, Inc., a California corporation, Harte-Hanks Direct Marketing/Jacksonville LLC, NSO, Inc., Harte-Hanks Market Intelligence Espana LLC, Harte-Hanks Print, Inc., Harte-Hanks Florida, Inc., Harte-Hanks Shoppers, Inc., Southern Comprint Co. and HHMIX SAS; provided that, after the Closing Date, such Subsidiaries shall only constitute Immaterial Subsidiaries so long as (i) the Consolidated Total Assets (as so determined) of all Immaterial Subsidiaries does not exceed 10% of the Consolidated Total Assets of Borrower and its Subsidiaries as of the most recently ended period of twelve months for which financial statements are available and (ii) with respect to each Immaterial Subsidiary, the total assets (as so determined) of such Immaterial Subsidiary does not exceed 2.5% of the Consolidated Total Assets of Borrower and its Subsidiaries as of the most recently ended period of twelve months for which financial statements are available.

“Indebtedness” shall mean any and all amounts owing or to be owing by Borrower to Lender in connection with the Notes, any Letter of Credit, the Security Instruments and this Agreement, from time to time existing, including, without limitation, the guaranties of indebtedness hereunder, and all amounts owing or to be owing by Borrower to any affiliate of Lender with respect to any Bank Product or Swap Agreement.

“Indemnified Party” shall have the meaning assigned to such term in Section 8.17.

“Interest Payment Date” shall mean, (a) in respect of each BSBY Rate Advance, the first day of each calendar month during the term of this Agreement, upon prepayment of such BSBY Rate Advance and the Drawdown Termination Date and (b) in respect of each Base Rate Advance outstanding pursuant to Section 2.16(a), the first day of each calendar month during the term of this Agreement, upon prepayment of such Base Rate Advance and the Drawdown Termination Date.

“Interest Period” shall mean with respect to any BSBY Rate Advance, the period commencing on the date such Revolving Advance becomes a BSBY Rate Advance (whether by the making of a Revolving Advance or its continuation or conversion) and ending on the numerically corresponding day in the calendar month that is one (1) month thereafter (subject to the availability of the BSBY Rate for such period); provided, that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period and (c) if Term SOFR is the then current Benchmark each Interest Period shall be of one (1) months duration

“Inventory” shall mean any goods held by Borrower for sale in the ordinary course of Borrower’s business which includes goods purchased for resale.

“Investment Grade Account Debtor” shall mean, any account debtor whose securities are rated BBB- (or then equivalent grade) or higher by S&P or Baa3 (or then equivalent grade) or higher by Moody’s, or whose credit rating or credit quality has the characteristics of an Investment Grade Account Debtor as determined by Lender in its sole discretion.

“LC Disbursement” shall mean any payment made by the Lender pursuant to a Letter of Credit.

“LC Exposure” shall mean, as of any date of determination, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements relating to Letters of Credit that have not yet been reimbursed by or on behalf of the Borrower at such time.

“Lease” shall have the meaning assigned to such term in Section 3.19.

“Lender’s Counsel” shall have the meaning assigned to such term in Section 8.23.

“Letter of Credit” shall mean (a) any standby or commercial letter of credit issued or arranged by Lender for the account of Borrower in accordance with the terms of this Agreement and Lender’s or the issuer’s applications and agreements for letters of credit and (b) any Existing Letters of Credit.

“Lien” shall mean any interest in Property securing an obligation owed to, or a claim by, a Person other than the owner of the Property, whether such interest is based on the common law, statute or contract, and including but not limited to the security interest or lien arising from a mortgage, security agreement, deed of trust, assignment, collateral mortgage, chattel mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment, bailment for security purposes or certificate of title lien. The term “Lien” shall include reservations, exceptions, encroachments, easements, rights-of-way, covenants, conditions, restrictions, leases and other title exceptions and encumbrances affecting Property. For the purposes of this Agreement, Borrower or any Loan Party shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement, financing lease or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

“Loan Party” shall mean Borrower and each Guarantor.

“Material Adverse Effect” shall mean any act, event, condition, or circumstance which could reasonably be expected to materially and adversely affect (a) the operations, business, Properties, liabilities (actual or contingent), or condition (financial or otherwise) of the Loan Parties and their Subsidiaries, taken as a whole; (b) the ability of any Loan Party to perform its obligations under any Security Instrument to which it is a party; (c) the legality, validity, binding effect or enforceability against any Loan Party of any Security Instrument to which it is a party; or (d) the rights, remedies and benefits available to, or conferred upon, Lender or any Secured Party under any Security Instrument.

“Maximum Nonusurious Interest Rate” shall mean the maximum nonusurious interest rate allowable under applicable United States federal law, under the laws of the State of New York and any other law applicable to Lender as presently in effect and, to the extent allowed by such laws, as such laws may be amended from time to time to increase such rate.

“Maximum Revolving Facility” shall mean $25,000,000.

“Moody’s” shall mean Moody’s Investors Service, Inc. and any successor thereto that is a nationally-recognized rating agency.

“Net Cash Proceeds” shall mean:

(a) with respect to any Asset Disposition, the aggregate cash proceeds (including cash proceeds received pursuant to policies of insurance or by way of deferred payment of principal pursuant to a note, installment receivable or otherwise, but only as and when received) received by any Loan Party pursuant to such Asset Disposition net of (i) the direct costs relating to such sale, transfer or other disposition (including sales commissions and legal, accounting and investment banking fees), (ii) taxes paid or reasonably estimated by the Borrower to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements) and (iii) amounts required to be applied to the repayment of any Debt secured by a Lien on the Property subject to such Asset Disposition;

(b) with respect to any issuance of Stock, the aggregate cash proceeds received by any Loan Party pursuant to such issuance, net of the direct costs relating to such issuance (including sales and underwriters’ commissions); and

(c) with respect to any issuance of Debt securities, the aggregate cash proceeds received by any Loan Party pursuant to such issuance, net of the direct costs of such issuance (including up-front, underwriters’ and placement fees).

“Net Income” shall mean, for any period, a Person’s before-tax net income for such period, decreased by the sum of any extraordinary, non-operating or non-cash income recorded by such Person during such period, all as determined in accordance with GAAP.

“Net Pension Payments” shall mean, for any Person for any period, an amount equal to (a) the total cash pension payments made under the Plan constituting the “restoration pension plan” plus (b) the total cash pension contributions made to any qualified pension plan.

“Non-Investment Grade Account Debtor” shall mean any account debtor which is not an Investment Grade Account Debtor.

“Notes” shall mean (whether one or more) each of the Revolving Credit Note and any other promissory note executed by Borrower and payable to Lender.

“Operating Accounts” shall have the meaning assigned to such term in Section 2.10.

“Payment Conditions” shall mean, with respect to any Payment Condition Event, (a) no Default or Event of Default shall have occurred and be continuing on the date of such Payment Condition Event or would result after giving effect to such transaction, (b) after giving effect to and at all times during the thirty (30) consecutive day period immediately prior to the making or consummation of Payment Condition Event, Availability shall be greater than or equal to the greater of (A) $6,250,000 and (B) 25% of the Borrowing Base then in effect, (c) after giving effect to such Payment Condition Event, the Fixed Charge Coverage Ratio for Borrower and its Subsidiaries for the most recently ended calendar month, calculated on a pro forma basis, shall be greater than or equal to 1.00 to 1.00 and (d) the Lender shall have received a certificate of a responsible officer of Borrower demonstrating satisfaction of the foregoing conditions concurrently with such Payment Condition Event.

“Payment Condition Event” shall mean any Distribution made pursuant to Section 5.04(a)(iii), Redemption made pursuant to Section 5.04(b), loan, advance or investment made pursuant to Section 5.03(g) or any Permitted Acquisition.

“Permitted Acquisition” shall mean any Acquisition by any Loan Party in a transaction that satisfies each of the following requirements:

(a) no Default or Event of Default shall have occurred and be continuing either immediately prior to or immediately after giving effect to such Acquisition;

(b) such Acquisition is not a hostile or contested acquisition;

(c) the business acquired in connection with such Acquisition is (i) located in the United States, (ii) organized under applicable United States and state laws, and (iii) not engaged, directly or indirectly, in any line of business other than the businesses in which the Loan Parties are engaged on the Closing Date and any business activities that are substantially similar, related, or incidental thereto;

(d) if such Acquisition is an acquisition of the Stock of a Person, such Acquisition is structured so that the acquired Person shall become a wholly-owned Domestic Subsidiary of Borrower and become a Loan Party pursuant to the terms of this Agreement substantially concurrently with the consummation of such acquisition;

(e) if such Acquisition is an acquisition of assets, such Acquisition is structured so that a Loan Party shall acquire such assets;

(f) if such Acquisition is an acquisition of Stock, such Acquisition will not result in any violation of Regulation U;

(g) if such Acquisition involves a merger or a consolidation involving Borrower or any other Loan Party, such Borrower or such Loan Party, as applicable, shall be the surviving entity;

(h) no Loan Party shall, as a result of or in connection with any such Acquisition, assume or incur any direct or contingent liabilities (whether relating to environmental, tax, litigation, or other matters) that could have a Material Adverse Effect;

(i) the Payment Conditions shall have been satisfied; and

(j) the Borrower shall have furnished to Lender at least three (3) Business Days and not more than five (5) Business Days (or such shorter or longer period of time, as applicable, as may be agreed by Lender in its sole discretion) prior to the date on which any such Acquisition is to be consummated, (i) a current draft of the applicable material acquisition documents and (ii) a certificate of a responsible officer of Borrower, in form and substance reasonably satisfactory to Lender, certifying that all requirements set forth in this definition with respect to such Acquisition will be satisfied on or prior to the date of such Acquisition.

Notwithstanding anything to the contrary herein, no accounts receivables acquired in connection with such Acquisition will be included in the determination of the Borrowing Base until Lender shall have conducted a field examination of such accounts receivables, the results of which shall be satisfactory to the Lender in its Permitted Discretion.

"Permitted Discretion" shall mean a determination made by Lender in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) credit judgment in accordance with customary business practices of Lender for comparable asset-based lending transactions.

"Permitted Liens" shall have the meaning assigned to such term in Section 5.02.

"Person" shall mean any individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, trust, trustee, unincorporated organization, government or any agency or political subdivision thereof, or any other form of entity.

"Plan" shall mean any Plan subject to Title IV of ERISA and maintained by Borrower or any Subsidiary, or any such plan to which Borrower or any Subsidiary is required to contribute on behalf of its employees, other than a multiemployer plan as defined in Section 3(37) of ERISA.

"Prime Rate" shall mean the rate of interest published by The Wall Street Journal, from time to time, as the "U.S. Prime Rate".

"Property" shall mean any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"QFC" shall have 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).

"QFC Credit Support" shall have the meaning assigned to such term in Section 8.26.

"Qualified ECP Guarantor" shall mean, in respect of any Swap Agreement, each Loan Party that has total assets exceeding $10,000,000 at the time any guaranty of obligations under such Swap Agreement or grant of the relevant security interest becomes effective or otherwise constitutes an "eligible contract participant" under the Commodity Exchange Act and can cause another Person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Receipts" shall have the meaning assigned to such term in Section 2.12.

"Redemption" shall have the meaning assigned to such term in Section 5.04(b).

“Reference Time” shall mean, with respect to any setting of the then-current Benchmark, the time determined by Lender in its reasonable discretion.

“Relevant Governmental Body” shall mean the Board of Governors or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors or the Federal Reserve Bank of New York, or any successor thereto.

“Revolving Advances” shall have the meaning assigned to such term in Section 2.01(a).

“Revolving Credit Borrowing Base Report” shall have the meaning assigned to such term in Section 4.01(e).

“Revolving Credit Exposure” shall mean, at any time of determination, without duplication, the sum of (a) the outstanding principal amount of Revolving Advances at such time plus (b) LC Exposure at such time.

“Revolving Credit Note” shall mean the promissory note (whether one or more) of Borrower described in Section 2.01(a) hereof, together with all renewals, extensions, modifications and rearrangements thereof.

“RICO” shall have the meaning assigned to such term in Section 3.18.

“S&P” shall mean Standard & Poor’s Ratings Services, a division of S&P Global and any successor thereto.

“Sanctioned Country” shall mean, at any time, a country, region or territory which is itself the subject or target of any Sanctions (as of the Closing Date, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctioned Person” shall mean, at any time, any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, or by the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority, any Person operating, organized or resident in a Sanctioned Country or any Person owned or controlled by any such Person or Persons described in the foregoing clause (a) or clause (b).

“Sanctions” shall mean economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by OFAC or the U.S. Department of State, or the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority.

“SEC” shall mean the Securities and Exchange Commission or any successor Governmental Authority.

“Secured Parties” shall mean (a) Lender, (b) each affiliate of the Lender that provides Bank Products, (c) each affiliate of the Lender that is a counterparty to any Swap Agreement, (d) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Security Instrument, and (e) the successors and assigns of each of the foregoing.

“Securities Account Control Agreement” shall have the meaning assigned to such term in the Security Agreement.

“Security Instruments” shall mean this Agreement, the Note, the Security Agreement, any Guaranty Agreement, any Control Agreement, any subordination agreement, and any and all other agreements or instruments now or hereafter executed and delivered by Borrower, any Subsidiary or any other Person (other than solely by Lender and/or any bank or creditor participating in the benefits of the loans evidenced by the Notes or any collateral or security therefor) in connection with, or as security for the payment or performance of, the Notes or this Agreement (as the same may be amended, modified, supplemented or restated from time to time).

“SOFR” shall mean, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator’s Website at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day.

“SOFR Administrator” shall mean the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

“SOFR Administrator’s Website” shall mean the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“Stock” shall mean all shares, options, warrants, general or limited partnership interests, membership interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or non-voting, including common stock, preferred stock and any other “equity security” (as defined in Rule 3a11-1 of the General Rules and regulations promulgated by the Securities and Exchange Commission under the Exchange Act).

“Subsidiary” shall mean any corporation or other entity of which more than fifty percent (50%) of the issued and outstanding securities having ordinary voting power for the election of directors is owned or controlled, directly or indirectly, by Borrower and/or one or more of its Subsidiaries.

“Supported QFC” shall have the meaning assigned to such term in Section 8.26.

“Surety” or “Sureties” shall have the meanings assigned to such terms in Section 9.03(b).

“Swap Agreement” shall mean any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement, whether exchange traded, “over-the-counter” or otherwise, involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions (including any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act); provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or its Subsidiaries shall be a Swap Agreement.

“Term SOFR” shall mean, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“Trigger Period” shall mean the period (a) commencing on any day that (i) an Event of Default occurs or (ii) Availability is less than the greater of (A) $3,750,000 and (B) 15% of the Borrowing Base then in effect for three (3) consecutive Business Days; and (b) continuing until the date upon which both, during each of the preceding forty-five (45) consecutive days, (i) no Event of Default has occurred or is continuing and (ii) Availability has been more than the greater of (A) $3,750,000 and (B) 15% of the Borrowing Base then in effect.

“Unfinanced Capital Expenditures” shall mean, for any date of determination, capital expenditures of Borrower and its Subsidiaries made in cash during the twelve (12) month period then ending (but excluding capital expenditures to the extent financed with Debt (other than any Revolving Advances)); provided that in no event shall the amount of Unfinanced Capital Expenditures for any period be less than zero.

“Unadjusted Benchmark Replacement” shall mean the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Unused Line Fee” shall have the meaning assigned to such term in Section 2.13.

“USA Patriot Act” shall mean Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001), as amended, restated or modified and in effect from time to time.

"U.S." or "United States" shall mean the United States of America.

"U.S. Special Resolution Regimes" shall have the meaning assigned to such term in Section 8.26.

All words and phrases used herein shall have the meaning specified in the Texas Business and Commerce Code except to the extent such meaning is inconsistent with this Agreement. All definitions contained in this Agreement are equally applicable to the singular and plural forms of the terms defined. The words "hereof", "herein" and "hereunder" and words of similar import referring to this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement.

Section 1.02 Accounting Principles. Where the character or amount of any asset or liability or item of income or expense is required to be determined or any consolidation or other accounting computation is required to be made for the purposes of this Agreement, this shall be done in accordance with GAAP, except where such principles are inconsistent with the requirements of this Agreement.

Section 1.03 Divisions. For all purposes under this Agreement and the other Security Instruments, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Stock at such time.

Section 1.04 Rates. Lender does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the administration of, submission of, calculation of or any other matter related to the BSBY Rate or with respect to any alternative, comparable or successor rate thereto, or replacement rate thereof (including any then-current Benchmark or any Benchmark Replacement), including the selection of such rate and any related spread or other adjustment or whether the composition or characteristics of any such alternative, successor or replacement reference rate (including any Benchmark Replacement), as it may or may not be adjusted pursuant to Section 2.16, will be similar to, or produce the same value or economic equivalence of, BSBY or any other Benchmark or (b) the effect, implementation or composition of any Benchmark Replacement Conforming Changes.

ARTICLE II
AMOUNT AND TERMS OF LOANS

Section 2.01 The Loans and Commitment. Subject to the terms and conditions and relying on the representations and warranties contained in this Agreement and the other Security Instruments, Lender agrees to make the following loans to Borrower:

(a) Revolving Credit Loans.

(i) From the Closing Date through the Drawdown Termination Date, Lender will make revolving credit loans (the "Revolving Advances") to Borrower from time to time on any Business Day in such amounts as Borrower may request up to the maximum amount permitted pursuant to the terms of this Agreement, which shall be secured by all of the Collateral, and Borrower may make prepayments (as permitted or required in Sections 2.07 and 2.08 hereof), and reborrowings, in respect thereof; provided, however, that the Revolving Credit Exposure shall not exceed the Borrowing Base then in effect.

(ii) All revolving credit loans otherwise available to Borrower pursuant to the lending formulas and subject to the Borrowing Base, the Availability Limitation and other applicable limits hereunder shall be subject to Lender's continuing right to establish and revise Availability Reserves.

(iii) To evidence the Revolving Advances made by Lender pursuant to this Section, Borrower will issue, execute and deliver the Revolving Credit Note which shall be payable in full on the Drawdown Termination Date and secured by all of the Collateral.

(iv) Interest on the Revolving Credit Note shall accrue and be payable as provided in Section 2.02 hereof.

(b) Letters of Credit.

(i) Notwithstanding anything to the contrary in this Agreement, the Existing Letters of Credit shall be deemed to have issued hereunder as of the Closing Date. Subject to and upon the terms and conditions contained herein, at the request of Borrower, Lender shall provide or arrange for Letters of Credit, for the account of Borrower, containing terms and conditions acceptable to Lender and the issuer thereof. Any payments made by Lender to any issuer or beneficiary of a Letter of Credit and/or related parties in connection with a Letter of Credit shall be secured by all of the Collateral.

(ii) In addition to any charges, fees or expenses charged by any bank or issuer in connection with any Letter of Credit, Borrower shall pay to Lender a letter of credit fee at a per annum rate equal to the Applicable Margin then in effect on the daily outstanding face amount of all Letters of Credit for the immediately preceding month; provided that for: (A) the period from and after the date of termination or non-renewal hereof until Lender has received full and final payment of all obligations of Borrower hereunder (notwithstanding entry of a judgment against Borrower), and (B) the period from and after the date of the occurrence of an Event of Default for so long as such Event of Default is continuing, such letter of credit fee shall increase to two percent (2.00%) above the Applicable Margin. Such letter of credit fee shall be calculated on the basis of a three hundred sixty (360) day year and actual days elapsed and the obligation of Borrower to pay such shall survive the termination or non-renewal of this Agreement.

(iii) No Letter of Credit shall be issued, amended or extended unless, immediately after giving effect to the issuance, amendment or extension of such Letter of Credit, (A) the LC Exposure shall not exceed $3,000,000 and (B) the Revolving Credit Exposure shall not exceed the Borrowing Base then in effect.

(iv) Each Letter of Credit shall have an expiry date on or before the close of business on the earlier of (i) the date that is one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, including, without limitation, any automatic renewal provision, one year after such renewal or extension) and (ii) fourteen (14) days prior to the Drawdown Termination Date.

(v) Upon (A) the Drawdown Termination Date, or (B) the existence or the occurrence and continuance of an Event of Default, and at Lender’s request, Borrower will furnish cash collateral in an amount equal to 105% of the then-applicable LC Exposure to secure the reimbursement obligations of Borrower in connection with any Letter of Credit then outstanding.

(vi) Lender shall not 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 Lender from issuing the Letter of Credit, or any applicable law applicable to Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over Lender shall prohibit, or request that Lender refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon Lender with respect to the Letter of Credit any restriction, reserve or capital requirement (for which Lender is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon Lender any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which Lender in good faith deems material to it; (B) the Letter of Credit is to be denominated in a currency other than U.S. dollars; (C) Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; or (D) if the issuance of such Letter of Credit would violate one or more policies of Lender applicable to letters of credit generally under similar circumstances for similarly situated borrowers.

(vii) Borrower shall indemnify and hold Lender harmless from and against any and all losses, claims, damages, liabilities, costs and expenses which Lender may suffer or incur in connection with any Letter of Credit and any documents, drafts or acceptances relating thereto, including any losses, claims, damages, liabilities, costs and expenses due to (A) any action taken by any issuer or correspondent with respect to any Letter of Credit, or (B) if applicable, any fluctuation in the exchange rates for foreign currency; provided, however, that such indemnity shall

not, as to the Lender, be available to the extent that such losses, claims, damages, liabilities, costs or expenses resulted from the Lender's gross negligence or willful misconduct, IT BEING EXPRESSLY UNDERSTOOD AND AGREED THAT SUCH INDEMNITY SHALL EXTEND TO AND COVER LENDER'S NEGLIGENCE. Borrower assumes all risks with respect to the acts or omissions of the drawer under or beneficiary of any Letter of Credit and for such purposes the drawer or beneficiary shall be deemed Borrower's agent. Borrower assumes all risks for, and agrees to pay, all foreign, Federal, State and local taxes, duties and levies relating to any goods subject to any Letter of Credit or any documents, drafts or acceptances thereunder. Borrower hereby releases and holds Lender harmless from and against any acts, waivers, errors, delays or omissions, whether caused by Borrower, by any issuer or correspondent or otherwise with respect to or relating to any Letter of Credit. The provisions of this Section shall survive the payment of obligations of Borrower hereunder and the termination of this Agreement.

(viii) Nothing contained herein shall be deemed or construed to grant Borrower any right or authority to pledge the credit of Lender in any manner. Lender shall have no liability of any kind with respect to any Letter of Credit provided by an issuer other than Lender unless Lender has duly executed and delivered to such issuer the application or a guarantee or indemnification in writing with respect to such Letter of Credit. Borrower shall be bound by any interpretation made by Lender, or any other issuer or correspondent under or in connection with any Letter of Credit or any documents, drafts or acceptances thereunder, notwithstanding that such interpretation may be inconsistent with any instructions of Borrower. Lender shall have the sole and exclusive right and authority to, and Borrower shall not: (A) at any time an Event of Default has occurred and is continuing, (1) approve or resolve any questions on non-compliance of documents or (2) give any instructions as to acceptance or rejection of any documents or goods, and (B) at all times, (1) grant any extensions of the maturity of, time of payment for, or time of presentation of, any drafts, acceptances, or documents, drafts or acceptances thereunder or any letters of credit included in the Collateral. Lender may take any such actions either in its own name or in Borrower's name.

(ix) Any rights, remedies, duties or obligations granted or undertaken by Borrower to any issuer or correspondent in any application for any Letter of Credit, or any other agreement in favor of any issuer or correspondent relating to any Letter of Credit, shall be deemed to have been granted or undertaken by Borrower to Lender. Any duties or obligations undertaken by Lender to any issuer or correspondent in any application for any Letter of Credit, or any other agreement by Lender in favor of any issuer or correspondent relating to any Letter of Credit, shall be deemed to have been undertaken by Borrower to Lender and to apply in all respects to Borrower.

(x) If as a result of any regulatory change there shall be imposed, modified, or deemed applicable any tax, reserve, special deposit, or similar requirement against or with respect to or measured by reference to Letters of Credit issued or to be issued hereunder or the Lender's commitment to issue Letters of Credit hereunder, and the result shall be to increase the cost to the Lender of issuing or maintaining any Letter of Credit or its commitment to issue Letters of Credit hereunder or reduce any amount receivable by the Lender hereunder in respect of any Letter of Credit (which increase in cost, or reduction in amount receivable, shall be the result of the Lender's reasonable allocation of the aggregate of such increases or reductions resulting from such event), then, upon demand by the Lender, the Borrower agrees to pay the Lender, from time to time as specified by the Lender, such additional amounts as shall be sufficient to compensate the Lender for such increased costs or reductions in amount. A statement as to such increased costs or reductions in amount incurred by the Lender, submitted by the Lender to the Borrower, shall be conclusive as to the amount thereof, provided that the determination thereof is made on a reasonable basis.

Section 2.02 Interest Rates.

(a) Subject to any outstanding Base Rate Advances pursuant to Section 2.16(a), the outstanding principal balance of the Revolving Advances shall bear interest from the date thereof until maturity at a varying rate of interest which is the BSBY Rate plus the Applicable Margin. In no event to exceed the Maximum Nonusurious Interest Rate.

(b) Upon the occurrence and during the continuance of an Event of Default, the principal and past due interest (to the extent permitted by law) in respect of the Revolving Advances shall bear interest at a rate which is the BSBY Rate (or the Base Rate, in the case of any Base Rate Advances outstanding pursuant to Section 2.16(a)) plus the Applicable Margin, plus two percent (2.00%). In no event shall any such rate exceed the Maximum Nonusurious Interest Rate.

(c) If at any time such rate of interest would exceed the Maximum Nonusurious Interest Rate but for the provisions hereof limiting interest to the Maximum Nonusurious Interest Rate, then any subsequent reduction shall not reduce the rate of interest on the Revolving Advances below the Maximum Nonusurious Interest Rate until the aggregate amount of interest accrued on the Revolving Advances equals the aggregate amount of interest which would have accrued on the Revolving Advances if the interest rate had not been limited by the Maximum Nonusurious Interest Rate.

(d) All accrued but unpaid interest on the principal balance of the Revolving Advances shall be paid in arrears on each Interest Payment Date and on the Drawdown Termination Date, provided that interest accruing at the Default Interest Rate pursuant to Section 2.02(b) shall be payable on demand. The then outstanding principal amount of the Revolving Advances and all accrued but unpaid interest thereon shall be due and payable on the Drawdown Termination Date.

Section 2.03 Notice and Manner of Revolving Credit Borrowing.

(a) Revolving Advances under the Revolving Credit Note may be made by Lender at the written request (which may be sent via electronic mail) of any officer or agent of Borrower designated by or acting under the authority of resolutions of the board of directors, board of managers or other governing body, as applicable of Borrower, a duly certified or executed copy of which shall be furnished to Lender, until written notice of the revocation of such authority is received by Lender. Any Revolving Advance shall be conclusively presumed to have been made under the terms of the Revolving Credit Note, to or for the benefit of Borrower, or in accordance with such requests and directions, or when said Revolving Advances are deposited to the credit of the account of Borrower regardless of the fact that Persons other than those authorized hereunder may have authority to draw against such account, or may have requested a Revolving Advance. Each written request for a Revolving Advance must be received by Lender not later than 11:00 a.m. (Dallas, Texas time) on the requested date of any Revolving Advance.

(b) Lender shall be entitled to rely upon, and shall be fully protected in relying upon, any instruction, request, notice or other communication with respect to Revolving Advances or similar notices believed by Lender to be genuine. Lender may assume that each Person executing and delivering such an instruction, request or notice was duly authorized.

Section 2.04 Limitation. Lender shall have no obligation to make Revolving Advances or issue or arrange any Letter of Credit hereunder to the extent such Revolving Advance or Letter of Credit would cause the Revolving Credit Exposure to exceed the Borrowing Base then in effect. If at any time the Revolving Credit Exposure exceeds the Borrowing Base then in effect, such amount shall be deemed an “Overadvance”. Notwithstanding anything contained herein to the contrary, an Overadvance shall be considered a Revolving Advance and shall bear interest at the rates set forth in Section 2.02 and be secured by any Lien granted under the Security Instruments.

Section 2.05 Cash Dominion. During any Trigger Period, all funds credited to the Blocked Accounts shall be promptly applied by Lender to the Indebtedness whether or not such Indebtedness shall have, by its terms, matured, such application to be made to principal or interest or expenses as Lender may elect; provided, however, Lender need not apply or give credit for any item included in such sums until one Business Day after the final collection thereof; provided, further, however, that Lender’s failure to so apply any such sums shall not be a waiver of Lender’s right to so apply such sums or any other sums at any time during a Trigger Period. Notwithstanding anything herein to the contrary, to the extent any funds credited to the Blocked Accounts constitute Net Cash Proceeds that are otherwise required to be utilized to prepay the Revolving Advances pursuant to Section 2.08, the application of such Net Cash Proceeds shall be subject to Section 2.08. Notwithstanding anything herein to the contrary, amounts received from the Borrower or any Guarantor that is not an “eligible contract participant” under the Commodity Exchange Act shall not be applied to any Excluded Swap Obligations.

Section 2.06 Computation. All payments of interest shall be computed on the per annum basis of a year of three hundred sixty (360) days and for the actual number of days (including the first but excluding the last day) elapsed unless such calculation would result in a usurious rate, in which case interest shall be calculated on a per annum

basis of a year of three hundred sixty-five (365) days or three hundred sixty-six (366) days, as the case may be. Each determination by Lender of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.07 Voluntary Prepayments and Reborrowings. Borrower shall have the right to prepay Revolving Advances without premium or penalty, in whole or in part from time to time upon one (1) Business Day prior written notice to Lender. The unpaid principal balance of the Notes at any time shall be the total amounts loaned or advanced thereunder by Lender, less the amount of payments or prepayments of principal made thereon by or for the account of Borrower. It is contemplated that by reason of prepayments thereon there may be times when no Indebtedness is owing thereunder; but notwithstanding such occurrences, the Notes and Security Instruments shall remain valid and be in full force and effect as to loans or advances made pursuant to and under the terms of the Notes subsequent to each such occurrence. All loans or advances and all payments or prepayments made thereunder on account of principal or interest may be evidenced by Lender, or any subsequent holder, maintaining in accordance with its usual practice an account or accounts evidencing the Indebtedness of Borrower resulting from all loans or advances and all payments or prepayments thereunder from time to time and the amounts of principal and interest payable and paid from time to time thereunder, in which event, in any legal action or proceeding in respect of the Notes, the entries made in such account or accounts shall be conclusive evidence of the existence and amounts of the obligations of Borrower therein recorded (absent manifest error).

Section 2.08 Mandatory Prepayments. Borrower shall make a prepayment of the Revolving Advances upon the occurrence of any of the following, at the following times and in the following amounts:

(a) If at any time an Overadvance exists, the Borrower shall immediately repay the amount of such Overadvance plus all accrued and unpaid interest thereon.

(b) Within one (1) Business Day after the receipt by any Loan Party of any Net Cash Proceeds from any Asset Disposition not otherwise permitted by Section 5.05, then the Borrower shall prepay the Revolving Advances in an amount equal to one hundred percent (100%) of such Net Cash Proceeds.

(c) Within one (1) Business Day after receipt by any Loan Party of any Net Cash Proceeds from any issuance of Stock of any Loan Party (excluding (x) any issuance of Stock pursuant to any employee or director option program, benefit plan or compensation program and (y) any issuance by a Loan Party to any other Loan Party), Borrower shall prepay the Revolving Advances in an amount equal to fifty percent (50%) of such Net Cash Proceeds.

(d) Concurrently with the receipt by any Loan Party of any Net Cash Proceeds from any issuance of any Debt not permitted to be incurred under Section 5.01, Borrower shall prepay the Revolving Advances in an amount equal to one hundred percent (100%) of such Net Cash Proceeds.

Prepayments received under Section 2.08 shall be applied to reduce the outstanding principal balance of the Revolving Credit Note.

Section 2.09 Cross-collateralization and Default. The Security Instruments, including this Agreement, the Notes and any other instrument given in connection with, or as security for, any Indebtedness of Borrower or any Subsidiary, shall serve as security one for the other, and an event of default under the Notes, this Agreement or any such instrument shall constitute an event of default under all such other instruments.

Section 2.10 Operating Accounts. Attached hereto as Schedule 2.11 is a listing of all present operating accounts which are checking or other demand daily depository accounts maintained by Borrower (the “Operating Accounts”) together with the address of the depository, the account number(s) maintained with such depository, and a contact person at such depository. To induce Lender to establish the interest rates provided for herein and in order to enable Lender to more fully monitor Borrower’s financial condition, Borrower will use Lender as its primary depository bank for the maintenance of business, cash management, operating and administrative accounts.

Section 2.11 Cash Collateral Blocked Accounts. Borrower and Lender shall establish with Lender certain lockboxes and blocked accounts as agreed upon by the Lender (collectively "Blocked Accounts"), for the benefit of Lender, for the deposit of all receipts and collections in accordance with Section 2.12 hereof, pursuant to executed Deposit Account Control Agreements in form and substance satisfactory to Lender, in its reasonable discretion. All receipts and collections deposited in such Blocked Accounts shall be pledged to Lender and forwarded on a daily basis to an account held by Lender. During a Trigger Period, proceeds received from such Blocked Accounts shall be applied against any Indebtedness owing by Borrower to Lender and shall be applied in accordance with Section 2.05 hereof. Only Lender shall have the right to direct withdrawals from such Blocked Accounts. Each bank at which any such Blocked Account is maintained shall waive any right of offset such bank may otherwise have in such Blocked Account and the items deposited therein. Borrower shall pay all fees and charges as may be required by any depository in which such Blocked Accounts are opened. Subject to Section 4.13, Borrower shall provide Lender with the duly executed Deposit Account Control Agreement related to such Blocked Accounts. Subject to Section 4.13, each Loan Party covenants and agrees to notify all of its customers and account debtors in writing on or before such date set forth in Section 4.13 directing such customers and account debtors to forward all current and future remittances and/or payments owed to such Loan Party to the Blocked Accounts. All of the Loan Parties' deposit accounts as of the Closing Date are set forth in Schedule 2.11. Schedule 2.11 sets forth all of the Loan Parties' deposit accounts as of the Closing Date constituting Excluded Accounts.

Section 2.12 Collection of Accounts.

(a) All receipts of cash, cash equivalents, checks, credit card receipts, drafts, instruments, and other items of payment arising out of the sale of inventory or other Property of the Loan Parties or the creation of accounts receivable, including without limitation, insurance proceeds and tax refunds (referred to as "Receipts"), and all Property of the Loan Parties in which Lender has a security interest or Lien, shall be deposited daily into one or more of the Blocked Accounts, and shall be held in trust by such Loan Party for Lender until so deposited.

(b) In the event, notwithstanding the provisions of this Section, any Loan Party receives or otherwise has dominion and control of any Receipts, or any proceeds or collections of any Property of the Loan Parties in which Lender has a security interest or Lien, such Receipts, proceeds, and collections shall be held in trust by such Loan Party for Lender and shall not be commingled with any of such Loan Party's other funds or deposited in any account of such Loan Party other than a Blocked Account.

Section 2.13 Unused Line Fee. If the average daily Revolving Credit Exposure shall be less than the Maximum Revolving Facility in any calendar month, Borrower shall pay to Lender on the first (1st) day of the next succeeding calendar month a fee (the "Unused Line Fee") equal to 0.25% per annum of the amount by which the Maximum Revolving Facility exceeds the average daily Revolving Credit Exposure. The Unused Line Fee shall be calculated on the basis of a three hundred sixty (360) day year for the actual number of days elapsed and shall be payable for the entire term of this Agreement, including all renewal terms, or for so long as any of the Indebtedness is outstanding.

Section 2.14 Closing Fee. Borrower shall pay to Lender on the Closing Date a fee in the amount of $62,500 with respect to the Commitment (collectively, the "Closing Fee"), and, to the maximum extent permitted by applicable law, such fees shall not be deemed interest.

Section 2.15 Illegality. If any applicable law or regulation has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for Lender to make, maintain or fund Revolving Advances whose interest is determined by reference to the BSBY Rate, or to determine or charge interest rates based upon the BSBY Rate, then, on notice thereof by Lender to Borrower, any obligation of Lender to make or continue BSBY Rate Advances shall be suspended until Lender notifies Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, Borrower shall, upon demand from Lender, prepay all BSBY Rate Advances either on the last day of the Interest Period therefor, if Lender may lawfully continue to maintain BSBY Rate Advances to such day, or immediately, if Lender may not lawfully continue to maintain BSBY Rate Advances. Upon any such prepayment, Borrower shall also pay accrued interest on the amount so prepaid or converted.

Section 2.16 Changed Circumstances; Benchmark Replacement.

(a) Changed Circumstances. Subject to clause (b) below, if prior to the commencement of any Interest Period for any Benchmark Rate Advance,

(i) Lender determines (which determination shall be conclusive and binding absent manifest error) in connection with any request for a Benchmark Rate Advance or continuation thereof or otherwise, that for any reason adequate and reasonable means do not exist for determining the applicable Benchmark for any requested Interest Period with respect to a proposed Benchmark Rate Advance (provided that no Benchmark Transition Event shall have occurred at such time); or

(ii) Lender determines that the applicable Benchmark for any requested Interest Period with respect to a proposed BSBY Rate Advance will not adequately and fairly reflect the cost to Lender of funding or maintaining the Benchmark Rate Advances included in such Revolving Advance for such Interest Period,

then Lender will promptly so notify Borrower. Thereafter, until Lender revokes such notice, Borrower may continue to borrow and maintain outstanding Revolving Advances hereunder, and each Revolving Advance made or outstanding hereunder shall accrue interest at the Base Rate plus the Applicable Margin. Upon receipt of such notice, Borrower may revoke any pending request for a Revolving Advance of, conversion to or continuation of Benchmark Rate Advance.

(b) Benchmark Replacement Setting.

(i) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Security Instrument, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then if a Benchmark Replacement is determined in accordance with any of clauses (a), (b) or (c) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Security Instrument in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Security Instrument.

(ii) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, Lender will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Security Instrument, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Security Instrument.

(iii) Notices; Standards for Decisions and Determinations. Lender will promptly notify Borrower of (A) any occurrence of a Benchmark Transition Event and its related Benchmark Replacement Date, (B) the implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes, (D) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (iv) below and (E) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Lender pursuant to this Section 2.16(b), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Security Instrument, except, in each case, as expressly required pursuant to this Section 2.16(b).

(iv) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Security Instrument, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including BSBY or Term SOFR) and either (1) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by Lender in its reasonable discretion or (2) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such

Benchmark is or will be no longer representative, then Lender may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to clause (i) above either (1) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (2) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then Lender may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(v) Benchmark Unavailability Period. Upon Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, Borrower may revoke any request for a Benchmark Rate Advance of, conversion to or continuation of Benchmark Rate Advance to be made, converted or continued during any Benchmark Unavailability Period.

(vi) BSBY Replacement. Notwithstanding anything to the contrary in this Agreement or any other Security Instrument, at any time that BSBY is the then current Benchmark, if Lender determines (which determination shall be conclusive absent manifest error), or the Borrower notifies Lender that Borrower has determined, that:

(A) adequate and reasonable means do not exist for ascertaining a one month interest period of BSBY, including, without limitation, because the BSBY Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(B) Bloomberg or any successor administrator of the BSBY Screen Rate or a Governmental Authority having jurisdiction over Lender or Bloomberg or such administrator has made a public statement identifying a specific date after which one month interest period of BSBY or the BSBY Screen Rate shall or will no longer be representative or made available, or used for determining the interest rate of loans, or shall or will otherwise cease, provided that, at the time of such statement, there is no successor administrator that is satisfactory to Lender, that will continue to provide such representative interest period of BSBY after such specific date (the latest date on which one month interest period of BSBY or the BSBY Screen Rate are no longer representative or available permanently or indefinitely, the "Scheduled Unavailability Date");

then, on a date and time determined by Lender (any such date, the "BSBY 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 (B) above, no later than the Scheduled Unavailability Date, BSBY will be replaced hereunder and under any Security Instrument with a Benchmark Replacement determined in accordance with the definition thereof.

Section 2.17 Uncommitted Increase to the Maximum Revolving Facility.

(a) Request for Increase. Provided no Event of Default has occurred and is continuing, upon notice to Lender, Borrower may from time to time, request that the Lender increase to the Maximum Revolving Facility by an additional amount not to exceed $5,000,000; provided that (i) the Maximum Revolving Facility shall in no event exceed $25,000,000 after giving effect to all such increases implemented pursuant to this Section 2.17, (ii) any such request for an increase shall be in a minimum amount of $5,000,000, and (iii) Borrower may make a maximum of one such request.

(b) Conditions to Effectiveness of Increase. As a condition precedent to such increase, (i) each Loan Party shall deliver to Lender a certificate of such Loan Party dated as of the date of such increase, signed by a responsible officer of such Loan Party, in each case in form and substance satisfactory to Lender, (A) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, and (B) in the case of Borrower, certifying that, before and after giving effect to such increase, (x) the representations and warranties contained in Article III and the other Security Instruments are true and correct in all material respects (or, if qualified by "materiality," "Material Adverse Effect" or similar language, in all respects after giving effect to such qualification) on and as of the date of such increase, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date (or, if qualified by

"materiality," "Material Adverse Effect" or similar language, in all respects as of such earlier date after giving effect to such qualification), (y) no Default has occurred and is continuing and (z) the Borrower is in pro forma compliance with the financial covenant contained in Section 5.13 and (ii) the Borrower shall deliver to Lender legal opinions and other documents consistent with those delivered on the Closing Date, to the extent requested by the Lender.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

In order to induce Lender to enter into this Agreement, each Loan Party represents and warrants to Lender (which representations and warranties will survive the delivery of the Notes and the making of the loans thereunder) and upon each request for a loan represents and warrants to Lender that:

Section 3.01 Existence. Each Loan Party is duly organized, legally existing and in good standing under the laws of the jurisdiction in which it is organized and is duly qualified as a foreign entity in all jurisdictions in which the nature of its business makes such qualification necessary and where failure to so qualify could result in a Material Adverse Effect. Neither Borrower nor any other Loan Party has been known as or used any fictitious or trade names except those listed on Schedule 3.01 attached hereto. Except as set forth on Schedule 3.01, neither Borrower nor any of its Subsidiaries has been the survivor of a merger or consolidation or acquired all or substantially all of the assets of any Person. On the date hereof, the chief executive offices of each Loan Party and each Loan Party's records concerning its accounts receivable are located only at the address set forth on Schedule 3.01 and its only other places of business and the only other locations of Collateral (together with the owners and/or operators thereof), if any, are the addresses set forth on Schedule 3.01, subject to the right of the Loan Parties to establish new locations in accordance with the terms of this Agreement.

Section 3.02 Power and Authorization. Borrower is duly authorized and empowered to create, execute and issue the Notes; and Borrower and each Loan Party are duly authorized and empowered to execute, deliver and perform this Agreement and the other Security Instruments to which it is a party; and all action on Borrower's or any Loan Party's part requisite for the due creation and issuance of the Notes and for the due execution, delivery and performance of the Security Instruments, including this Agreement, to which Borrower or any Loan Party is a party has been duly and effectively taken. The board of directors, board of managers or other governing body, as applicable, of each Loan Party acting pursuant to a duly called and constituted meeting, after proper notice, or pursuant to valid and unanimous consent, has determined (a) that entry into and performance of this Agreement and each of the other documents to which such Loan Party is a party, directly or indirectly benefits such Loan Party and (b) that adequate and fair consideration and reasonably equivalent value has been received by such Loan Party to execute and perform this Agreement and each of the other documents to which it is a party.

Section 3.03 Binding Obligations. This Agreement does constitute, and the Notes and other Security Instruments to which Borrower or any Loan Party is a party upon their creation, issuance, execution and delivery will constitute, valid and binding obligations of Borrower or such Loan Party, as the case may be, enforceable in accordance with their respective terms.

Section 3.04 No Legal Bar or Resultant Lien. The Notes, this Agreement and the other Security Instruments to which Borrower or any Loan Party is a party, do not and will not (a) violate any provisions of the Constituent Documents of Borrower or any Loan Party, or any contract, agreement, instrument, law, regulation, order, injunction, judgment, decree or writ to which Borrower or any Loan Party is subject or to which its Properties is bound, or (b) result in the creation or imposition of any Lien upon any Properties of Borrower or any Loan Party, other than those contemplated by this Agreement.

Section 3.05 No Consent. The execution, delivery and performance of the Notes, this Agreement and the other Security Instruments to which Borrower or any Loan Party is party do not require the consent or approval of any other Person, including, without limitation, any regulatory authority or governmental body of the United States or any state thereof or any political subdivision of the United States or any state thereof.

Section 3.06 Financial Condition. The audited consolidated financial statements of the Borrower and its Subsidiaries for the fiscal year ending December 31, 2020 and the unaudited, consolidated financial statements of Borrower and its Subsidiaries for the fiscal quarters ending March 31, 2021, June 30, 2021 and September 30, 2021, in each case, which have been delivered to Lender, have been prepared from the books and records of Borrower in accordance with GAAP, consistently applied, and present fairly, in all material respects, the financial condition and results of the operations of Borrower and its Subsidiaries as at the date or dates and for the period or periods stated. There has been no Material Adverse Effect, except as disclosed to Lender in writing.

Section 3.07 [Reserved].

Section 3.08 Ownership. As of the Closing Date, the authorized capital Stock of each of the Borrower's Subsidiaries, and the number and ownership of all outstanding capital Stock of each of the Borrower's Subsidiaries is as set forth on Schedule 3.08 attached hereto. As of the Closing Date, there are no outstanding subscriptions, warrants, options, calls, commitments, convertible securities or other agreements to which Borrower or any of its Subsidiaries is a party or by which it is bound, calling for the issuance of any capital Stock or securities convertible into capital Stock of Borrower or any Subsidiary, except as disclosed on Schedule 3.08.

Section 3.09 Liabilities. Except for liabilities (a) incurred in the normal course of business, (b) described in the Financial Statements or (c) otherwise set forth on the schedules hereto or to any Security Instrument, neither Borrower nor any of its Subsidiaries has liabilities, direct or contingent, owing to any Person other than Lender. Except as described in the Financial Statements, or as otherwise disclosed to Lender in writing, there is no litigation, legal or administrative proceeding, investigation or other action of any nature pending or, to the knowledge of Borrower, threatened against Borrower or any of its Subsidiaries (i) which would reasonably be expected to have a Material Adverse Effect or (ii) that involves the validity or enforceability of any Security Instrument (including any provision relating to the Loan Parties' obligation to repay the Indebtedness or any provision relating to the validity or perfection of any Lien created by any Security Instrument).

Section 3.10 Taxes; Governmental Charges. Borrower and each of its Subsidiaries have filed all tax returns and reports required to be filed and have paid all taxes, assessments, fees and other governmental charges levied upon it, other than, in each case, (a) those which are being contested in good faith by appropriate proceedings and for which the Borrower has set aside on its books adequate reserves to the extent required by GAAP, or (b) to the extent the failure to pay would not reasonably be expected to have a Material Adverse Effect. Borrower knows of no pending investigation of Borrower or any of its Subsidiaries by any taxing authority in connection with any material taxes or of any pending but unassessed material tax liability of Borrower or any of its Subsidiaries.

Section 3.11 Title. Borrower and each of its Subsidiaries have good and indefeasible title to their respective material Properties, free and clear of all Liens, except for Permitted Liens.

Section 3.12 Defaults. Neither Borrower nor any of its Subsidiaries is in default under any indenture, mortgage, deed of trust, agreement or other instrument to which Borrower or any of its Subsidiaries is a party or by which Borrower or any of its Subsidiaries is bound, except as disclosed to Lender in writing or that would not reasonably be expected to result in a Material Adverse Effect. No Default or Event of Default hereunder has occurred and is continuing.

Section 3.13 Use of Proceeds; Margin Stock. The proceeds of the Revolving Advances will be used by Borrower (a) to repay existing Debt on the Closing Date, (b) for fees and expenses incurred in connection with the consummation of this Agreement and the transactions contemplated thereby and (c) as working capital for the business of the Borrower and its Subsidiaries. None of such proceeds will be used for, and neither Borrower nor any Loan Party are engaged in the business of, extending credit for the purpose of purchasing or carrying any "margin stock" as defined in Regulation U of the Board of Governors of the Federal Reserve System (12 C.F.R. Part 221), or for the purpose of reducing or retiring any Debt which was originally incurred to purchase or carry margin stock or for any other purpose which would constitute this transaction a "purpose credit" within the meaning of said Regulation U. No part of the proceeds of the loans evidenced by the Notes will be used for any purpose which violates Regulation X of the Board of Governors of the Federal Reserve System (12 C.F.R. Part 224). Neither

Borrower nor any Loan Party nor any Person acting on behalf of Borrower or any Loan Party has taken or will take any action which would cause the Notes or any of the Security Instruments, including this Agreement, to violate Regulation U or any other regulation of the Board of Governors of the Federal Reserve System or to violate the Exchange Act or any rule or regulation thereunder, in each case as now in effect or as the same may hereafter be in effect. No part of the proceeds of any Revolving Advance will be used directly or indirectly to fund any operations in, finance any investment or activities in or make any payments to, a Sanctioned Person, or in any other matter that will result in any violation by any Person (including Lender) of any Anti-Corruption Laws or any Sanctions.

Section 3.14 Compliance with the Law. Neither Borrower nor any of its Subsidiaries:

(a) is in violation of any law, ordinance, or governmental rule or regulation to which Borrower or any of its Subsidiaries or any of their respective Properties are subject, including but not limited to, those laws, ordinances and governmental rules and regulations regarding employee wages and overtime, that would reasonably be expected to result in a Material Adverse Effect;

(b) has failed to obtain any license, certificate, permit, franchise or other governmental authorization necessary for the operation of its businesses, in each case, the failure to do so would reasonably be expected to result in a Material Adverse Effect; or

(c) has failed to obtain any other license, certificate, permit, franchise or other governmental authorization necessary to the ownership of any of their respective Properties or the conduct of their respective businesses; which violation or failure would reasonably be expected to result in a Material Adverse Effect.

Section 3.15 ERISA. Each Loan Party is in compliance in all material respects with the applicable provisions of ERISA, and no “reportable event,” as such term is defined in Section 4043 of ERISA, has occurred with respect to any Plan of Borrower or any of its Subsidiaries.

Section 3.16 Subsidiaries. A list of all the existing Subsidiaries of Borrower as of the date hereof is provided on Schedule 3.16 attached hereto and incorporated by reference.

Section 3.17 Direct Benefit From Loans. Borrower has received or, upon the execution and funding thereof, will receive (a) direct benefit from the making and execution of this Agreement and the other documents to which it is a party, and (b) fair and independent consideration for the entry into, and performance of, this Agreement and the other Security Instruments to which it is a party.

Section 3.18 RICO. Neither Borrower nor any Guarantor is in violation of any laws, statutes or regulations, including, without limitation, the Racketeer Influenced and Corrupt Organization Act of 1970, as amended (“RICO”), which contain provisions which could potentially override Lender’s security interest in the Collateral.

Section 3.19 Leases and Inventory Locations. Borrower and/or the Guarantors are parties to certain lease agreements pertaining to real property upon which Borrower or a Guarantor operates its business and certain material personal property leases (each individually, a “Lease” and collectively, the “Leases”). Schedule 3.19 attached hereto sets forth, as of the date hereof, the landlord(s) of the Property associated with each real estate Lease, the expiration date of the respective Lease, and any renewal notice period of each Lease. Schedule 3.19 is complete and correct and fully and accurately describes all real estate Leases to which Borrower and/or any other Loan Party is a party as of the date hereof.

Section 3.20 Patents, Trademarks, Copyrights and Licenses. To the knowledge of the Borrower, each Loan Party owns or possesses all the patents, trademarks, service marks, trade names, copyrights and licenses necessary for the present and planned future conduct of its business without any known conflict with the rights of others, except to the extent such failure to own, license or possess, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. As of the Closing Date, all such patents, trademarks, service marks, trade names, copyrights, licenses and other similar rights are listed on Schedule 3.20 attached hereto.

Section 3.21 Perfection of Liens. The security interests and Liens granted to Lender under this Agreement and the other Security Instruments constitute valid and perfected Liens and security interests in and upon the Collateral.

Section 3.22 [Reserved].

Section 3.23 Patriot Act. Neither Borrower nor any of its Subsidiaries is in violation of any applicable anti-money laundering law or regulation in any material respect.

Section 3.24 Anti-Corruption Laws and Sanctions. The Borrower has implemented and maintains in effect policies and procedures designed to promote and achieve compliance by the Borrower and its Subsidiaries with applicable Anti-Corruption Laws and applicable Sanctions. The Borrower and its Subsidiaries are in compliance with applicable Anti-Corruption Laws and applicable Sanctions in all material respects. None of the Borrower or its Subsidiaries, or any of their respective directors, officers or, to the knowledge of the Borrower, employees or agents that will act in any capacity in connection with the credit facility established hereby, is a Sanctioned Person.

Section 3.25 Solvency. After giving effect to the transactions contemplated hereby (including, without limitation, each Revolving Advance and issuance of a Letter of Credit), the aggregate assets (after giving effect to amounts that could reasonably be received by reason of indemnity, offset, insurance or any similar arrangement), at a fair valuation, of the Loan Parties, taken as a whole, will exceed the aggregate liabilities of the Loan Parties on a consolidated basis, as their liabilities become absolute and mature, each of the Loan Parties will not have incurred or intended to incur, and will not believe that it will incur, liabilities beyond its ability to pay such liabilities (after taking into account the timing and amounts of cash to be received by each of the Loan Parties and the amounts to be payable on or in respect of its liabilities, and giving effect to amounts that could reasonably be received by reason of indemnity, contribution, reimbursement, subrogation, offset, insurance or any similar arrangement) as such liabilities become absolute and mature, and each of the Loan Parties will not have (and will have no reason to believe that it will have thereafter) unreasonably small capital for the conduct of its business.

Section 3.26 Swap Agreements and Qualified ECP Guarantor. Schedule 3.26, as of the date hereof, sets forth a true and complete list of all Swap Agreements of the Borrower and its Subsidiaries, the material terms thereof (including the type, term, effective date, termination date and notional amounts or volumes), the net mark to market value thereof, all credit support agreements relating thereto (including any margin required or supplied) and the counterparty to each such agreement. The Borrower is a Qualified ECP Guarantor.

Section 3.27 Disclosure.

(a) The reports, financial statements, certificates or other information furnished by or on behalf of Borrower or any of its Subsidiaries to Lender of any of its Affiliates in connection with the negotiation of this Agreement or any other Security Instrument or delivered hereunder or under any other Security Instrument (taken as a whole) do not contain any untrue statement of a material fact or omit any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not misleading as of the time when made or delivered, giving effect to all supplements and updates thereto; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time. There is no fact or circumstance that the Borrower has failed to disclose to Lender in writing that would reasonably be expected to have a Material Adverse Effect.

(b) As of the Closing Date, the information included in the Beneficial Ownership Certification, if any, is true and correct in all respects.

Section 3.28 Investment Company. Neither the Borrower nor any of its Subsidiaries is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

ARTICLE IV
AFFIRMATIVE COVENANTS

Without the prior written consent of Lender, Borrower will at all times comply with the covenants contained in this Article IV, from the Closing Date until the principal of and interest on each Revolving Advance and all fees payable hereunder and all other amounts payable under the Security Instruments shall have been paid in full (in each case, other than contingent indemnification and expense reimbursements amounts for which no claim has been made) and all Letters of Credit shall have expired or terminated and all LC Disbursements shall have been reimbursed and the Commitment have expired or been terminated, the Borrower covenants and agrees with the Lenders that:

Section 4.01 Financial Statements and Reports. Borrower and all of its Subsidiaries will promptly furnish to Lender from time to time upon request such information regarding the business and affairs and financial condition of Borrower and all its Subsidiaries as Lender may reasonably request, and will furnish to Lender:

(a) Annual Financial Statements. As soon as available and in any event within one hundred twenty (120) days after the close of each fiscal year of Borrower (or, if earlier, on the date on which such financial statements are required to be filed with the SEC after giving effect to any permitted extensions pursuant to Rule 12b-25 under the Exchange Act)), commencing with the fiscal year ending December 31, 2021, audited Financial Statements of Borrower and its Subsidiaries, consisting of the consolidated balance sheets of Borrower and its Subsidiaries as at the end of such year and the consolidated operating statements of Borrower and its Subsidiaries, as at the end of such year (showing income, expenses and surplus), setting forth in each case in comparative form figures for the previous fiscal year, in a manner acceptable to Lender and certified by a nationally recognized independent public accounting firm acceptable to Lender (without a "going concern" or like qualification, commentary or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP consistently applied.

(b) Monthly Financial Statements. As soon as available and in any event within thirty (30) days after the end of each calendar month, commencing with the calendar month ending December 31, 2021, the consolidated (i) balance sheets of Borrower and its Subsidiaries, at the end of such month, (ii) cash flow statements of Borrower and its Subsidiaries, and (iii) operating statements of Borrower and its Subsidiaries, for such month (showing income, expenses and surplus for such month and for the period from the beginning of the fiscal year to the end of such month), in a manner acceptable to Lender and certified by the chief financial officer or treasurer of Borrower as presenting fairly in all material respects the financial condition and results of operations of Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes.

(c) Projections.

(i) Not earlier than thirty (30) days before and not later than forty-five (45) days after the end of each fiscal year of Borrower, monthly projections for Borrower and its Subsidiaries for the following year, consisting of the consolidated (i) balance sheets of Borrower and its Subsidiaries, (ii) cash flow statements of Borrower and its Subsidiaries, and (iii) operating statements of Borrower and its Subsidiaries (showing income, expenses and surplus), in a manner acceptable to Lender and certified by the chief financial officer or treasurer of Borrower.

(d) Account Agings. As soon as available and in any event within twenty-five (25) days (or earlier if deemed necessary by Lender in its sole discretion during a Trigger Period) after the end of each calendar month, consolidated agings of all accounts payable and accounts receivable of Borrower (the "Account Agings") showing each such account which is current and each such account which is thirty (30), sixty (60), ninety (90), and over ninety (90) days past invoice date and, with respect to accounts receivable, reconciling such aging with the Revolving Credit Borrowing Base Reports.

(e) Revolving Credit Borrowing Base Reports. On or before twenty-five (25) days after the end of each calendar month, a report in such form as Lender may request (each a "Revolving Credit Borrowing Base Report"), reflecting the Eligible Accounts of the Loan Parties as of the end of the preceding month and calculating the Accounts Advance Amount based thereon, together with the Account Agings, cash receipt journals or copies of checks, invoices for new billings and backup for all miscellaneous credits and debits, which support such Revolving Credit

Borrowing Base Report; provided that if a Trigger Period is in effect, a Revolving Credit Borrowing Base Report and related documentation shall be due on or before the third (3rd) Business Day of each week reflecting the Eligible Accounts of the Loan Parties as of the end of the preceding week and calculating the Accounts Advance Amount based thereon. Such report shall also reflect the amount of sales and receipts of the Loan Parties during the preceding period and such other information as Lender may reasonably request.

(f) Field Examination. Each Loan Party shall, and shall cause each of its Subsidiaries to, permit any representatives designated by Lender (including any consultants, accountants, lawyers and appraisers retained by Lender) to conduct third-party field exams of the account receivables of the Loan Parties all at the expense of Borrower (subject to the limitations set forth in this clause (f)) and at such reasonable times. The Loan Parties shall be responsible for the costs and expenses of (i) one third-party field examination during any twelve (12) month period or (ii) up to two field examinations during any twelve (12) month period in the event a Trigger Period occurs or is in effect during such period. Additionally, there shall be no limitation on the number or frequency of third-party field examinations if an Event of Default has occurred and is continuing, and the Loan Parties shall be responsible for the costs and expenses of any third-party field examinations incurred as a result thereof and while such Event of Default is continuing.

(g) Monthly Bank Statements. If requested by Lender, as soon as available and in any event within twenty-five (25) days (or earlier if deemed necessary by Lender in its sole discretion during a Trigger Period) after the end of each calendar month, a copy of all bank statements on all cash accounts of Borrower.

(h) Compliance Certificates. Concurrently with any delivery of financial statements under clauses (a) or (b) above, a compliance certificate of a responsible officer of the Borrower in form and substance reasonably acceptable to the Lender certifying, in the case of the financial statements delivered under clauses (a) or (b) above, as applicable, that such statements present fairly in all material respects the financial condition and results of operations of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes, certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, setting forth reasonably detailed calculations demonstrating compliance with Section 5.13 (and detailed calculations of the Fixed Charge Coverage Ratio, regardless if Section 5.13 is then being tested) and stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements most recently delivered pursuant to clause (a) above and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate.

(i) Management Letters. Promptly upon receipt thereof, a copy of any management letter or written report submitted to Borrower or any of its Subsidiaries by independent certified public accountants with respect to the business, condition (financial or otherwise), operations, prospects, or Properties of Borrower or any of its Subsidiaries.

(j) Notice of Certain Changes. Promptly, (i) notice of any material change in the business conducted or otherwise permitted under this Agreement by Borrower or any of its Subsidiaries, (ii) copies of any amendment, restatement, supplement or other modification to any of the Constituent Documents of Borrower or any of its Subsidiaries and (iii) notice 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 parts (c) or (d) of such certification.

All Financial Statements referred to in this Section shall be in such detail as Lender may reasonably request and shall conform to GAAP applied on a consistent basis, except only for such changes in accounting principles or practice with which independent certified public accountants concur.

Section 4.02 Compliance with Laws; Payment of Taxes and Other Claims. Borrower will and will cause each Subsidiary to (a) observe and comply with all laws, statutes, codes, acts, ordinances, rules, regulations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers applicable to it, except where the failure to so observe or comply would not reasonably be expected to result in a Material Adverse Effect, and (b) pay and discharge promptly all taxes, charges,

Liens, assessments and governmental charges or levies imposed upon Borrower or any Subsidiary or upon the income or any Property of Borrower or any Subsidiary as well as all claims of any kind (including claims for labor, materials, supplies and rent) which, if unpaid, would become a Lien upon any or all of the Property of Borrower or any Subsidiary, in each case, except to the extent the failure to pay, discharge or satisfy the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; provided, however, that, subject to the written approval of Lender, neither Borrower nor any Subsidiary shall be required to pay any such tax, assessment, charge, levy or claim if the amount, applicability or validity thereof shall currently be contested by appropriate proceedings diligently conducted and if Borrower or any Subsidiary shall have set up reserves therefor adequate under GAAP; provided, further, however, that Lender (at its sole discretion) may, if Borrower fails to do so, pay any such amounts owed by Borrower, and shall be the sole judge of the legality or validity of such amounts and the amount necessary to discharge same.

Section 4.03 Maintenance. Subject to any transaction permitted pursuant to Section 5.07, Borrower will and will cause each of its Subsidiaries to: (a) maintain its corporate, limited liability company or partnership, as the case may be, existence, rights and franchises; (b) maintain its Properties (tangible and intangible) necessary or useful in the proper conduct of its business in good working order and condition (ordinary wear and tear excepted); (c) protect the title to the Collateral; and (d) maintain and keep books of records and accounts, all in all material respects in accordance with GAAP, consistently applied, of all dealings and transactions in relation to its business and activity, except, in the case of the foregoing clauses (a) (other than with respect to the existence of any Loan Party), (b) and (c), to the extent the failure to do so would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

Section 4.04 Further Assurances. Borrower will and will cause each Subsidiary to cure promptly any defects in the creation and issuance of the Notes and the execution and delivery of the Security Instruments, including, without limitation, this Agreement. Borrower at its expense will promptly execute and deliver to Lender upon its reasonable request all such other and further documents, agreements and instruments, and do all such additional and further acts, filings, deeds and give such assurances necessary or appropriate in order to effectuate the agreements of Borrower or any Subsidiary in the Security Instruments, including, without limitation, this Agreement, or to further evidence and more fully describe the collateral intended as security for the Notes, or to correct any omissions in the Security Instruments, or more fully to state the security obligations set out herein or in any of the Security Instruments, or to perfect, protect or preserve any Liens created pursuant to any of the Security Instruments, or to make any recordings, to file any notices, or obtain any consents, all as may be necessary or appropriate in connection therewith.

Section 4.05 Performance of Obligations. Borrower will pay the Notes according to the reading, tenor and effect thereof; and Borrower will do and perform every act and discharge all of the obligations provided to be performed and discharged by Borrower under the Security Instruments, including this Agreement, at the time or times and in the manner specified, and cause each Subsidiary to take such action with respect to their obligations to be performed and discharged under the Security Instruments to which they respectively are parties.

Section 4.06 Reimbursement of Expenses. Borrower will promptly pay all reasonable fees and expenses incurred by Lender in connection with the preparation, amendment, interpretation, administration and enforcement of this Agreement and any and all other Security Instruments contemplated hereby, including but not limited to legal fees and expenses and expenses incurred in connection with any appraisals and field examinations required under Section 4.01. Borrower will promptly reimburse Lender for all amounts expended, advanced or incurred by Lender to satisfy any obligation of Borrower or any Loan Party under this Agreement or any other Security Instrument, or to protect the Properties or business of Borrower or any Subsidiary or to collect the Notes, or to enforce the rights of Lender under this Agreement, the Notes, or any other Security Instrument, which amounts will include all reasonable court costs, attorneys' fees, fees of auditors and accountants, and investigation expenses incurred by Lender in connection with any such matters. Revolving Advances may be made automatically by Lender to pay any fees and expenses owing by Borrower.

Section 4.07 Insurance. Borrower and each other Loan Party now maintain and will continue to maintain with financially sound and reputable insurers, insurance with respect to their respective Properties and businesses against

such liabilities, casualties, risks and contingencies, and in such types and amounts as is customary in the case of corporations engaged in the same or similar businesses and similarly situated. All such policies shall name Lender as lender loss payee and additional insured, as applicable, and shall provide that the insurer shall provide Lender with thirty (30) days prior written notification of the cancellation of such policies. Upon request of Lender, Borrower will furnish or cause to be furnished to Lender from time to time a summary of the insurance coverage of Borrower and the other Loan Parties in form and substance satisfactory to Lender and if requested will furnish Lender copies of the applicable policies.

Section 4.08 Right of Inspection. Borrower will permit and will cause each Subsidiary to permit any officer, employee or agent of Lender to visit and inspect any of the Properties of Borrower, or any Subsidiary, to conduct collateral reviews, to examine Borrower's or any Subsidiary's books of record and accounts, to take copies and extracts therefrom, and to discuss the affairs, finances and accounts of Borrower or any Subsidiary with Borrower's or such Subsidiary's officers, employees, accountants and auditors, all at such times and as often as Lender may desire, upon reasonable prior notice and during normal business hours. Borrower shall reimburse Lender for all of Lender's reasonable expenses in connection with the collateral reviews, which expenses include $1,000 per-person per-day for on-site collateral reviews.

Section 4.09 Notice of Certain Events. Borrower shall promptly notify Lender if Borrower learns of the occurrence of (a) any event which constitutes a Default, together with a detailed statement by a responsible officer of Borrower of the steps being taken to cure the effect of such Default; (b) the receipt of any notice from, or the taking of any other action by, the holder of any promissory note, debenture or other evidence of Debt of Borrower or any Subsidiary or of any security (as defined in the Securities Act of 1933, as amended) of Borrower or any Subsidiary with respect to a claimed default, together with a detailed statement by a responsible officer of Borrower specifying the notice given or other action taken by such holder and the nature of the claimed default and what action such Borrower, or such Subsidiary is taking or proposes to take with respect thereto; (c) any legal, judicial or regulatory proceedings affecting Borrower or any Subsidiary or any of the Properties of Borrower or any Subsidiary in which the amount involved is material and is not covered by insurance or which, if adversely determined, would reasonably be expected to have a Material Adverse Effect; (d) any dispute between Borrower or any Subsidiary and any governmental or regulatory body or any other Person which, if adversely determined, would reasonably be expected to have a Material Adverse Effect; or (e) any material adverse changes, either in any case or in the aggregate, in the assets, liabilities, financial condition, business, operations, affairs or circumstances of Borrower or any Subsidiary, from those reflected in the Financial Statements or by the facts warranted or represented in any Security Instrument, including without limitation this Agreement.

Section 4.10 ERISA Information and Compliance. Borrower will promptly furnish to Lender (a) if requested by Lender, promptly after the filing thereof with the United States Secretary of Labor or the Pension Benefit Guaranty Corporation, copies of each annual and other report with respect to each Plan or any trust created thereunder, and (b) immediately upon becoming aware of the occurrence of any "reportable event," as such term is defined in Section 4043 of ERISA, or of any "prohibited transaction," as such term is defined in Section 4975 of the Code, in connection with any Plan or any trust created thereunder, a written notice signed by a responsible officer or manager of Borrower specifying the nature thereof, what action Borrower or any of its Subsidiaries is taking or proposes to take with respect thereto, and, when known, any action taken by the Internal Revenue Service with respect thereto. Borrower will fund, or will cause its Subsidiaries to fund, all current service pension liabilities as they are incurred under the provisions of all Plans from time to time in effect for the benefit of employees of Borrower or any of its Subsidiaries, and comply with all applicable provisions of ERISA.

Section 4.11 Environmental Requirements. Borrower shall and shall cause each Subsidiary to comply in all material respects with all Environmental Laws applicable to Borrower and/or such Subsidiary or to its Property with respect to occupational health and safety, hazardous waste and substances and environmental matters. Borrower shall and shall cause each Subsidiary to promptly notify Lender of its receipt of any notice of a violation or an alleged violation of any such Environmental Laws. Borrower shall and shall cause each Subsidiary to indemnify and hold Lender harmless from all loss, cost, damages, claim and expense incurred by Lender on account of Borrower's failure to perform the obligations of this Section.

Section 4.12 Additional Guarantors. Promptly (and in any event within 30 days) notify Lender upon any Person becoming a Domestic Subsidiary (other than any Excluded Subsidiary) or any Domestic Subsidiary ceasing to be an Excluded Subsidiary in accordance with the definition thereof and, each case, cause it to become a "Guarantor" under this Agreement and to guarantee the Indebtedness, as applicable, in each case, in a manner reasonably satisfactory to Lender, and to execute and deliver such documents, instruments and agreements and to take such other actions as Lender shall reasonably require to evidence and perfect a Lien in favor of Lender on all the Collateral of such Person, including delivery of such legal opinions, in form and substance reasonably satisfactory to Lender, as it shall deem appropriate.

Section 4.13 Blocked Accounts.

(a) Subject to clause (b) below, at all times during the term of this Agreement, Borrower and each of its Subsidiaries will maintain Blocked Accounts as required by Section 2.11 hereof, and, within ninety (90) days after the Closing Date (or such longer period as agreed to by Lender in its sole discretion), will direct all collections and other Receipts to such Blocked Accounts in accordance with Section 2.12 hereof.

(b) Within ninety (90) days after the Closing Date (or such longer period as agreed to by Lender in its sole discretion), each Loan Party will, and will cause each of its Subsidiaries to, cause all commodity accounts, deposit accounts and securities accounts (in each case, excluding those accounts which are Excluded Accounts) held by the Loan Parties as of the Closing Date to be subject to a Control Agreement in favor of Lender, in form and substance reasonably satisfactory to Lender, which provides that Lender shall have exclusive "Control" (as defined in the UCC) of such account.

(c) Each Loan Party will, with respect to each deposit account, securities account and commodity account (in each case, excluding those accounts which are Excluded Accounts) that such Loan Party at any time opens, maintains or acquires after the Closing Date, substantially contemporaneously with (or by such later time as agreed to by the Lender in its reasonable discretion), the opening, creation or acquisition of such deposit account, securities account or commodity account (in each case, excluding those accounts which are Excluded Accounts), enter into any Control Agreement in form and substance satisfactory to Lender, pursuant to which such Control Agreement shall cause the depository bank that maintains such deposit account, securities intermediary that maintains such securities account, or commodities intermediary that maintains such commodity account, as applicable, to agree to comply at any time with instructions from the Lender to such depository bank, securities intermediary or commodities intermediary directing the disposition of funds from time to time credited to such deposit account, securities account or commodity account, without further consent of such Loan Party. No Loan Party shall permit any deposit account, securities account or commodity account excluded from the requirements of this Section 4.13 as a result of such deposit account, securities account or commodity account constituting an Excluded Account to cease to qualify as an Excluded Account unless and until such account is subject to a Control Agreement.

Section 4.14 Collateral Access Agreements. If Borrower's or any other Loan Party's Inventory is in the possession or control of any Person other than a purchaser in the ordinary course of business or a public warehouseman where the warehouse receipt is in the name of or held by Lender, Borrower shall notify such Person of Lender's security interest therein and, upon request by Lender, request that such Person to execute a Collateral Access Agreement or otherwise acknowledge in writing its agreement to hold all such Inventory for the benefit of the Lender and subject to Lender's instructions. If Borrower's or any other Loan Party's books and records are located in a leased property, Borrower shall notify the applicable landlord of Lender's security interest therein and, upon request by Lender, request that the applicable landlord or to execute a Collateral Access Agreement. Notwithstanding the foregoing or anything to the contrary in this Agreement, if Borrower is unable to have such Collateral Access Agreements executed, then such failure shall not constitute a Default or Event of Default, but Lender will have the right to implement an Availability Reserve in its sole discretion with respect to the rent of such properties (provided that in no event will any such Availability Reserve be implemented with respect to any properties listed on Schedule 3.19 for a period of ninety (90) days after the Closing Date).

Section 4.15 Commodity Exchange Act Keepwell Provisions. The Borrower hereby guarantees the payment and performance of all Indebtedness of each Loan Party (other than the Borrower) and absolutely, unconditionally and

irrevocably undertakes to provide such funds or other support as may be needed from time to time by each Loan Party (other than the Borrower) in order for such Loan Party to honor its obligations under its respective Guaranty Agreement including obligations with respect to Swap Agreements (provided, however, that the Borrower shall only be liable under this Section 4.15 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 4.15, or otherwise under this Agreement or any Security Instrument, as it relates to such other Loan Parties, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of the Borrower under this Section 4.15 shall remain in full force and effect until all Indebtedness is paid in full to the Lender, and all of the Lender's Commitments are terminated. The Borrower intends that this Section 4.15 constitute, and this Section 4.15 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

Section 4.16 Post-Closing Obligation. Within thirty (30) days following the Closing Date (or such longer period as agreed to by Lender in its sole discretion), the Loan Parties shall deliver (or cause to be delivered) to Lender copies of all lender loss payable and additional insured endorsements with respect to the insurance policies required pursuant to Section 4.07, which endorsements shall be in form and substance reasonably satisfactory to Lender.

ARTICLE V
NEGATIVE COVENANTS

Without the prior written consent of Lender, Borrower will at all times comply with the covenants contained in this Article V, from the Closing Date until the principal of and interest on each Revolving Advance and all fees payable hereunder and all other amounts payable under the Security Instruments shall have been paid in full (in each case, other than contingent indemnification and expense reimbursements amounts for which no claim has been made) and all Letters of Credit shall have expired or terminated and all LC Disbursements shall have been reimbursed and the Commitment have expired or been terminated, the Borrower covenants and agrees with the Lenders that:

Section 5.01 Debts, Guaranties and Other Obligations. Borrower will not, and will not permit any Subsidiary to incur, create, assume or in any manner become or be liable in respect of any Debt (including obligations for the payment of rentals), and Borrower will not, and will not permit a Subsidiary to, guarantee or otherwise in any way become or be responsible for obligations of any other Person, whether by agreement to purchase the Debt of any other Person or agreement for the furnishing of funds to any other Person through the purchase or lease of goods, supplies or services (or by way of stock purchase, capital contribution, advance or loan) for the purpose of paying or discharging the Debt of any other Person, or otherwise, except that the foregoing restrictions shall not apply to:

(a) the Notes or other Indebtedness owed to Lender;

(b) liabilities, direct or contingent, of Borrower and its Subsidiaries existing on the Closing Date which are reflected in the Financial Statements or have been disclosed to Lender in writing, and any renewals and extensions (but not increases) thereof (provided that such extensions and renewals are on materially the same terms as in effect on the Closing Date);

(c) Debt incurred to finance the acquisition of capital assets and any Debt assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof; provided that (i) such Debt is incurred prior to or within 90 days after such acquisition and (ii) the aggregate principal amount of Debt permitted by this clause (c) shall not exceed $5,000,000 at any time outstanding;

(d) to the extent constituting Debt, liabilities in relation to operating leases and operating lease agreements;

(e) endorsements of negotiable or similar instruments for collection or deposit in the ordinary course of business;

(f) trade payables or similar obligations from time to time incurred in the ordinary course of business other than for borrowed money;

(g) taxes, assessments or other government charges which are not yet due or are being contested pursuant to Section 4.02 hereof;

(h) (i) Debt of any Loan Party owing to any other Loan Party, (ii) Debt of any Subsidiary that is not a Guarantor owing to any other Subsidiary that is not a Guarantor, and (iii) unsecured Debt of any Loan Party owing to a Subsidiary that is not a Guarantor and Debt of any Subsidiary that is not a Guarantor owing to any Loan Party so long as, in the case of this clause (iii), (A) any instrument evidencing such Debt is pledged to the Lender to the extent required under the Security Agreement and (B) the aggregate principal amount of Debt incurred pursuant to this clause (iii) does not exceed $2,000,000 at any time outstanding;

(i) Debt listed on Schedule 5.01 attached hereto;

(j) other Debt not to exceed $5,000,000 in the aggregate at any time outstanding; and

(k) unsecured Debt of any Subsidiary that is not a Guarantor owing to any Loan Party to the extent permitted pursuant to Section 5.03(g).

Section 5.02 Liens. Borrower will not, and will not permit any Subsidiary to create, incur, assume or permit to exist any Lien on any of its Properties (now owned or hereafter acquired), except the following (collectively, the "Permitted Liens"):

(a) Liens pursuant to the Security Instruments securing the payment of any Indebtedness to Lender;

(b) Liens for taxes, assessments, or other governmental charges not yet due or which are being contested by appropriate action promptly initiated and diligently conducted, if such reserve as shall be required by GAAP shall have been made therefor;

(c) Liens of landlords, vendors, carriers, warehousemen, mechanics, laborers and materialmen arising by law in the ordinary course of business for sums not yet due or, subject to the written approval of Lender, being contested by appropriate action promptly initiated and diligently conducted, if such reserve as shall be required by GAAP shall have been made therefor;

(d) Liens existing on Property owned by Borrower or any Subsidiary on the Closing Date which have been disclosed to and permitted by Lender in writing and listed on Schedule 5.02 attached hereto, but not any renewals and extensions thereof;

(e) pledges or deposits made in the ordinary course of business in connection with workmen's compensation, unemployment insurance, social security and other like laws;

(f) inchoate Liens arising under ERISA to secure the contingent liability of Borrower or any Subsidiary permitted by Section 4.10 hereof;

(g) Liens securing Debt incurred to finance the acquisition of capital assets permitted by clause (c) of Section 5.01; provided that (i) such Liens and the Debt secured thereby are incurred prior to or within 90 days after such acquisition, and (ii) such Liens shall not apply to any other property or assets of any Loan Party or any Subsidiary; and

(h) other Liens securing Debt not to exceed $500,000 in the aggregate at any time outstanding.

Section 5.03 Investments, Loans and Advances. Borrower will not, and will not permit any Subsidiary to, make or permit to remain outstanding any loans or advances to or investments in any Person, except that the foregoing restriction shall not apply to:

(a) loans, advances or investments the material details of which have been set forth in the Financial Statements or have been otherwise disclosed to Lender in writing prior to the execution of this Agreement;

(b) investments in direct obligations of the United States of America or any agency thereof;

(c) investments in certificates of deposit issued by commercial banks in the United States having a combined capital and surplus in excess of $100,000,000;

(d) investments in commercial paper with the best rating by Standard & Poor's, Moody's Investors Service, Inc., or any other rating agency satisfactory to Lender issued by companies in the United States with a combined capital and surplus in excess of $100,000,000;

(e) loans, advances or investments listed on Schedule 5.04;

(f) loans, advances or investments by Borrower or a Guarantor in Borrower or a Guarantor;

(g) loans, advances or investments so long as the Payment Conditions have been satisfied at the time of such loan, advance or investment;

(h) investments constituting Permitted Acquisitions;

(i) Debt incurred pursuant to Section 5.01(h);

(j) loans, advances or investments by Borrower or a Guarantor in Subsidiaries that are not Guarantors in an aggregate amount not to exceed $2,000,000; and

(k) other loans, advances or investments not to exceed $2,000,000 in the aggregate at any time outstanding.

Section 5.04 Dividends, Distributions, Payments, and Redemptions.

(a) Borrower will not, and will not permit any Subsidiary to make any Distribution, except (i) each Loan Party may make Distributions with respect to its Stock payable solely in additional shares of Stock; (ii) Distributions from a Subsidiary of a Loan Party to such Loan Party and (iii) other Distributions so long as the Payment Conditions have been satisfied at the time of such Distribution.

(b) Borrower will not, and will not permit any Subsidiary to, make any payment, redemption or prepayment or other retirement (such payment, redemption, prepayment or retirement, a "Redemption"), prior to the stated maturity thereof or prior to the due date of any regularly scheduled installment or amortization payment with respect thereto, of any Debt for borrowed money owing to any Person other than Lender and any Loan Party, except for any Redemption so long as the Payment Conditions have been satisfied at the time of such Redemption.

Section 5.05 Sale of Properties Borrower will not, and will not permit any Subsidiary to sell, transfer or otherwise dispose of all or any substantial portion or integral part of its Properties except (a) in the ordinary course of business, or (b) sales, transfers and other dispositions of (i) Properties (other than accounts receivables) having an aggregate fair market value in any year not exceeding $2,000,000 and so long as no Event of Default then exists or would result therefrom, (ii) investments referred to in Section 5.03(b), (c) and (d), or (iii) obsolete, worn out or surplus Property or Property (including leasehold property interests) that is no longer economically practical in its business or commercially desirable to maintain or no longer used or useful equipment, or enter into any arrangement, directly or indirectly, with any Person whereby Borrower or any Subsidiary shall sell or transfer any Property, whether now owned or hereafter acquired, and whereby Borrower or any Subsidiary shall then or thereafter rent or lease as lessee such Property or any part thereof or other Property which Borrower or any Subsidiary intends to use for substantially the same purpose or purposes as the Property sold or transferred except with respect to Asset Dispositions that are approved in writing by Lender in its sole discretion. Nothing in this Section 5.05 shall prohibit, Liens permitted by Section 5.02, Distributions permitted by Section 5.04(a), or Redemption permitted by Section 5.04(b).

Section 5.06 Nature of Business. Borrower will not, and will not allow any Subsidiary to, permit any material change to be made in the character of its business as carried on at the Closing Date.

Section 5.07 Mergers, Consolidations, Acquisitions, etc. Borrower will not, and will not allow any of its Subsidiaries to, directly or indirectly, become a party to a division, merger or consolidation, or purchase or otherwise acquire all or substantially all of the assets of any Person or any shares or other evidence of beneficial ownership of any Person, or wind up, dissolve, or liquidate, except that (a) any Subsidiary may merge or consolidate with Borrower so long as Borrower is the surviving entity, (b) any Subsidiary of the Borrower may merge or consolidate with another Subsidiary of Borrower so long as if such Subsidiary that is a Guarantor is involved in such merger or consolidation, such Guarantor is the surviving entity, (c) solely in connection with a Permitted Acquisition, any Person may merge or consolidate with or into any Loan Party provided such Loan Party shall be the surviving entity and (d) any Loan Party may acquire all or substantially all of the assets of any Person or any shares or other evidence of beneficial ownership of any Person pursuant to a Permitted Acquisition. Notwithstanding the foregoing, Borrower and its Subsidiaries may wind-up, dissolve or liquidate any Immaterial Subsidiary so long as the assets and Properties of such Immaterial Subsidiary are transferred (by operation of law or otherwise) to any Loan Party. The Guarantors shall not permit any Person (other than the Borrower or any another Loan Party) to own its Stock.

Section 5.08 ERISA Compliance. Borrower will not permit any Plan maintained by it or any Subsidiary to:

(a) engage in any “prohibited transaction” as such term is defined in Section 4975 of the Code;

(b) incur any “accumulated funding deficiency” as such term is defined in Section 302 of ERISA; or

(c) terminate any such Plan in a manner which could result in the imposition of a Lien on the Property of Borrower or any Subsidiary pursuant to Section 4068 of ERISA.

Section 5.09 Changes in Accounting Methods. Borrower will not, and will not permit any Subsidiary to, make any change in its accounting method as in effect on the Closing Date or change its fiscal year ending date from December 31 of each year, unless such change has the prior, written approval of Lender.

Section 5.10 Transactions With Affiliates. Borrower will not, and will not permit any Subsidiary to, directly or indirectly, enter into any transaction (including, but not limited to, the sale or exchange of Property or the rendering of any service) with any Affiliate, other than in the ordinary course of its business and upon substantially the same or better terms as it could obtain in an arm’s length transaction with a Person who is not an Affiliate.

Section 5.11 Affiliate Receivables. Borrower will not at any time allow any accounts receivable and other receivables to be owed to Borrower by any Affiliate, except as disclosed on Schedule 5.11 attached hereto or otherwise consented to by Lender in its sole discretion.

Section 5.12 Use of Proceeds. Borrower will not use the proceeds of the Revolving Advances for purposes other than those set forth in Sections 3.13 and 3.24 hereof. The Borrower will not request any Revolving Advance, and the Borrower will not, directly or indirectly, use the proceeds of the Revolving Advances, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, (i) to fund any activities or business of or with any Sanctioned Person, in violation of applicable Sanctions, (ii) in any other manner that would constitute or give rise to a violation of Sanctions by any party hereto or (iii) 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 a manner that would constitute a violation of any applicable Anti-Corruption Laws by the Borrower.

Section 5.13 Fixed Charge Coverage Ratio. Borrower will not permit the Fixed Charge Coverage Ratio, as of the last day of any calendar month while a Financial Covenant Testing Period is in effect, to be less than 1.00 to 1.00, commencing with the first calendar month ending immediately before the date on which such Financial Covenant Testing Period commences.

Section 5.14 Amendments to Certain Documents. Company will not, and will not permit any of its Subsidiaries to, amend, restate, supplement or otherwise modify, or waive any of its rights under, any of their respective Constituent Documents in a manner adverse in any material respect to the interests of the Lender without the prior written consent of the Lender.

ARTICLE VI
EVENTS OF DEFAULT

Section 6.01 Events of Default. Any of the following events shall be considered an "Event of Default" as that term is used herein:

(a) Principal and Interest Payments. (i) Borrower shall fail to pay any principal of any Revolving Advance or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof, by acceleration or otherwise or (ii) Borrower shall fail to pay any interest on any Revolving Advance or any fee or any other Indebtedness owing under this Agreement or any other Security Instrument (other than an amount referred to in the foregoing clause (i)), when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three (3) Business Days; or

(b) Representations and Warranties. Any representation or warranty made by Borrower, any Subsidiary or any Guarantor in any Security Instrument, including this Agreement, in particular Article III, proves to have been incorrect in any material respect as of the date thereof; or any representation, statement (including the Financial Statements), certificate or data furnished or made by Borrower, any Subsidiary or any Guarantor (or any officer, accountant or attorney of Borrower or any Subsidiary) under any Security Instrument, including this Agreement, proves to have been untrue in any material respect, as of the date as of which the facts therein set forth were stated or certified; or

(c) Affirmative Covenants. Default is made in the due observance or performance of any of the covenants or agreements contained in Article IV of this Agreement (other than Section 4.13 and Section 4.16) and such default is not cured within (i) in the case of a breach of Section 4.01, five (5) Business Days and (ii) in the case of any other breach, thirty (30) days, in each case, after Borrower has knowledge thereof or receives notice thereof from Lender, whichever is sooner; or

(d) Other Covenants. Default is made in the due observance or performance by Borrower or any Subsidiary of any of the covenants or agreements contained in Section 4.13, Section 4.16 and Article V of this Agreement; or

(e) Other Security Instrument Obligations. Default is made in the due observance or performance by Borrower, any Subsidiary or any Guarantor of any of the covenants or agreements contained in this Agreement or any other Security Instrument other than Articles IV and V of this Agreement, and such default continues unremedied for a period of thirty (30) days after the earlier of Borrower's, any Subsidiary's or any Guarantor's knowledge of such breach or notice thereof from the Lender; or

(f) Insolvency. If Borrower or any other Loan Party (i) becomes insolvent, or makes a transfer in fraud of creditors, or makes an assignment for the benefit of creditors, or admits in writing its inability to pay its debts as they become due; (ii) generally is not paying its debts as such debts become due; (iii) has a receiver, trustee or custodian appointed for, or take possession of, all or substantially all of its assets, either in a proceeding brought by it or in a proceeding brought against it and such appointment is not discharged or such possession is not terminated within sixty (60) days after the effective date thereof or it consents to or acquiesces in such appointment or possession; (iv) files a petition for relief under the United States Bankruptcy Code or any other present or future federal or state insolvency, Bankruptcy or similar laws (all of the foregoing hereinafter collectively called "Applicable Bankruptcy Law") or an involuntary petition for relief is filed against it under any Applicable Bankruptcy Law and such involuntary petition is not dismissed within sixty (60) days after the filing thereof, or an order for relief naming it is entered under any Applicable Bankruptcy Law, or any composition, rearrangement,

extension, reorganization or other relief of debtors now or hereafter existing is requested or consented to by it; or (v) fails to have discharged within a period of sixty (60) days any attachment, sequestration or similar writ levied upon any property of it; or

(g) Discontinuance of Business. Borrower or any Loan Party discontinues its usual business; or

(h) Other Debt. The occurrence of any event which results in the maturity or the acceleration of the maturity of any Debt for borrowed money in an aggregate principal amount in excess of $1,000,000 owing by Borrower or any other Loan Party to any third party under any agreement or understanding; or

(i) Judgment. The entry of any judgment against Borrower or any other Loan Party or the issuance or entry of any attachments or other Liens against any of the property of such Person for an amount in excess of $1,000,000 (individually or in the aggregate) if uninsured, undischarged, unbonded or undismissed on the date on which such judgment would be executed upon; or

(j) Challenge to Agreement or any Security Instrument. Borrower or any or any Loan Party or any Affiliate of any of them, shall challenge or contest in any action, suit or proceeding the validity or enforceability of this Agreement or any of the Security Instruments, the legality or enforceability of any of the Indebtedness or the perfection or priority of any Lien granted to Lender; or

(k) Repudiation of or Default under Guaranty Agreement. Any Guarantor shall revoke or attempt to revoke the Guaranty Agreement signed by such Guarantor, or shall repudiate such Guarantor's liability thereunder or shall be in default under the terms thereof; or

(l) Margin Stock. The failure of Borrower or any Loan Party to comply with Regulations U or X of the Board of Governors of the Federal Reserve System, as amended; or

(m) Change of Control. The occurrence of a Change of Control.

Section 6.02 Remedies. Upon the happening of any Event of Default specified in Section 6.01 hereof, (a) Lender may declare the entire principal amount of all Indebtedness then outstanding including interest accrued thereon to be immediately due and payable (provided, that the occurrence of any event described in Section 6.01(f) hereof shall automatically accelerate the maturity of the Indebtedness, without the necessity of any action by Lender) without presentment, demand, protest, notice of protest or dishonor, notice of default, notice of intent to accelerate the maturity thereof, notice of acceleration of the maturity thereof, or other notice of any kind, all of which are hereby expressly waived by Borrower and each Loan Party; and (b) all obligations, if any, of Lender hereunder, including the Commitment shall immediately cease and terminate unless and until Lender shall reinstate same in writing. In addition to and not in limitation of any of the other rights and remedies provided to Lender hereunder or under the Security Instruments in connection with the Property of Borrower and the Loan Parties in which Lender has a Lien, Borrower hereby agrees that upon request by Lender after the occurrence of an Event of Default, Borrower shall, and shall cause each Loan Party to, cooperate with Lender in the transfer of, and will, and will cause each Loan Party to, execute all documentation requested by Lender in connection with the transfer of, to such Person as shall be directed by Lender, any or all of the Property then held by the Loan Parties, and in connection therewith Borrower agrees, and will cause each Loan Party to agree, to take all other actions reasonably necessary in order to effectuate the transfer of any or all of such Property.

Section 6.03 Prohibition of Transfer, Assignment and Assumption. This Agreement pertains to the extension of debt financing and financial accommodations for the benefit of Borrower and each Loan Party and cannot be transferred to, assigned to or assumed by any other Person either voluntarily or by operation of law. In the event Borrower or any Loan Party becomes a debtor under the Bankruptcy Code of the United States or under the law of any foreign country, any trustee or debtor in possession may not assume or assign this Agreement nor delegate the performance of any provision hereunder.

Section 6.04 Right of Setoff. During the existence of an Event of Default, Lender and any Affiliate of Lender is hereby authorized at any time and from time to time, without notice to Borrower (any such notice being expressly waived by Borrower), to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other Debt at any time owing by Lender or any Affiliate of Lender to or for the credit or the account of Borrower against any and all of the Indebtedness of Borrower. Lender agrees promptly to notify Borrower after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights of Lender under this Section are in addition to other rights and remedies (including, without limitation, other rights of setoff) which Lender may have.

ARTICLE VII
CONDITIONS

Section 7.01 Initial Revolving Advances and Letters of Credit. The obligation of Lender to make the initial Revolving Advances or other loans to be evidenced by the Notes, or to issue any Letter of Credit (or, in the case of Existing Letters of Credit, deem to issue) hereunder, is subject to the performance by Borrower of its obligations to be performed hereunder on or before the date of the initial Revolving Advance or other loan or issuance of any Letter of Credit, and to the satisfaction of the following further conditions which must be satisfied as of the Closing Date or initial advance under the Notes.

(a) Notes. Borrower shall have duly and validly issued, executed and delivered the Notes to Lender.

(b) Constituent Documents. Lender shall have received a copy of each of the Constituent Documents of Borrower and each other Loan Party which is to execute this Agreement or any other Security Instrument, certified as true by the Secretary of Borrower and each other Loan Party, respectively.

(c) Officer’s Certificate. Lender shall have received, on or before the Closing Date, certificates of the Secretary or other responsible party of Borrower and each other Loan Party which is to execute any Security Instrument setting forth (i) resolutions of its board of directors, board of managers or other governing body, as applicable, in form and substance satisfactory to Lender with respect to the authorization of the Notes, this Agreement and any other Security Instruments provided herein and the officers authorized to sign such instruments, and (ii) specimen signatures of the officers so authorized.

(d) Closing Certificate. Lender shall have received a certificate signed by an authorized officer of the Borrower certifying that on the Closing Date and immediately after giving effect to the transactions contemplated hereby on the Closing Date, (i) no Default or Event of Default has occurred and is continuing and (ii) all representations and warranties made by any Borrower or any other Loan Party contained herein or in any other Security Instrument shall be true and correct.

(e) Opinion of Loan Parties’ Counsel. Lender shall have received on or before the Closing Date from counsel for Borrower and each other Loan Party favorable written opinions reasonably satisfactory to Lender and its counsel, including local counsel opinions from counsel in the State of Florida and State of Massachusetts.

(f) Other Security Instruments and Information. Borrower shall have duly and validly executed and delivered, or caused to be executed and delivered, to Lender the Security Instruments, and any other documents requested by Lender as security for the Notes and other Indebtedness and shall have delivered the information necessary to the preparation and perfection of the Liens created by such instruments.

(g) Fees. Lender shall have received, in immediately available funds, the Closing Fee.

(h) Financial Condition. The results of the examination by Lender of the financial condition of Borrower and each of its Subsidiaries including, but limited to, the examination of the Financial Statements and analysis of related data, shall be satisfactory to Lender, in its sole and absolute discretion.

(i) Borrowing Base Reports. Borrower shall have delivered to Lender a duly executed Revolving Credit Borrowing Base Report as of a recent date agreed upon by Lender.

(j) Additional Matters. Lender shall have received all exhibits, annexes schedules herein referenced and such additional reports, certificates, documents, statements, legal opinions, agreements and instruments, in form and substance reasonably satisfactory to Lender, as Lender shall have reasonably requested from Borrower, each Loan Party and their respective counsel.

(k) No Litigation. No action, proceeding, investigation, regulations or legislation shall have been instituted, threatened or proposed before any court, governmental agency or legislative body to enjoin, restrain or prohibit, or to obtain damages in respect of, or which is related to or arises out of disagreement or the consummation of the transactions contemplated hereby, other than as set forth on Schedule 7.17 attached hereto.

(l) Excess Availability Requirement. Lender shall have determined that immediately after Lender has made on the Closing Date the initial Revolving Advances contemplated hereby or has issued the initial Letter of Credit, Availability shall be at least $6,250,000.

(m) Background Check. Lender shall have completed a background check with respect to such members of Borrower's management team as Lender shall deem necessary, and the results of which shall be satisfactory to Lender in its sole discretion.

(n) Lien Searches. Lender shall have received acknowledgments of all filings or recordations necessary to perfect its Liens in the Collateral, as well as UCC and Lien searches and other evidence satisfactory to Lender that such Liens are the only Liens upon the Collateral, except Permitted Liens.

(o) Payoff Letters; Release of Liens. Lender shall have received evidence satisfactory to it (including any payoff letters and releases and UCC-3 financing statement terminations) that all Liens on any Collateral (other than Permitted Liens), associated with any credit facilities or borrowed money have been released or terminated, subject only to the funding of the initial Revolving Advances hereunder and the filing of applicable terminations and releases, including, without limitation, payoff letters in form and substance satisfactory to Lender from Texas Capital Bank with respect to the Debt under that certain Credit Agreement dated as of April 17, 2017, as amended from time to time, between Borrower and Texas Capital Bank.

(p) Field Examination. Lender shall have received such field examinations as Lender shall require.

(q) Insurance. Lender shall have received insurance certificates describing the insurance policies required by Section 4.07, in form and substance reasonaby satisfactory to Lender.

(r) Perfection Certificate. Lender shall have received a perfection certificate in form and substance reasonably satisfactory to Lender signed by a responsible officer of Borrower.

(s) Beneficial Ownership; KYC. Each Loan Party shall provide, in form and substance satisfactory to Lender, all documentation and other information as Lender deems appropriate in connection with applicable "know your customer" and anti-money-laundering rules and regulations, including the USA Patriot Act and Beneficial Ownership Regulation. If Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, it shall deliver a Beneficial Ownership Certification to Lender upon request.

Section 7.02 All Revolving Advances and Letters of Credit. The obligation of Lender to make each Revolving Advance or to issue (other than in the case of any Existing Letters of Credit deemed issued pursuant to this Agreement), amend, extend or renew each Letter of Credit, requested to be made by it hereunder (including, without limitation, its initial extension of credit), is subject to the satisfaction or the waiver by Lender of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by the Borrower or any Loan Party in or pursuant to any of the Security Instruments, including this Agreement, or in any certificate delivered to Lender pursuant to or in connection with any Security Instrument, including this Agreement shall be true and correct in all material respects on and as of such date as if made on and as of such date (it being understood and agreed that (i) any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects only as of such specified date and (ii) to the extent any such representation and warranty is expressly qualified by materiality or by reference to material adverse effect, material adverse change or other similar term, such representation and warranty (to the extent so qualified) shall continue to be true and correct in all respects).

(b) No Default. At the time of each Revolving Advance or issuance, amendment, extension or renewal of each Letter of Credit hereunder, no Default under this Agreement nor under any of the other Security Instruments shall have occurred.

(c) No Material Adverse Changes. Prior to each Revolving Advance or issuance, amendment, extension or renewal of each Letter of Credit hereunder, there shall not have occurred a Material Adverse Effect.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 Notices.

(a) All communications under or in connection with this Agreement or the Notes shall be in writing and shall be mailed by registered or certified mail, return receipt requested, postage prepaid, delivered by a reputable overnight courier, or personally delivered to an officer of the receiving party. Subject to Section 8.01(b), all such communications shall be mailed or delivered as follows:

(i) If to Borrower: Harte Hanks, Inc.

2 Executive Drive, Suite 103
Chelmsford, MA 01824
Attn: Laurilee Kearnes
E-Mail: Lauri.Kearnes@hartehanks.com

with a copy to (which shall not constitute notice):

Milbank LLP
55 Hudson Yards
New York, NY 10001
Attn: Brett Nadritch
E-Mail: bnadritch@milbank.com

(ii) If to Lender: Texas Capital Bank

2000 McKinney Avenue, Suite 700
Dallas, TX 75201
Attn: ABL Portfolio Manager
E-Mail: ABL@texascapitalbank.com

with a copy to (which shall not constitute notice):

Vinson & Elkins L.L.P.
2001 Ross Avenue, Suite 3900
Dallas, TX 75201

Attn: Erec Winandy
E-Mail: ewinandy@velaw.com

Any notice so addressed and mailed by registered or certified mail, return receipt requested, shall be deemed to be given when so mailed, and any notice so delivered in person or by a reputable overnight courier shall be deemed to be given when actually received by, or receipt therefor is given by, an authorized officer of Borrower or Lender, as the case may be. Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by written notice to the other party of such new address.

(b) Notices and other communications to the Lender and hereunder may be delivered or furnished by electronic communication (including e-mail and internet or intranet websites) pursuant to procedures approved by Lender. Lender may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

Unless Lender 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) above, if such e-mail or other electronic communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

Section 8.02 Deviation from Covenants. The procedure to be followed by Borrower to obtain the consent of Lender to any deviation from the covenants contained in this Agreement or any other Security Instrument shall be as follows:

(a) Borrower shall send a written notice to Lender setting forth (i) the covenant(s) relevant to the matter, (ii) the requested deviation from the covenant(s) involved, and (iii) the reason for the requested deviation from the covenant(s); and

(b) Lender will within a reasonable time send a written notice to Borrower, signed by an authorized officer of Lender, permitting or rejecting the requested deviation; but in no event will any deviation from the covenants of this Agreement or any other Security Instrument be effective without the written consent of Lender.

Section 8.03 Invalidity. In the event that any one or more of the provisions contained in the Note, this Agreement or in any other Security Instrument shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Notes, this Agreement or any other Security Instrument.

Section 8.04 Survival of Agreements. All representations and warranties of Borrower herein, and all covenants and agreements herein not fully performed before the Closing Date, shall survive such date.

Section 8.05 Successors and Assigns. All covenants and agreements by or on behalf of Borrower or any Loan Party in the Notes, this Agreement and any other Security Instrument shall bind its successors and assigns or the heirs and personal representatives of any individual Guarantor and shall inure to the benefit of Lender and its successors and assigns; except that neither Borrower, nor any Loan Party, nor any Person acting on behalf of any of them may assign any of their rights hereunder without the prior written consent of Lender. In the event that Lender sells participations in the Notes, or other Indebtedness of Borrower incurred or to be incurred pursuant to this Agreement, to other lenders, each of such other lenders shall have the rights of set off against such Indebtedness and similar rights or Liens to the same extent as may be available to Lender.

Section 8.06 Renewal, Extension or Rearrangement. All provisions of this Agreement relating to the Notes or other Indebtedness shall apply with equal force and effect to each and all promissory notes hereafter executed which in whole or in part represent a renewal, extension, increase or rearrangement of any part of the Indebtedness originally represented by the Notes or of any part of such other Indebtedness. Any provision of this Agreement to be performed during the "term of this Agreement," "term hereof" or similar language, shall include any extension period.

Section 8.07 Waivers. No course of dealing on the part of Lender, its officers, employees, consultants or agents, nor any failure or delay by Lender with respect to exercising any right, power or privilege of Lender under the Notes, this Agreement or any other Security Instrument shall operate as a waiver thereof, except as otherwise provided in Section 8.02 hereof.

Section 8.08 Cumulative Rights. Rights and remedies of Lender under the Notes, this Agreement and each other Security Instrument shall be cumulative, and the exercise or partial exercise of any such right or remedy shall not preclude the exercise of any other right or remedy.

Section 8.09 Construction. This Agreement and each of the other Security Instruments is, and the Notes will be, a contract made under and shall be construed in accordance with and governed by and construed in accordance with the laws of the State of New York without giving effect to the conflicts of laws principles thereof, but including section 5-1401 of the New York General Obligations Law.

Section 8.10 Interest. It is the intention of the parties hereto to conform strictly to applicable usury laws now in force. Accordingly, if the transactions contemplated hereby would be usurious under applicable law, then, in that event, notwithstanding anything to the contrary in the Notes, this Agreement or in any other Security Instrument or agreement entered into in connection with or as security for the Notes, it is agreed as follows: (a) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, charged or received under the Notes, this Agreement or under any of the other aforesaid Security Instruments or agreements or otherwise in connection with the Notes shall under no circumstances exceed the maximum amount of interest permitted by applicable law, and any excess shall be credited to the Notes by the holder thereof (or, if the Notes shall have been paid in full, refunded to Borrower); (b) determination of the rate of interest for determining whether the loans hereunder are usurious shall be made by amortizing, prorating, allocating and spreading, during the full stated term of such loans, all interest at any time contracted for, charged or received from Borrower in connection with such loans, and any excess shall be canceled, credited or refunded as set forth in clause (a) herein; and (c) in the event that the maturity of the Notes is accelerated by reason of an election of the holder thereof resulting from any Default or Event of Default under this Agreement or otherwise, or in the event of any required or permitted prepayment, then such consideration that constitutes interest may never include more than the maximum amount permitted by applicable law, and excess interest, if any, provided for in this Agreement or otherwise shall be canceled automatically as of the date of such acceleration or prepayment and, if theretofore paid, shall be credited to the Notes (or, if the Notes shall have been paid in full, refunded to Borrower).

Section 8.11 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Except as provided in Section 7.01, this Agreement shall become effective when it shall have been executed by Lender and when Lender shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g. "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Agreement. Any signature to this Agreement may be delivered by facsimile, electronic mail (including pdf) or as any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or any other similar state laws based on the Uniform Electronic Transactions Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and electronic signatures or the keeping of records in electronic form shall be valid and effective for all purposes to the fullest extent permitted by applicable law, including having the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this Agreement.

Section 8.12 Exhibits and Schedules. All exhibits and schedules to this Agreement are incorporated herein by this reference for all purposes. The exhibits and schedules may be attached hereto, or bound together with or separately from this Agreement, and such binding shall be effective to identify such exhibits and schedules as if attached to this Agreement.

Section 8.13 Negotiation of Documents. This Agreement, the Notes and all other Security Instruments have been negotiated by the parties at arm's length, each represented by its own counsel, and the fact that the documents have been prepared by Lender's counsel, after such negotiation, shall not be cause to construe any of such documents against Lender.

Section 8.14 Notices Received by Lender. Any instrument in writing, telecopy or other electronic transmission received by Lender in connection with any loan or Letter of Credit hereunder, which purports to be dispatched or signed by or on behalf of Borrower, shall conclusively be deemed to have been signed by such party, and Lender may rely thereon and shall have no obligation, duty or responsibility to determine the validity or genuineness thereof or authority of the Person or Persons executing or dispatching the same.

Section 8.15 Debtor-Creditor Relationship. None of the terms of this Agreement or of any other document executed in conjunction herewith or related hereto shall be deemed to give Lender the rights or powers to exercise control over the business or affairs of Borrower. The relationship between Borrower and Lender created by this Agreement is only that of debtor/creditor.

Section 8.16 No Third-Party Beneficiaries. This Agreement is for the sole and exclusive benefit of Borrower and Lender. This Agreement does not create, and is not intended to create, any rights in favor of or enforceable by any other Person. This Agreement may be amended or modified by the agreement of Borrower and Lender, without any requirement or necessity for notice to, or the consent of or approval of any other Person.

Section 8.17 INDEMNIFICATION. BORROWER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS LENDER AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS AND ADVISORS (EACH, AN "INDEMNIFIED PARTY") FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES) THAT MAY BE INCURRED BY OR ASSERTED OR AWARDED AGAINST ANY INDEMNIFIED PARTY, IN EACH CASE ARISING OUT OF OR IN CONNECTION WITH OR BY REASON OF (INCLUDING, WITHOUT LIMITATION, IN CONNECTION WITH ANY INVESTIGATION, LITIGATION OR PROCEEDING OR PREPARATION OF DEFENSE IN CONNECTION THEREWITH) THIS AGREEMENT, THE NOTES, THE SECURITY INSTRUMENTS OR ANY OTHER INSTRUMENT OR AGREEMENT EXECUTED IN CONNECTION THEREWITH OR HEREWITH, ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN OR HEREIN OR THE ACTUAL OR PROPOSED USE OF THE PROCEEDS OF THE LOANS MADE PURSUANT TO THIS AGREEMENT (INCLUDING ANY OF THE FOREGOING ARISING FROM THE NEGLIGENCE OF THE INDEMNIFIED PARTY), EXCEPT TO THE EXTENT SUCH CLAIM, DAMAGE, LOSS, LIABILITY, COST OR EXPENSES IS FOUND IN A FINAL, NON-APPEALABLE JUDGMENT BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED FROM SUCH INDEMNIFIED PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. IN THE CASE OF AN INVESTIGATION, LITIGATION OR OTHER PROCEEDING TO WHICH THE INDEMNITY IN THIS SECTION APPLIES, SUCH INDEMNITY SHALL BE EFFECTIVE REGARDLESS OF WHETHER SUCH INVESTIGATION, LITIGATION OR PROCEEDING IS BROUGHT BY BORROWER OR ITS RESPECTIVE DIRECTORS, SHAREHOLDERS OR CREDITORS OR AN INDEMNIFIED PARTY IS OTHERWISE A PARTY THERETO AND WHETHER THE TRANSACTIONS CONTEMPLATED HEREBY ARE CONSUMMATED, WITHOUT PREJUDICE TO THE SURVIVAL OF ANY OTHER AGREEMENT OF BORROWER HEREUNDER, THE AGREEMENTS AND OBLIGATIONS OF BORROWER CONTAINED IN THIS SECTION SHALL SURVIVE THE PAYMENT IN FULL OF THE INDEBTEDNESS AND ALL OTHER AMOUNTS PAYABLE UNDER THIS AGREEMENT.

Section 8.18 RELEASE OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW FROM TIME TO TIME IN EFFECT, BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY (AND AFTER BORROWER HAS CONSULTED WITH ITS OWN ATTORNEY) IRREVOCABLY AND UNCONDITIONALLY AGREES THAT NO CLAIM MAY BE MADE BY BORROWER AGAINST LENDER OR ANY OF ITS AFFILIATES, PARTICIPANTS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS, ACCOUNTANTS, OR AGENTS OR ANY OF ITS OR THEIR SUCCESSORS AND ASSIGNS, FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES IN RESPECT OF ANY BREACH OR WRONGFUL CONDUCT (WHETHER THE CLAIM IS BASED ON CONTRACT, TORT OR STATUTE) ARISING OUT OF, OR RELATED TO, THE TRANSACTIONS CONTEMPLATED BY ANY OF THIS AGREEMENT, THE NOTES, THE SECURITY INSTRUMENTS OR ANY OTHER RELATED DOCUMENTS, OR ANY ACT, OMISSION, OR EVENT OCCURRING IN CONNECTION HEREWITH OR THEREWITH. IN FURTHERANCE OF THE FOREGOING, BORROWER HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY CLAIM FOR ANY SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR, AND BORROWER SHALL INDEMNIFY AND HOLD HARMLESS LENDER AND ITS AFFILIATES, PARTICIPANTS, SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS, ACCOUNTANTS AND AGENTS AND THEIR SUCCESSORS AND ASSIGNS OF AND FROM ANY SUCH CLAIMS.

Section 8.19 SUBMISSION TO JURISDICTION; WAIVER OF VENUE; WAIVER OF TRIAL BY JURY; SERVICE OF PROCESS.

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THE SECURITY INSTRUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EITHER CASE LOCATED IN NEW YORK COUNTY, NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HEREBY ACCEPTS FOR ITSELF AND (TO THE EXTENT PERMITTED BY APPLICABLE LAW) IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS. THIS SUBMISSION TO JURISDICTION IS NON-EXCLUSIVE AND DOES NOT PRECLUDE A PARTY FROM BRINGING SUIT AGAINST ANOTHER PARTY IN ANY COURT OTHERWISE HAVING JURISDICTION.

(b) EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (i) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR (ii) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO. IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE, EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTIONS SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(c) EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN THIS AGREEMENT AND NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW, WITHOUT LIMITING THE OTHER PROVISIONS OF THIS SECTION 8.19.

Section 8.20 DTPA Waiver. Borrower acknowledges and agrees, on Borrower's own behalf and on behalf of any permitted assigns and successors hereafter, that the DTPA is not applicable to this transaction. Accordingly, Borrower's rights and remedies with respect to the transaction contemplated under this Agreement and with respect to all acts or practices of Lender, past, present or future, in connection with such transaction, shall be governed by legal principles other than the DTPA. In furtherance thereof, Borrower agrees as follows:

(a) Borrower represents that Borrower has the knowledge and experience in financial and business matters that enable Borrower to evaluate the merits and risks of the business transaction that is the subject of this Agreement. Borrower also represents that Borrower is not in a significantly disparate bargaining position in relation to Lender. Borrower has negotiated the loan documents with Lender at arm's length and has willingly entered into the loan documents.

(b) Borrower represents that (i) Borrower has been represented by legal counsel in the transaction contemplated by this Agreement and (ii) such legal counsel was not directly or indirectly identified, suggested or selected by Lender or an agent of Lender.

(c) This Agreement relates to a transaction involving total consideration by Borrower of more than $100,000 and does not involve Borrower's residence.

Borrower agrees, on Borrower's own behalf and on behalf of Borrower's permitted assigns and successors, that all of Borrower's rights and remedies under the DTPA are WAIVED AND RELEASED, including specifically, without limitation, all rights and remedies under the DTPA resulting from or arising out of any and all acts or practices of Lender in connection with this transaction, whether such acts or practices occur before or after the execution of this Agreement.

In furtherance thereof, Borrower agrees that by signing this Agreement, Borrower and any permitted assigns and successors are bound by the following waiver:

WAIVER OF CONSUMER RIGHTS. BORROWER HEREBY WAIVES ITS RIGHTS UNDER THE DECEPTIVE TRADE PRACTICES - CONSUMER PROTECTION ACT, SECTION 17.41 ET. SEQ. TEXAS BUSINESS & COMMERCE CODE, A LAW THAT GIVES CONSUMERS SPECIAL RIGHTS AND PROTECTIONS. AFTER CONSULTATION WITH AN ATTORNEY OF BORROWER'S OWN SELECTION, BORROWER VOLUNTARILY CONSENTS TO THIS WAIVER.

Section 8.21 Reversal of Payments. Lender shall have the continuing and exclusive right to apply, reverse and re-apply any and all payments to any portion of the Indebtedness in a manner consistent with the terms of this Agreement. To the extent Borrower makes a payment or payments to Lender, or Lender receives any payment or proceeds of any collateral for Borrower's benefit, which payment(s) or proceed or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other part under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment or proceeds received, the Indebtedness or party thereof intended to be satisfied shall be revived and continued in full force and effect, as if such payment or proceeds had not been received by Lender.

Section 8.22 Injunctive Relief. Borrower recognizes that, in the event Borrower fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, any remedy at law may prove to be inadequate relief to Lender, therefore, Borrower agrees that if any Default or Event of Default shall have occurred and be continuing, Lender shall be entitled to temporary and permanent injunctive relief without the necessity of proving actual damages.

Section 8.23 No Duty. All attorneys, accountants, appraisers, and other professional Persons and consultants retained by Lender shall have the right to act exclusively in the interest of Lender and shall have no duty of disclosure, duty of loyalty, duty of care, or other duty or obligation of any type or nature whatsoever to Borrower or any other Person. Documents in connection with the transactions contemplated hereunder have been prepared by

Vinson & Elkins L.L.P. (“Lender’s Counsel”). Borrower acknowledges and understands that Lender’s Counsel is acting solely as counsel to Lender in connection with the transaction contemplated herein, is not representing Borrower in connection therewith, and has not, in any manner, undertaken to assist or render legal advice to Borrower with respect to this transaction. Borrower has been advised to seek other legal counsel to its interests in connection with the transactions contemplated herein.

Section 8.24 Sale or Participation of the Loan. Each Loan Party agrees that Lender may, at its option, sell the Notes or its interests in the Notes and its rights under this Agreement (whether by sale, participation, or otherwise) and, in connection with each such sale, Lender may disclose any financial and other information available to Lender concerning any Loan Party to each prospective purchaser, subject to Section 8.27 hereof.

Section 8.25 Patriot Act Notice. Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies Borrower, which information includes the name and address of Borrower and other information that will allow the Lender to identify Borrower in accordance with the Act.

Section 8.26 Acknowledgement Regarding Any Supported QFCs. To the extent that the Security Instruments provide support, through a guarantee or otherwise, for Swap Agreements 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 Security Instruments and any Supported QFC may in fact be stated to be governed by the laws of the State of Texas and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regimes 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 Regimes, Default Rights under the Security Instruments 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 Security Instruments were governed by the laws of the United States or a state of the United States.

Section 8.27 Confidentiality. Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (as defined below) (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); (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates (collectively, “Related Parties”); (c) to the extent required by applicable laws or by any subpoena or similar legal process; (d) to any other party hereto; (e) in connection with the exercise of any remedies hereunder or under any other Security Instrument or any action or proceeding relating to this Agreement or any other Security Instrument 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 (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 Borrower and its obligations, this Agreement or payments hereunder; (g) with the consent of 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 Lender or any of its Affiliates on a nonconfidential basis from a source other than Borrower who did not acquire such information as a result of a breach of this Section.

For purposes of this Section, "Information" means all information received from Borrower or any of its Subsidiaries relating to Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to Lender on a nonconfidential basis prior to disclosure by Borrower or any of its Subsidiaries; provided that, in the case of information received from Borrower or any of its Subsidiaries 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. Notwithstanding anything herein to the contrary, "Information" shall not include, and the Borrower, the Borrower's Subsidiaries, the Lender and the respective Affiliates of each of the foregoing (and the respective partners, directors, officers, employees, agents, advisors and other representatives of the aforementioned Persons), and any other party, may disclose to any and all Persons, without limitation of any kind (i) any information with respect to the United States federal and state income tax treatment of the transactions contemplated hereby and any facts that may be relevant to understanding the United States federal or state income tax treatment of such transactions ("tax structure"), which facts shall not include for this purpose the names of the parties or any other person named herein, or information that would permit identification of the parties or such other persons, or any pricing terms or other nonpublic business or financial information that is unrelated to such tax treatment or tax structure, and (ii) all materials of any kind (including opinions or other tax analyses) that are provided to Borrower, or Lender relating to such tax treatment or tax structure.

Section 8.28 Notice of Final Agreement. It is the intention of each Loan Party, Guarantor and Lender that the following NOTICE OF FINAL AGREEMENT be incorporated by reference into each of the Security Instruments (as the same may be amended, modified or restated from time to time) and other loan documents or instruments executed in connection therewith.

THIS AGREEMENT AND THE OTHER SECURITY INSTRUMENTS (AND ANY OTHER DOCUMENT OR INSTRUMENT EXECUTED IN CONNECTION THEREWITH) REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES, AND THE SAME MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

ARTICLE IX
GUARANTY

Section 9.01 Guaranty. In consideration of the Revolving Advances, advances and other credit heretofore or hereafter granted by the Secured Parties to Borrower pursuant to this Agreement and the other Security Instruments and in further consideration of any Bank Products and Swap Agreements provided by the Secured Parties, Guarantors hereby, jointly and severally, unconditionally, absolutely and irrevocably, guarantee to the Secured Parties, the due and punctual payment when and as due, including at stated maturity, by acceleration or otherwise, and at all times thereafter, and the due fulfillment and performance of the Indebtedness. Each Guarantor is jointly and severally liable for the full payment and performance of the Indebtedness as a primary obligor.

Section 9.02 Payment. If any of the Indebtedness is not punctually paid when such Indebtedness becomes due and payable, either by its terms or as a result of the exercise of any power to accelerate, Guarantors shall, immediately on demand and without presentment, protest, notice of protest, notice of nonpayment, notice of intent to accelerate, notice of acceleration or any other notice whatsoever (all of which are expressly waived in accordance with Section 9.03 hereof), pay the amount due and payable thereon to Lender. It is not necessary for Lender, in order to enforce such payment by Guarantors, first to institute suit or exhaust its remedies against Borrower or others liable on the Indebtedness, or to enforce its rights against any security given to secure such Indebtedness. Lender is not required to mitigate damages or take any other action to reduce, collect or enforce the Indebtedness. No setoff, counterclaim, reduction or diminution of any obligation, or any defense of any kind which any Guarantor has or may have against

Borrower or any Secured Party shall be available hereunder to Guarantors. No payment by any Guarantor shall discharge the liability of Guarantors hereunder until the Indebtedness has been fully satisfied and paid in full. If Lender must rescind or restore any payment, or any part thereof, received by Lender on any part of the Indebtedness, any prior release or discharge from the terms of this Guaranty given Guarantors by Lender or any reduction of any Guarantor's liability hereunder shall be without effect, and this Guaranty Agreement shall remain in full force and effect.

Section 9.03 Agreements and Waivers. Each Guarantor:

(a) agrees to all terms and agreements heretofore or hereafter made by Borrower with Lender and/or any other Secured Party;

(b) agrees that Lender may without impairing its rights or the obligations of such Guarantor hereunder (i) waive or delay the exercise of any of its rights or remedies against or release Borrower or any other Person, including, without limitation, any other party who is or whose Property is liable with respect to the Indebtedness or any part thereof (Guarantors and any such other Person or Persons are hereafter collectively called the "Sureties" and individually called a "Surety"); (ii) take or accept any other security, collateral or guaranty, or other assurance of the payment of all or any part of the Indebtedness; (iii) release, surrender, exchange, subordinate or permit or suffer to exist any deterioration, waste, loss or impairment (including without limitation negligent, willful, unreasonable or unjustified impairment) of any collateral, Property or security, at any time existing in connection with, or assuring or securing payment of, all or any part of the Indebtedness or the liability of such Guarantor or any other Surety; (iv) increase, renew, extend, or modify the terms of any of the Indebtedness or any instrument or agreement evidencing the same; (v) apply payments by Borrower, any Surety, or any other Person, to any of the Indebtedness; (vi) bring suit against any one or more Sureties without joining any other Surety or Borrower in such proceeding; (vii) compromise or settle with any one or more Sureties in whole or in part for such consideration or no consideration as Lender may deem appropriate; or (viii) partially or fully release any Guarantor or any other Surety from liability hereunder;

(c) agrees that the obligations of such Guarantor under this Guaranty Agreement shall not be released, diminished, or adversely affected by any of the following: (i) the insolvency, bankruptcy, rearrangement, adjustment, composition, liquidation, disability, dissolution or lack of power of Borrower or any Surety; (ii) the invalidity, illegality or unenforceability of all or any part of the Indebtedness or any document or agreement executed in connection with the Indebtedness, for any reason, or the fact that any debt included in the Indebtedness exceeds the amount permitted by applicable law; (iii) the failure of Lender or any other party to exercise diligence or reasonable care or to act in a commercially reasonable manner in the preservation, protection, enforcement, sale or other handling or treatment of all or any part of such collateral, Property or security; (iv) the fact that any collateral, security or Lien contemplated or intended to be given, created or granted as security for the repayment of the Indebtedness is not properly perfected or created, or proves to be unenforceable or subordinate to any other Lien; (v) the fact that Borrower has any defense to the payment of all or any part of the Indebtedness; (vi) any payment by Borrower or any Surety to Lender and/or any other Secured Party is a preference under Applicable Bankruptcy Law, or for any reason Lender and/or any other Secured Party is required to refund such payment or pay such amounts to Borrower, any such Surety, or someone else; (vii) any defenses which Borrower could assert on the Indebtedness, including but not limited to failure of consideration, breach of warranty, fraud, payment, accord and satisfaction, strict foreclosure, statute of frauds, bankruptcy, statute of limitations, lender liability and usury; or (viii) any other action taken or omitted to be taken with respect to this Agreement, the other Security Instruments, the Indebtedness, the security and collateral therefor whether or not such action or omission prejudices such Guarantor or any Surety, or increases the likelihood that such Guarantor will be required to pay the Indebtedness pursuant to the terms hereof;

(d) agrees that such Guarantor is obligated to pay the Indebtedness when due, notwithstanding any occurrence, circumstance, event, action or omission whatsoever, whether or not particularly described herein, except for the full and final payment and satisfaction of the Indebtedness;

(e) to the extent allowed by applicable law, waives all rights and remedies now or hereafter accorded by applicable law to guarantors or sureties, including without limitation any defense, right of offset or other claim which such Guarantor may have against Borrower or which Borrower may have against Lender;

(f) waives all notices whatsoever with respect to this Guaranty Agreement or with respect to the Indebtedness, including, but without limitation, notice of (i) Lender's and/or any other Secured Party's acceptance hereof or its intention to act, or its action, in reliance hereon; (ii) the present existence, future incurring, or any amendment of the provisions of any of the Indebtedness or any terms or amounts thereof or any change therein in the rate of interest thereon; (iii) any default by Borrower or any Surety; or (iv) the obtaining, enforcing, or releasing of any guaranty or surety agreement (in addition hereto), pledge, assignment or other security for any of the Indebtedness;

(g) waives notice of presentment for payment, notice of protest, protest, demand, notice of intent to accelerate, notice of acceleration and notice of nonpayment, protest in relation to any instrument evidencing any of the Indebtedness, and any demands and notices required by applicable law, except as such waiver may be expressly prohibited by applicable law, and diligence in bringing suits against any Surety; and

(h) represents and warrants to Lender that such Guarantor (i) has received, or will receive, direct or indirect benefit from the making of the guaranty set forth herein and the Indebtedness, (ii) is familiar with, and has independently reviewed the books and records regarding, the financial condition of Borrower and is familiar with the value of any and all Collateral intended to be created as security for the payment of the Indebtedness, but such Guarantor is not relying on such financial condition, such Collateral, or the agreement of any other party as an inducement to enter into this Agreement and provide the guaranty set forth herein. Each Guarantor confirms that neither Lender, any other Guarantor, nor any other party has made any representation, warranty or statement to such Guarantor in order to induce such Guarantor to execute this Agreement and provide the guaranty set forth herein, and (iii) is a Qualified ECP Guarantor.

Section 9.04 Liability. The liability of each Guarantor under this Guaranty Agreement is irrevocable, absolute and unconditional, without regard to the liability of any other Person, and shall not in any manner be affected by reason of any action taken or not taken by Lender and/or any other Secured Party, which action or inaction is herein consented and agreed to, nor by the partial or complete unenforceability or invalidity of any other guaranty or surety agreement, pledge, assignment or other security for any of the Indebtedness. No delay in making demand on Sureties or any of them for satisfaction of the liability hereunder shall prejudice Lender's right to enforce such satisfaction. All of Lender's rights and remedies shall be cumulative and any failure of Lender to exercise any right hereunder shall not be construed as a waiver of the right to exercise the same or any other right at any time, and from time to time, thereafter. This is a continuing guaranty of payment, not a guaranty of collection, and this Guaranty Agreement shall be binding upon Guarantors regardless of how long before or after the date hereof any of the Indebtedness were or are incurred.

Section 9.05 Subordination. If Borrower or any other Loan Party is now or hereafter becomes indebted to one or more Guarantors (such indebtedness and all interest thereon is referred to as the "Affiliated Debt"), such Affiliated Debt shall be subordinate in all respects to the full payment and performance of the Indebtedness, and no Guarantor shall be entitled to enforce or receive payment with respect to any Affiliated Debt until payment in full of the Indebtedness. Each Guarantor agrees that any Liens, mortgages, deeds of trust, security interests, judgment liens, charges or other encumbrances upon any Loan Party's assets securing the payment of the Affiliated Debt shall be and remain subordinate and inferior to any Liens, mortgages, deeds of trust, security interests, judgment liens, charges or other encumbrances upon any Loan Party's assets securing the payment of the Indebtedness, and without the prior written consent of Lender, no Guarantor shall exercise or enforce any creditor's rights of any nature against any Loan Party to collect the Affiliated Debt (other than demand payment therefor). In the event of the receivership, bankruptcy, reorganization, arrangement, debtor's relief or other insolvency proceedings involving Borrower or any applicable Loan Party as a debtor, Lender has the right and authority, either in its own name or as attorney-in-fact for any applicable Guarantor, to file such proof of debt, claim, petition or other documents and to take such other steps as are necessary to prove its rights hereunder and receive directly from the receiver, trustee or other court custodian, payments, distributions or other dividends which would otherwise be payable upon the Affiliated Debt. Each Guarantor hereby assigns such payments, distributions and dividends to Lender, and irrevocably appoints

Lender as its true and lawful attorney-in-fact with authority to make and file in the name of such Guarantor any proof of debt, amendment of proof of debt, claim, petition or other document in such proceedings and to receive payment of any sums becoming distributable on account of the Affiliated Debt, and to execute such other documents and to give acquittances therefor and to do and perform all such other acts and things for and on behalf of such Guarantor as may be necessary in the opinion of Lender in order to have the Affiliated Debt allowed in any such proceeding and to receive payments, distributions or dividends of or on account of the Affiliated Debt.

Section 9.06 Subrogation. No Guarantor waives or releases any rights of subrogation, reimbursement or contribution which such Guarantor may have, after full and final payment of the Indebtedness, against others liable on the Indebtedness. Each Guarantor's rights of subrogation and reimbursement are subordinate in all respects to the rights and claims of Lender and the other Secured Parties, and no Guarantor may exercise any rights it may acquire by way of subrogation under this Guaranty, by payment made hereunder or otherwise, until payment in full of the Indebtedness. If any amount is paid to any Guarantor on account of such subrogation rights prior to payment in full of the Indebtedness, such amount shall be held in trust for the benefit of Lender and/or the other Secured Parties to be credited and applied on the Indebtedness, whether matured or unmatured.

Section 9.07 Other Indebtedness or Obligations of Guarantors. If any Guarantor is or becomes liable for any indebtedness owed by any Loan Party to the Lenders by endorsement or otherwise than under this Guaranty Agreement, such liability shall not be affected by this Guaranty Agreement, and the rights of Lender shall be cumulative of all other rights that Lender may have against such Guarantor. The exercise by Lender of any right or remedy hereunder or under any other instrument or at law or in equity shall not preclude the concurrent or subsequent exercise of any other instrument or remedy at law or in equity and shall not preclude the concurrent or subsequent exercise of any other right or remedy. Further, without limiting the generality of the foregoing, this Guaranty Agreement is given by Guarantors as an additional guaranty to all guaranties heretofore or hereafter executed and delivered to Lender by Guarantors in favor of Lender relating to the indebtedness of Borrower and the other Loan Parties to the Secured Parties, and nothing herein shall be deemed to replace or be in lieu of any other of such previous or subsequent guarantees.

Section 9.08 Costs and Expenses. Guarantors jointly and severally agree to pay to Lender, upon demand, all losses and costs and expenses, including attorneys' fees, that may be incurred by Lender in attempting to cause the Indebtedness to be satisfied or in attempting to cause satisfaction of Guarantors' liability under this Guaranty Agreement.

Section 9.09 Exercising Rights, Etc. No notice to or demand upon any Guarantor in any case shall, of itself, entitle such Guarantor or any other Guarantor to any other or further notice or demand in similar or other circumstances. No delay or omission by Lender in exercising any power or right hereunder shall impair such right or power or be construed as a waiver thereof or any acquiescence therein, nor shall any single or partial exercise of any such power preclude other or further exercise thereof, or the exercise of any other right or power hereunder.

Section 9.10 Benefit; Binding Effect. This Guaranty Agreement shall inure to the benefit of Lender and each other Secured Party and their respective successors and assigns, and to any interest in any of the Indebtedness. All of the obligations of Guarantors arising hereunder shall be jointly and severally binding on each of the Persons signing this Guaranty Agreement, and their respective successors and assigns (provided, however, that no Guarantor may, without the prior written consent of Lender in each instance, assign or delegate any of its rights, powers, duties or obligations hereunder, and any attempted assignment or delegation made without Lender's prior written consent shall be void ab initio and of no force or effect).

Section 9.11 Multiple Guarantors. It is specifically agreed that Lender may enforce the provisions hereof with respect to one or more Guarantors without seeking to enforce the same as to all or any Guarantors. If one or more additional Guaranty Agreement are executed by one or more additional Guarantor, which guarantee, in whole or in part, any of the Indebtedness, it is specifically agreed that Lender may enforce the provisions of this Guaranty Agreement or of the other Guaranty Agreements with respect to one or more of Guarantors under this Guaranty Agreement or the other Guaranty Agreements without seeking to enforce the provisions of this Guaranty Agreement or the other Guaranty Agreement as to all or any of Guarantors. Each Guarantor hereby waives any requirement of

joinder of all or any other Guarantor in any suit or proceeding to enforce the provisions of this Guaranty Agreement or of the other Guaranty Agreements. The liability hereunder of all Guarantors hereunder shall be joint and several.

Section 9.12 Reinstatement. Notwithstanding anything contained in this Agreement or the other Security Instruments, the obligations of each Guarantor under this Article IX shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Indebtedness is rescinded or must be otherwise restored by any holder of any of the Indebtedness, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Guarantor agrees that it will indemnify each Secured Party on demand for all reasonable costs and expenses (including, without limitation, reasonable fees of counsel) incurred by such Person in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any Applicable Bankruptcy Law.

Section 9.13 Maximum Liability. Anything in this Guaranty Agreement to the contrary notwithstanding, the obligations of each Guarantor hereunder shall be limited to a maximum aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any applicable provisions of comparable Law (collectively, the "Fraudulent Transfer Laws"), in each case after giving effect to all other liabilities of such Guarantor, contingent or otherwise, that are relevant under the Fraudulent Transfer Laws (specifically excluding, however, any liabilities of such Guarantor in respect of intercompany indebtedness to other Loan Parties or Affiliates of other Loan Parties to the extent that such indebtedness would be discharged in an amount equal to the amount paid or Property conveyed by such Guarantor under the Security Instruments) and after giving effect as assets, subject to Section 9.06, to the value (as determined under the applicable provisions of the Fraudulent Transfer Laws) of any rights to subrogation or contribution of such Guarantor pursuant to (a) applicable law or (b) any agreement providing for an equitable allocation among such Guarantor and other Loan Parties of obligations arising under the Security Instruments and any Bank Products or Swap Agreements entered into with a Secured Party.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

BORROWER:

HARTE HANKS, INC.,
a Delaware corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Chief Financial Officer

GUARANTORS:

HARTE-HANKS DIRECT, INC.,
a New York corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS LOGISTICS, LLC,
a Florida limited liability company
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS RESPONSE MANAGEMENT/AUSTIN, INC.,
a Delaware corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS RESPONSE MANAGEMENT/BOSTON, INC.,
a Massachusetts corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS STS, INC.,
a Delaware corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

LENDER:

TEXAS CAPITAL BANK
By: /s/ Jerra Hayden
Name: Jerra Hayden
Title: Senior Vice President

PLEDGE AND SECURITY AGREEMENT

This PLEDGE AND SECURITY AGREEMENT (as it may be amended, restated, amended and restated, supplemented or modified from time to time, this "Security Agreement") is entered into as of December 21, 2021, by and among each of the undersigned identified on the signature pages hereto as Grantors (together with any other entity that may become a party hereto as provided herein, each a "Grantor, and collectively, the "Grantors"), and TEXAS CAPITAL BANK, as lender (the "Lender").

PRELIMINARY STATEMENTS

A. Reference is made to that certain Loan Agreement dated as of December 21, 2021 (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), among HARTE HANKS, INC., a Delaware corporation ("Borrower"), each of the other Loan Parties from time to time party thereto, and the Lender, pursuant to which the Lender has agreed to make loans and other extensions of credit to the Borrower for the purposes set forth therein.

B. The Loan Parties and/or certain of their Subsidiaries and the Secured Parties have or may enter into certain Bank Products and Swap Agreements (the "Secured Products").

C. The Guarantors have provided a guarantee under the Loan Agreement or may from time to time execute a written guaranty whether by means of a joinder or assumption agreement related thereto or otherwise (such guarantee and such written guaranty, joinders and assumption agreements, as they may from time to time be amended, restated, replaced, modified or supplemented, are collectively the "Guaranty"), pursuant to which, upon the terms and conditions stated therein, the Guarantors party thereto have agreed to guarantee the obligations of the Borrower and the other Loan Parties under the Loan Agreement, the other Security Instruments and the Secured Products. The Loan Agreement, the Guaranty, the other Security Instruments and the Secured Products are collectively referred to herein as the "Secured Transaction Documents".

D. The Lender and the other Secured Parties have conditioned their obligations under the Secured Transaction Documents upon the execution and delivery by the Grantors of this Security Agreement, and the Grantors have agreed to enter into this Security Agreement to secure all obligations owing to the Lender and the other Secured Parties under the Secured Transaction Documents.

E. Each Grantor has determined that valuable benefits will be derived by it as a result of the Loan Agreement and the extension of credit made (and to be made) by the Lender thereunder.

ACCORDINGLY, the Grantors and the Lender, on behalf of itself and the other Secured Parties, hereby agree as follows:

ARTICLE I
DEFINITIONS

1.1 Terms Defined in Loan Agreement. All capitalized terms used herein and not otherwise defined shall have the meanings assigned to such terms in the Loan Agreement.

1.2 Terms Defined in UCC. Terms defined in the UCC which are not otherwise defined in this Security Agreement are used herein as defined in Articles 8 or 9 of the UCC.

1.3 Definitions of Certain Terms Used Herein. As used in this Security Agreement, in addition to the terms defined in the introductory paragraph hereto and in the Preliminary Statements, the following terms shall have the following meanings:

"Amendment" shall have the meaning set forth in Section 4.8 hereof.

"Article" means a numbered article of this Security Agreement, unless another document is specifically referenced.

"Assumption Agreement" means an Assumption Agreement substantially in the form of Annex 1 hereto.

"Collateral" shall have the meaning set forth in Article II.

"Collateral Report" means any certificate, report or other document delivered by any Grantor to the Lender with respect to the Collateral pursuant to any Security Instrument, including the Revolving Credit Borrowing Base Report.

"Commodity Account Control Agreement" means an agreement, in form and substance reasonably satisfactory to the Lender, among any Grantor, a commodity intermediary holding such Grantor's assets, including funds and commodity contracts, and the Lender with respect to collection and control of all deposits, commodity contracts and other balances held in a Commodity Account maintained by any Grantor with such commodity intermediary.

"Control" shall have the meaning set forth in Article 8 or, if applicable, in Section 9-104, 9-105, 9-106 or 9-107 of Article 9 of the UCC.

"Copyrights" means, with respect to any Person, all of such Person's right, title, and interest in and to the following: (a) all copyrights, rights and interests in copyrights, works protectable by copyright, copyright registrations, and copyright applications; (b) all renewals of any of the foregoing; (c) all income, royalties, damages, and payments now or hereafter due and/or payable under any of the foregoing, including, without limitation, damages or payments for past or future infringements for any of the foregoing; (d) the right to sue for past, present, and future infringements of any of the foregoing; and (e) all rights corresponding to any of the foregoing throughout the world.

"Default" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"Deposit Account Control Agreement" means an agreement, in form and substance reasonably satisfactory to the Lender, among any Grantor, a banking institution holding such Grantor's funds, and the Lender with respect to collection and control of all deposits and balances held in a Deposit Account maintained by any Grantor with such banking institution.

"Effective Date" means (a) with respect to the Borrower and each other Grantor party hereto on the date hereof, the "Closing Date" as defined in the Loan Agreement, and (b) with respect to each other Grantor, the "Effective Date" as defined in the Assumption Agreement by means of which such Grantor becomes a party hereto.

"Event of Default" means an event described in Section 5.1 hereof.

"Excluded Assets" means, collectively:

(a) any rights or interest in any lease, contract, license or license agreement covering personal Property or real Property and/or such assets subject thereto, so long as under the terms of such lease, contract, license or license agreement, the grant of a security interest or Lien therein for the benefit of the Secured Parties (i) is prohibited, (ii) would give any other party to such lease, contract, license or license agreement, instrument or indenture the right to terminate its obligations thereunder, or (iii) is permitted only with the consent of another party (including, without limitation, any Governmental Authority) (or would render such lease, contract, license or license agreement cancelled, invalid or unenforceable) and such prohibition has not been or is not waived or the consent of the other party to such lease, contract, license or license agreement has not been or is not otherwise obtained; provided that, this exclusion shall in no way be construed to apply if any such prohibition is unenforceable under the UCC or any other applicable law (including any Applicable Bankruptcy Law) or so as to limit, impair or otherwise affect the unconditional continuing security interests in and Liens for the benefit of the Secured Parties upon any rights or interests in or to monies due or to become due under any such lease, contract, license or license agreement (including any receivables) and provided further that, with respect to any lease, contract, license or license

agreement entered into after the Closing Date, the Loan Parties shall use commercially reasonable efforts to permit Liens for the benefit of the Secured Parties on each such lease, contract, license or license agreement and avoid prohibitions of the types described in clauses (i) through (iii) above;

(b) any application for registration of a trademark filed in the United States Patent and Trademark Office on an intent to use basis to the extent that the grant of a security interest in any such trademark application would adversely affect the validity or enforceability or result in cancellation or voiding of such trademark application, provided, however, that such trademark applications shall no longer be considered Excluded Assets upon the filing of a Statement of Use or an Amendment to Allege Use has been filed and accepted in the United States Patent and Trademark Office;

(c) any assets that are subject to a Lien permitted under Section 5.02(g) of the Loan Agreement if the contract or other agreement in which the Lien is granted (or the documentation providing for the Debt secured thereby) prohibits the creation of any other Lien on such assets; provided that immediately upon the ineffectiveness, lapse or termination of any such Lien permitted under Section 5.02(g), such assets shall no longer be considered Excluded Assets pursuant to this clause (c) and the Collateral shall include all such rights and interest in such assets as if such Lien permitted under Section 5.02(g) had never been in effect (unless such asset would constitute as an Excluded Asset under any other clause herein); and

(d) (i) the Stock of (A) any Foreign Subsidiary and (B) any CFC Holdco, in each case, in excess of 65% of the issued and outstanding voting Stock and (ii) 100% of the issued and outstanding non-voting Stock in any such Person described in the foregoing clause (i); provided, that the limitations described in this clause (d), shall only apply if and solely to the extent providing a Lien to secure the Indebtedness would result in material adverse U.S. tax consequences to a Loan Party under Section 956 of the Code that are not mitigated in substantial part by Section 245A of the Code (or substantially similar successor provisions), solely as a result of granting a security interest in such assets, as reasonably determined by a "Big Four" accounting firm and the Lender has been provided with supporting evidence satisfactory to the Lender.

"Exhibit" refers to a specific exhibit to this Security Agreement (unless another document is specifically referenced) as from time to time supplemented by any Assumption Agreements.

"Licenses" means, with respect to any Person, all of such Person's right, title, and interest in and to (a) any and all licensing agreements or similar arrangements in and to its Patents, Copyrights, or Trademarks, (b) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future breaches thereof, and (c) all rights to sue for past, present, and future breaches thereof.

"Patents" means, with respect to any Person, all of such Person's right, title, and interest in and to: (a) any and all patents and patent applications; (b) all inventions and improvements described and claimed therein; (c) all reissues, divisions, continuations, renewals, extensions, and continuations-in-part thereof; (d) all income, royalties, damages, claims, and payments now or hereafter due or payable under and with respect thereto, including, without limitation, damages and payments for past and future infringements thereof; (e) all rights to sue for past, present, and future infringements thereof; and (f) all rights corresponding to any of the foregoing throughout the world.

"Pledged Collateral" means all Instruments, Securities and other Investment Property of the Grantors, whether or not physically delivered to the Lender pursuant to this Security Agreement, including without limitation the pledged Stock set forth on Exhibit G hereto.

"Receivables" means the Accounts, Chattel Paper, Documents, Investment Property, Instruments and any other rights or claims to receive money which are General Intangibles or which are otherwise included as Collateral.

"Section" means a numbered section of this Security Agreement, unless another document is specifically referenced.

"Securities Account Control Agreement" means an agreement, in form and substance reasonably satisfactory to the Lender, among any Grantor, a securities intermediary holding such Grantor's assets, including funds and securities, or an issuer of Securities, and the Lender with respect to collection and control of all deposits, securities and other balances held in a Securities Account maintained by any Grantor with such securities intermediary.

"Stock" means all shares, options, warrants, general or limited partnership interests, membership interests or other equivalents (regardless of how designated) of or in a corporation, partnership, limited liability company or equivalent entity, whether voting or non-voting, including common stock, preferred stock and any other "equity security" (as defined in Rule 3a11-1 of the General Rules and regulations promulgated by the Securities and Exchange Commission under the Exchange Act).

"Stock Rights" means all dividends, instruments or other distributions and any other right or property which the Grantors shall receive or shall become entitled to receive for any reason whatsoever with respect to, in substitution for or in exchange for any Stock constituting Collateral, any right to receive any Stock and any right to receive earnings, in which the Grantors now have or hereafter acquire any right, issued by an issuer of such Stock.

"Trademarks" means, with respect to any Person, all of such Person's right, title, and interest in and to the following: (a) all trademarks (including service marks), trade names, trade dress, and trade styles and the registrations and applications for registration thereof and the goodwill of the business symbolized by the foregoing; (b) all licenses of the foregoing, whether as licensee or licensor; (c) all renewals of the foregoing; (d) all income, royalties, damages, and payments now or hereafter due or payable with respect thereto, including, without limitation, damages, claims, and payments for past and future infringements thereof; (e) all rights to sue for past, present, and future infringements of the foregoing, including the right to settle suits involving claims and demands for royalties owing; and (f) all rights corresponding to any of the foregoing throughout the world.

"UCC" means the Uniform Commercial Code, as in effect from time to time, of the State of New York or of any other state the laws of which are required as a result thereof to be applied in connection with the attachment, perfection or priority of, or remedies with respect to, Lender's or any Secured Party's Lien on any Collateral.

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

ARTICLE II
GRANT OF SECURITY INTEREST

Each Grantor hereby pledges, assigns and grants to the Lender, on behalf of and for the ratable benefit of the Secured Parties, a security interest in all of its right, title and interest in, to and under all personal property and other assets, whether now owned by or owing to, or hereafter acquired by or arising in favor of such Grantor (including under any trade name or derivations thereof), and whether owned or consigned by or to, or leased from or to, such Grantor, and regardless of where located (all of which will be collectively referred to as the "Collateral"), including:
(i) all Pledged Collateral;
(ii) all Accounts;
(iii) all Chattel Paper;
(iv) all Copyrights, Patents, Trademarks and other intellectual property;
(v) all Documents;
(vi) all Equipment;
(vii) all Fixtures;
(viii) all General Intangibles;
(ix) all Goods;
(x) all Instruments;
(xi) all Inventory;
(xii) all Investment Property;
(xiii) all cash or cash equivalents;
(xiv) all letters of credit, Letter-of-Credit Rights and Supporting Obligations;
(xv) all Deposit Accounts;

(xvi) all Commercial Tort Claims listed on Exhibit J hereto;
(xvii) all Securities Accounts;
(xviii) all Commodity Accounts; and
(xix) all accessions to, substitutions for and replacements, Proceeds (including Stock Rights), insurance proceeds and products of the foregoing, together with all books and records, customer lists, credit files, computer files, programs, printouts and other computer materials and records related thereto and any General Intangibles at any time evidencing or relating to any of the foregoing;

to secure the prompt and complete payment and performance of the Indebtedness; provided, however, that "Collateral" shall not include any Excluded Assets; and provided further, that Excluded Assets shall not include any proceeds, products, substitutions, or replacements of Excluded Assets unless such proceeds, products, substitutions, or replacements of Excluded Assets would otherwise constitute Excluded Assets.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

Each Grantor represents and warrants to the Lender and the Secured Parties that:

3.1 Title, Authorization, Validity, Enforceability, and Perfection. Such Grantor has good and valid rights in or the power to transfer the Collateral and title to the Collateral with respect to which it has purported to grant a security interest hereunder, free and clear of all Liens except for Liens permitted under Section 4.1(e), and has full power and authority to grant to the Lender the security interest in such Collateral pursuant hereto. The execution and delivery by such Grantor of this Security Agreement has been duly authorized by proper corporate, limited liability company, partnership, or other similar organizational actions, as applicable, of such Grantor, and this Security Agreement constitutes a legal valid and binding obligation of such Grantor and creates a security interest which is enforceable against such Grantor in all Collateral it now owns or hereafter acquires, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law. When financing statements have been filed in the appropriate offices against such Grantor in the locations listed on Exhibit H and all filing and recordation fees associated therewith have been paid, the Lender will have a validly perfected security interest in that Collateral of the Grantor in which a security interest may be perfected by filing, subject only to Liens permitted under Section 4.1(e).

3.2 Type and Jurisdiction of Organization, Organizational and Identification Numbers. As of the Effective Date, the type of entity of such Grantor, its state of organization, the organizational number issued to it by its state of organization and its federal employer identification number are set forth on Exhibit A.

3.3 Principal Location. As of the Effective Date, such Grantor's mailing address and the location of its place of business (if it has only one) or its chief executive office (if it has more than one place of business), are disclosed in Exhibit A.

3.4 Collateral Locations. As of the Effective Date, all of such Grantor's locations where Collateral is located are listed on Exhibit A. As of the Effective Date, all of said locations are owned by such Grantor except for locations which are leased by the Grantor as lessee and designated in Part II(b) of Exhibit A and at which Inventory or other Collateral is held in a public warehouse or is otherwise held by a bailee or on consignment as designated in Part II(c) of Exhibit A.

3.5 Deposit Accounts, Commodity Accounts and Securities Accounts. All of such Grantor's Deposit Accounts, Commodity Accounts and Securities Accounts as of the Effective Date are listed on Exhibit B.

3.6 Exact Names. As of the Effective Date, such Grantor's name in which it has executed this Security Agreement is the exact name as it appears in such Grantor's organizational documents, as amended, as filed with such Grantor's jurisdiction of organization. Except as may be described in Exhibit A, such Grantor has not, during the past five

years, been known by or used any other corporate or fictitious name, or been a party to any merger or consolidation, or been a party to any acquisition.

3.7 Letter-of-Credit Rights and Chattel Paper. As of the Effective Date, Exhibit C lists all Letter-of-Credit Rights that are not supporting obligations, and Chattel Paper of such Grantor as of the Effective Date in excess of $1,000,000. All reasonable action by such Grantor necessary or desirable to protect and perfect the Lender's Lien on each item listed on Exhibit C (including the delivery of all originals (other than with respect to any customer contracts) and the placement of a legend on all Chattel Paper as required hereunder) has been duly taken. The Lender will have a fully perfected security interest in the Collateral listed on Exhibit C, subject only to Liens permitted under Section 4.1(e).

3.8 Accounts and Chattel Paper.

(a) The names of the obligors, amounts owing, due dates and other information with respect to its Accounts and Chattel Paper are and will be correctly stated in all material respects in all records of such Grantor relating thereto and in all invoices and Collateral Reports with respect thereto furnished to the Lender by such Grantor from time to time.

(b) With respect to its Accounts, except as specifically disclosed on the most recent Collateral Report, all Accounts are Eligible Accounts (disregarding for this purpose any Account that would not be an Eligible Account by reason of the exercise of discretion of Lender); to such Grantor's knowledge, there are no facts, events or occurrences which in any way impair the validity or enforceability thereof or could reasonably be expected to reduce the amount payable thereunder as shown on such Grantor's books and records and any invoices, statements and Collateral Reports with respect thereto; such Grantor has not received any written notice of proceedings or actions which are threatened or pending against any Account Debtor which would reasonably be expected to result in a material adverse change in such Account Debtor's financial condition; and such Grantor has no actual knowledge that any Account Debtor is unable generally to pay its debts as they become due.

(c) In addition, with respect to all of its Accounts, the amounts shown on all invoices, statements and Collateral Reports with respect thereto are actually and absolutely owing to such Grantor as indicated thereon and are not in any way contingent.

3.9 Intellectual Property. As of the Effective Date, such Grantor does not have any interest in, or title to, any Patent, Trademark or Copyright except as set forth in Exhibit D. This Security Agreement is effective to create a valid and continuing Lien and, upon filing of appropriate financing statements in the offices listed on Exhibit H and this Security Agreement (or, if applicable, such short-form intellectual property security agreements as the parties may agree upon) with the United States Copyright Office and the United States Patent and Trademark Office, fully perfected security interests in favor of the Lender on such Grantor's Patents, Trademarks and Copyrights, such perfected security interests are enforceable as such as against any and all creditors of and purchasers from such Grantor; and all other action reasonably necessary or desirable to protect and perfect the Lender's Lien on such Grantor's Patents, Trademarks or Copyrights and requested by Lender shall have been duly taken.

3.10 Filing Requirements. As of the Effective Date, none of its Equipment is covered by any certificate of title, except for the vehicles and other rolling stock in excess of $500,000 described in Part I of Exhibit E. As of the Effective Date, none of the Collateral owned by it is of a type for which security interests or liens may be perfected by filing under any federal statute except for the vehicles described in Part II of Exhibit E and Patents, Trademarks and Copyrights held by such Grantor and described in Exhibit D. As of the Effective Date, the legal description, county and street address of each property on which any Fixtures in excess of $500,000 are located is set forth in Exhibit F together with the name and address of the record owner of each such property.

3.11 No Financing Statements, Security Agreements. No financing statement or security agreement describing all or any portion of the Collateral which has not lapsed or been terminated naming such Grantor as debtor has been filed or is of record in any jurisdiction except for financing statements or security agreements naming the Lender on behalf of the Secured Parties as the secured party and as permitted by Section 4.1(e).

3.12 Pledged Collateral.

(a) Exhibit G sets forth a complete and accurate list of all Pledged Collateral owned by such Grantor as of the Effective Date. Such Grantor is the direct, sole beneficial owner and sole holder of record of the Pledged Collateral listed on Exhibit G as being owned by it, free and clear of any Liens, except for the security interest granted to the Lender for the benefit of the Secured Parties hereunder or any permitted Lien under any Security Instrument. Such Grantor further represents and warrants that all Pledged Collateral owned by it constituting Stock has been (to the extent such concepts are relevant with respect to such Pledged Collateral) duly authorized, validly issued, are fully paid and non-assessable, with respect to any certificates delivered to the Lender representing Stock, either such certificates are Securities as defined in Article 8 of the UCC as a result of actions by the issuer or otherwise, or, if such certificates are not Securities, such Grantor has so informed the Lender so that the Lender may take steps to perfect its security interest therein as a General Intangible, all such Pledged Collateral held by a securities intermediary, subject to the limitations herein and the other Security Instruments is covered by a Securities Account Control Agreement and all Pledged Collateral which represents indebtedness owed to such Grantor has been duly authorized, authenticated or issued and delivered by the issuer of such indebtedness, is the legal, valid and binding obligation of such issuer and such issuer is not in default thereunder.

(b) In addition, except as disclosed in the Loan Agreement, there are existing no options, warrants, calls or commitments of any character whatsoever relating to such Pledged Collateral or which obligate the issuer of any Stock included in the Pledged Collateral to issue additional Stock, and no consent, approval, authorization, or other action by, and no giving of notice, filing with, any Governmental Authority or any other Person is required for the pledge by such Grantor of such Pledged Collateral pursuant to this Security Agreement or for the execution, delivery and performance of this Security Agreement by such Grantor, or for the exercise by the Lender of the voting or other rights provided for in this Security Agreement or for the remedies in respect of the Pledged Collateral pursuant to this Security Agreement, except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally.

(c) Except as set forth in Exhibit G, as of the Effective Date, such Grantor owns 100% of the issued and outstanding Stock which constitute Pledged Collateral owned by it and none of the Pledged Collateral which represents indebtedness owed to such Grantor is subordinated in right of payment to other indebtedness or subject to the terms of an indenture.

ARTICLE IV
COVENANTS

From the date of this Security Agreement and thereafter until this Security Agreement is terminated pursuant to the terms hereof, each Grantor party hereto as of the date hereof agrees, and from and after the effective date of any Assumption Agreement applicable to any Grantor (and after giving effect to supplements, if any, to each of the Exhibits hereto with respect to such subsequent Grantor as attached to such Assumption Agreement), each such additional Grantor agrees that:

4.1 General.

(a) Collateral Records. Such Grantor will maintain complete and accurate books and records in all material respects with respect to the Collateral owned by it, and furnish to the Lender, such reports relating to such Collateral as the Lender shall be entitled to request pursuant to the Loan Agreement.

(b) Authorization to File Financing Statements; Ratification. Such Grantor hereby authorizes the Lender to file, and if requested will deliver to the Lender, all financing statements and other documents and take such other actions as may from time to time be reasonably requested by the Lender in order to maintain a perfected security interest in the Collateral owned by such Grantor. Any financing statement filed by the Lender may be filed in any filing office in any UCC jurisdiction and may indicate such Grantor’s Collateral as all assets of the Grantor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the

UCC or such jurisdiction, or by any other description which reasonably approximates the description contained in this Security Agreement, and contain any other information required by part 5 of Article 9 of the UCC for the sufficiency or filing office acceptance of any financing statement or amendment, including whether such Grantor is an organization, the type of organization and any organization identification number issued to such Grantor. Such Grantor also agrees to furnish any of such information to the Lender promptly upon request. Such Grantor also ratifies its authorization for the Lender to have filed in any UCC jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

(c) Further Assurances. Such Grantor will, if so requested by the Lender, furnish to the Lender, as often as the Lender reasonably requests, statements and schedules further identifying and describing the Collateral owned by it and such other reports and information in connection with its Collateral as the Lender may reasonably request, all in such detail as the Lender may specify, including, without limitation, any updates or supplements to the information contained in Exhibit A through Exhibit H and Exhibit J attached hereto, all in such detail as the Lender may specify.

(d) Disposition of Collateral. Such Grantor will not sell, lease or otherwise dispose of the Collateral owned by it except for dispositions specifically permitted pursuant to the Loan Agreement or any other Security Instrument.

(e) Liens. Such Grantor will not create, incur, or suffer to exist any Lien on the Collateral owned by it except the security interest created by this Security Agreement, and other Permitted Liens and any other Lien permitted under any Security Instrument.

(f) Other Financing Statements. Such Grantor will not authorize the filing of any financing statement naming it as debtor covering all or any portion of the Collateral owned by it, except as permitted by Section 4.1(e).

(g) Reserved.

(h) Reserved.

4.2 Receivables.

(a) Collection of Receivables. Except as otherwise provided in this Security Agreement, such Grantor will collect and enforce, at such Grantor’s sole expense, all amounts due or hereafter due to such Grantor under the Receivables owned by it.

(b) Disclosure of Counterclaims on Receivables. If any discount, credit or agreement to make a rebate or to otherwise reduce the amount owing on any Receivable owned by such Grantor exists and such discount, credit or rebate exceeds $250,000 or if, to the knowledge of such Grantor, any dispute, setoff, claim, counterclaim or defense exists or has been asserted or threatened with respect to any such Receivable is in excess of $250,000 individually and $500,000 in the aggregate, such Grantor will promptly disclose such fact to the Lender in the next Revolving Credit Borrowing Base Report submitted by it.

(c) Electronic Chattel Paper. Such Grantor shall take all steps reasonably necessary to grant the Lender Control of all electronic chattel paper in accordance with the UCC.

4.3 Inventory and Equipment.

(a) Reserved.

(b) Returned Inventory. All returned Inventory shall be subject to the Lender’s Liens thereon. Whenever any Inventory is returned, the related Account shall be deemed ineligible to the extent of the amount owing by the Account Debtor with respect to such returned Inventory.

(c) Equipment. Such Grantor shall not permit any Equipment in excess of $1,000,000 to become a fixture with respect to real property or to become an accession with respect to other personal property with respect to which real

or personal property the Lender does not have a Lien. Such Grantor will not, without the Lender's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed), alter or remove any identifying symbol or number on any of such Grantor's Equipment constituting Collateral necessary for the Lender to identify such Equipment.

(d) Vehicles and other Rolling Stock. Within 45 days (or such later date agreed to by the Lender) after the Lender's written request therefor, the applicable Grantor will deliver to the Lender or its agent or other designee, the original certificate of title of any vehicle or other rolling stock title certificate, and, in each case, provide and/or file all other documents or instruments reasonably necessary to have the Lien of the Lender noted on any such certificate or with the appropriate state office. Notwithstanding the foregoing, the Grantors shall not be required to deliver to the Lender the original certificates of title with respect to any vehicles and other rolling stock with an aggregate net book value of less than $250,000 on an individual basis and $1,000,000 in the aggregate.

4.4 Delivery of Instruments, Securities, Chattel Paper and Documents. Such Grantor will (a) deliver to the Lender certificates representing any Stock constituting Pledged Collateral together with an undated stock power for each such certificate executed in blank by a duly authorized officer of such Grantor within 45 days of the Effective Date (or such later date as agreed to by Lender in its sole discretion, which agreement to extend can be via email), (b) deliver to the Lender immediately upon execution of this Security Agreement, the originals of all Tangible Chattel Paper (other than any customer contracts), Securities and other Instruments, in each case with a value in excess of $100,000, constituting Collateral owned by it on the Effective Date (if any then exist), (c) hold in trust for the Lender upon receipt and, promptly within thirty days thereafter deliver to the Lender any such Chattel Paper (other than any customer contracts), Securities and Instruments, in each case with a value in excess of $100,000, constituting Collateral, (d) not permit the aggregate value of all Chattel Paper (other than any customer contracts), Securities and other Instruments constituting Collateral and owned by the Grantors for which the originals have not been delivered to the Lender pursuant to the foregoing clauses (b) and (c) to exceed $500,000, (e) promptly within thirty days of the Lender's request, deliver to the Lender (and thereafter hold in trust for the Lender upon receipt and immediately deliver to the Lender) any Document evidencing or constituting Collateral and (f) mark conspicuously all original Chattel Paper (other than any delivered to the Lender) with an appropriate reference to the security interest of the Lender. Notwithstanding the foregoing, upon the Lender's written request, such Grantor will deliver to the Lender the originals of any customer contract constituting Chattel Paper with a value in excess of $100,000 and take any of the foregoing actions as may be requested by the Lender.

4.5 Uncertificated Pledged Collateral. Such Grantor will permit the Lender from time to time to cause the appropriate issuers (and, if held with a securities intermediary, such securities intermediary) of uncertificated securities or other types of Pledged Collateral owned by it not represented by certificates to mark their books and records with the numbers and face amounts of all such uncertificated securities or other types of Pledged Collateral not represented by certificates and all rollovers and replacements therefor to reflect the Lien of the Lender granted pursuant to this Security Agreement. With respect to any Pledged Collateral owned by it, such Grantor will take any actions necessary to cause the issuers of uncertificated securities which are Pledged Collateral and any securities intermediary which is the holder of any such Pledged Collateral, to cause the Lender to have and retain Control over such Pledged Collateral. Without limiting the foregoing, such Grantor will, with respect to any such Pledged Collateral held with a securities intermediary, cause such securities intermediary to enter into a Securities Account Control Agreement unless such Pledged Collateral is held in an Excluded Account.

4.6 Pledged Collateral.

(a) In the case of each Grantor that is an issuer of Pledged Collateral, such Grantor agrees that it will be bound by the terms of this Security Agreement relating to the Pledged Collateral issued by it and will comply with such terms insofar as such terms are applicable to it.

(b) Without in any way limiting the foregoing, such Grantor shall have the right to exercise all voting rights or other rights relating to the Pledged Collateral owned by it for all purposes not inconsistent with this Security Agreement, the Loan Agreement or any other Security Instrument; provided however, that no vote or other right

shall be exercised or action taken which would have the effect of impairing the rights of the Lender in respect of such Pledged Collateral.

(c) Such Grantor shall be entitled to collect and receive for its own use all cash dividends and interest paid in respect of the Pledged Collateral owned by it to the extent not in violation of the Loan Agreement.

4.7 Intellectual Property.

(a) If requested by the Lender upon an Event of Default, such Grantor will use commercially reasonable efforts to secure all consents and approvals necessary or appropriate for the assignment to or benefit of the Lender of any License held by such Grantor and to enforce the security interests granted hereunder.

(b) Such Grantor shall notify the Lender promptly (and in any event, within 30 days) if it knows or has reason to know that any application or registration relating to any Patent, Trademark or Copyright (now or hereafter existing) may become abandoned or dedicated, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court, but excluding ordinary course prosecution before either such agency) regarding such Grantor's ownership of any Patent, Trademark or Copyright, its right to register the same, or to keep and maintain the same.

(c) Upon request of the Lender, such Grantor shall execute and deliver any and all security agreements as the Lender may request to evidence the Lender's security interest on such Patent, Trademark or Copyright, and the General Intangibles of such Grantor relating thereto or represented thereby.

(d) Such Grantor shall take all actions necessary or requested by the Lender to maintain and pursue each application, to obtain the relevant registration and to maintain the registration of each of its Patents, Trademarks and Copyrights (now or hereafter existing), including the filing of applications for renewal, affidavits of use, affidavits of noncontestability and opposition and interference and cancellation proceedings, unless such Grantor shall determine in its reasonable business judgment that such Patent, Trademark or Copyright is not material to the conduct of such Grantor's business.

(e) Such Grantor shall in its reasonable business judgment sue for infringement, misappropriation or dilution of such Patent, Trademark or Copyright and to recover any and all damages for such infringement, misappropriation or dilution, and shall take such other actions reasonbly appropriate under the circumstances to protect such Patent, Trademark or Copyright. In the event that such Grantor institutes suit because any of its Patents, Trademarks or Copyrights constituting Collateral is infringed upon, or misappropriated or diluted by a third party, such Grantor shall comply with Section 4.8.

4.8 Commercial Tort Claims. Such Grantor shall (a) promptly, and in any event within ten (10) days after the same is acquired by it, notify the Lender of any commercial tort claim (as defined in the UCC) acquired by it that could reasonably be expected to result in a judgment or settlement in such Grantor's favor in excess of $500,000 and, unless the Lender otherwise consents, such Grantor shall enter into an amendment to this Security Agreement, in the form of Exhibit I hereto (the "Amendment"), granting to Lender a security interest in such Commercial Tort Claim and (b) not permit the aggregate expected amount of judgments or settlements in favor of the Grantors in respect of all Commercial Tort Claims for which the Lender has not been granted a security interest pursuant to clause (a) to exceed $2,000,000. Such Grantor hereby authorizes the Lender to attach each Amendment to this Security Agreement and agrees that all additional Collateral owned by it set forth in such Amendments shall be considered to be part of the Collateral.

4.9 Letter-of-Credit Rights. If such Grantor is or becomes the beneficiary of a letter of credit with a face amount in excess of $1,000,000, it shall promptly, and in any event within five Business Days after becoming a beneficiary, notify the Lender thereof and cause the issuer and/or confirmation bank to consent to the assignment of any Letter-of-Credit Rights to the Lender and agree to direct all payments thereunder to a Blocked Account for application to the Indebtedness, in accordance with Section 2.05 of the Loan Agreement, all in form and substance reasonably

satisfactory to the Lender. No Grantor shall permit the aggregate face amounts of all letters of credit that are not Supporting Obligations for which the Grantors are beneficiary and for which the applicable Grantor has not taken the steps set forth in the immediately preceding sentence to exceed $5,000,000.

4.10 Federal, State or Municipal Claims. Such Grantor will promptly notify the Lender of any Collateral which constitutes a claim against the United States government or any state or local government or any instrumentality or agency thereof, the assignment of which claim is restricted by federal, state or municipal law.

4.11 No Interference. Such Grantor agrees that it will not interfere with any right, power and remedy of the Lender provided for in this Security Agreement or now or hereafter existing at law or in equity or by statute or otherwise, or the exercise or beginning of the exercise by the Lender of any one or more of such rights, powers or remedies.

4.12 Insurance. Each Grantor shall maintain insurance in accordance with the requirements of Section 4.07 of the Loan Agreement.

4.13 Control Agreements. Each Grantor shall enter into Control Agreements for each of its Deposit Accounts, Securities Accounts and Commodity Accounts (in each case, other than Excluded Accounts) as and when required by Section 4.13 of the Loan Agreement.

4.14 Change of Name or Location; etc. Such Grantor shall not change its name as it appears in official filings in the state of its incorporation or organization, change its chief executive office, principal place of business or mailing address, change the type of entity that it is, change its organization identification number, if any, issued by its state of incorporation or other organization, or change its state of incorporation or organization, in each case, unless the Lender shall have received at least thirty (30) days prior written notice of such change, provided that, any new location shall be in the continental U.S.

4.15 Reserved.

4.16 Additional Grantors. Each Grantor agrees to cause each Subsidiary that is required to become a party to this Security Agreement pursuant to Section 4.12 of the Loan Agreement to become a Grantor for all purposes of this Security Agreement upon execution and delivery by such Subsidiary of an Assumption Agreement in the form of Annex 1 hereto.

ARTICLE V
EVENTS OF DEFAULT AND REMEDIES

5.1 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder: If any “Event of Default” under, and as defined in, the Loan Agreement shall occur and be continuing.

5.2 Remedies.

(a) If any Event of Default shall occur and be continuing, the Lender may exercise any or all of the following rights and remedies:

(i) those rights and remedies provided in this Security Agreement, the Loan Agreement, or any other Security Instrument; provided that, this Section 5.2(a) shall not be understood to limit any rights or remedies available to the Lender and the Secured Parties prior to an Event of Default;

(ii) those rights and remedies available to a secured party under the UCC (whether or not the UCC applies to the affected Collateral) or under any other applicable law (including, without limitation, any law governing the exercise of a bank’s right of setoff or bankers’ lien) when a debtor is in default under a security agreement;

(iii) after 1 Business Day notice to the Borrower give notice of sole control or any other instruction under any Control Agreement and take any action therein with respect to such Collateral;

(iv) after 1 Business Day (except as specifically provided elsewhere herein or in the Loan Agreement), demand or advertisement of any kind to any Grantor or any other Person, enter the premises of any Grantor where any Collateral is located (through self-help and without judicial process) to collect, receive, assemble, process, appropriate, sell, lease, assign, grant an option or options to purchase or otherwise dispose of, deliver, or realize upon, the Collateral or any part thereof in one or more parcels at public or private sale or sales (which sales may be adjourned or continued from time to time with or without notice and may take place at any Grantor's premises or elsewhere), for cash, on credit or for future delivery without assumption of any credit risk, and upon such other terms as the Lender may deem commercially reasonable; and

(v) after 1 Business Day notice to the Borrower or the applicable Grantor, transfer and register in its name or in the name of its nominee the whole or any part of the Pledged Collateral, to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations, to exercise the voting and all other rights as a holder with respect thereto, to collect and receive all cash dividends, interest, principal and other distributions made thereon and to otherwise act with respect to the Pledged Collateral as though the Lender was the outright owner thereof.

(b) The Lender, on behalf of the Secured Parties, may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered to adversely affect the commercial reasonableness of any sale of the Collateral.

(c) The Lender shall have the right upon any such public sale or sales and, to the extent permitted by law, upon any such private sale or sales, to purchase for the benefit of the Lender and the Secured Parties, the whole or any part of the Collateral so sold, free of any right of equity redemption, which equity redemption the Grantor hereby expressly releases.

(d) Until the Lender is able to effect a sale, lease, or other disposition of Collateral, the Lender shall have the right to hold or use Collateral, or any part thereof, to the extent that it deems appropriate for the purpose of preserving Collateral or its value or for any other purpose deemed appropriate by the Lender. The Lender may, if it so elects, seek the appointment of a receiver or keeper to take possession of Collateral and to enforce any of the Lender's remedies (for the benefit of the Lender and Secured Parties), with respect to such appointment without prior notice or hearing as to such appointment.

(e) Notwithstanding the foregoing, neither the Lender nor any Secured Party shall be required to make any demand upon, or pursue or exhaust any of their rights or remedies against, any Grantor, any other obligor, guarantor, pledgor or any other Person with respect to the payment of the Indebtedness or to pursue or exhaust any of their rights or remedies with respect to any Collateral therefor or any direct or indirect guarantee thereof, marshal the Collateral or any guarantee of the Indebtedness or to resort to the Collateral or any such guarantee in any particular order, or effect a public sale of any Collateral.

(f) Each Grantor recognizes that the Lender may be unable to effect a public sale of any or all the Pledged Collateral and may be compelled to resort to one or more private sales thereof in accordance with clause (a) above. Each Grantor also acknowledges that any private sale may result in prices and other terms less favorable to the seller than if such sale were a public sale and, notwithstanding such circumstances, agrees that any such private sale shall not be deemed to have been made in a commercially unreasonable manner solely by virtue of such sale being private. The Lender shall be under no obligation to delay a sale of any of the Pledged Collateral for the period of time necessary to permit any Grantor or the issuer of the Pledged Collateral to register such securities for public sale under the Securities Act of 1933, as amended, or under applicable state securities laws, even if the applicable Grantor and the issuer would agree to do so.

5.3 Grantor's Obligations Upon Event of Default. Upon the request of the Lender after the occurrence and during the continuance of an Event of Default and subject to applicable notice and cure periods stated herein and the other Security Instruments, each Grantor will:

(a) assemble and make available to the Lender the material Collateral and all books and records relating thereto at any place or places reasonably specified by the Lender, whether at a Grantor's premises or elsewhere; and

(b) permit the Lender, by the Lender's representatives and agents, to enter, occupy and use any premises where all or any part of the Collateral, or the books and records relating thereto, or both, are located, to take possession of all or any part of the Collateral or the books and records relating thereto, or both, to remove all or any part of the Collateral or the books and records relating thereto, or both, and to conduct sales of the Collateral, without any obligation to pay the Grantor for such use and occupancy; provided that, such occupancy will not materially interfere in the day-to-day business of the applicable Grantor.

5.4 Grant of Intellectual Property License. For the purpose of enabling the Lender to exercise the rights and remedies under this Article V, each Grantor hereby grants to the Lender, for the benefit of the Lender and the Secured Parties, upon the occurrence and during the continuance of an Event of Default, an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to any Grantor) to use, license or sublicense any intellectual property rights now owned or hereafter acquired by such Grantor, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof and agrees that the Lender may sell any of such Grantor's Inventory directly to any person, including without limitation persons who have previously purchased the Grantor's Inventory from such Grantor and in connection with any such sale or other enforcement of the Lender's rights under this Security Agreement, may sell Inventory which bears any Trademark owned by or licensed to such Grantor and any Inventory that is covered by any Copyright owned by or licensed to such Grantor and the Lender may (but shall have no obligation to) finish any work in process and affix any Trademark owned by or licensed to such Grantor and sell such Inventory as provided herein, in each case, such Trademark use consistent with Grantor's published Trademark usage guidelines or, if none exist, consistent with Grantor's past practices.

ARTICLE VI
ACCOUNT VERIFICATION; ATTORNEY IN FACT; PROXY

6.1 Account Verification. The Lender may at any time after an Event of Default has occurred and is continuing, in the Lender's own name, in the name of a nominee of the Lender, or in the name of any Grantor communicate (by mail, telephone, facsimile or otherwise) with the Account Debtors of any such Grantor, parties to contracts with any such Grantor and obligors in respect of Instruments of any such Grantor to verify with such Persons, to the Lender's satisfaction, the existence, amount, terms of, and any other matter relating to, Accounts, Instruments, Chattel Paper, payment intangibles and/or other Receivables.

6.2 Authorization for Secured Party to Take Certain Action.

(a) Each Grantor irrevocably authorizes the Lender while an Event of Default is continuing in the sole discretion of the Lender and appoints the Lender as its attorney in fact to execute on behalf of such Grantor as debtor and to file financing statements necessary or desirable in the Lender's sole discretion to perfect and to maintain the perfection and priority of the Lender's security interest in the Collateral, to endorse and collect any cash proceeds of the Collateral, to file a carbon, photographic or other reproduction of this Security Agreement or any financing statement with respect to the Collateral as a financing statement and to file any other financing statement or amendment of a financing statement (which does not add new collateral or add a debtor) in such offices as the Lender in its sole discretion deems necessary or desirable to perfect and to maintain the perfection and priority of the Lender's security interest in the Collateral, to contact and enter into one or more agreements with the issuers of uncertificated securities which are Pledged Collateral or with securities intermediaries holding Pledged Collateral as may be necessary or advisable to give the Lender Control over such Pledged Collateral, to apply the proceeds of any Collateral received by the Lender to the Indebtedness as provided in Section 2.05 of the Loan Agreement, to

discharge past due taxes, assessments, charges, fees or Liens on the Collateral (except for such Liens as are specifically permitted hereunder), to contact Account Debtors for collection purposes, to demand payment or enforce payment of the Receivables in the name of the Lender or such Grantor and to endorse any and all checks, drafts, and other instruments for the payment of money relating to the Receivables, to sign such Grantor's name on any invoice or bill of lading relating to the Receivables, drafts against any Account Debtor of the Grantor, assignments and verifications of Receivables, to exercise all of such Grantor's rights and remedies with respect to the collection of the Receivables and any other Collateral, to settle, adjust, compromise, extend or renew the Receivables, to settle, adjust or compromise any legal proceedings brought to collect Receivables, to prepare, file and sign such Grantor's name on a proof of claim in bankruptcy or similar document against any Account Debtor of such Grantor, to prepare, file and sign such Grantor's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with the Receivables, to change the address for delivery of mail addressed to such Grantor to such address as the Lender may designate and to receive, open and dispose of all mail addressed to such Grantor, and to do all other acts and things necessary to carry out this Security Agreement, including all acts necessary or desirable in the Lender's sole discretion to perfect and maintain the perfection and priority of the Lender's security interests in the Collateral; and such Grantor agrees to reimburse the Lender on demand for any payment made or any expense incurred by the Lender in connection with any of the foregoing; provided that, this authorization shall not relieve such Grantor of any of its obligations under this Security Agreement, the Loan Agreement or under any other Security Instrument.

(b) All acts of said attorney or designee are hereby ratified and approved. The powers conferred on the Lender, for the benefit of the Lender and Secured Parties, under this Section 6.2 are solely to protect the Lender's interests in the Collateral and shall not impose any duty upon the Lender or any Secured Party to exercise any such powers. The Lender agrees that it shall not exercise any power or authority granted to it unless an Event of Default has occurred and is continuing.

6.3 Proxy. EACH GRANTOR HEREBY IRREVOCABLY CONSTITUTES AND APPOINTS THE LENDER AS ITS PROXY AND ATTORNEY-IN-FACT (AS SET FORTH IN SECTION 6.2 ABOVE) WITH RESPECT TO ITS PLEDGED COLLATERAL, INCLUDING THE RIGHT TO VOTE SUCH PLEDGED COLLATERAL, WITH FULL POWER OF SUBSTITUTION TO DO SO. IN ADDITION TO THE RIGHT TO VOTE ANY SUCH PLEDGED COLLATERAL, THE APPOINTMENT OF THE LENDER AS PROXY AND ATTORNEY-IN-FACT SHALL INCLUDE THE RIGHT TO EXERCISE ALL OTHER RIGHTS, POWERS, PRIVILEGES AND REMEDIES TO WHICH A HOLDER OF SUCH PLEDGED COLLATERAL WOULD BE ENTITLED (INCLUDING GIVING OR WITHHOLDING WRITTEN CONSENTS OF SHAREHOLDERS, CALLING SPECIAL MEETINGS OF SHAREHOLDERS AND VOTING AT SUCH MEETINGS). SUCH PROXY SHALL BE EFFECTIVE, AUTOMATICALLY AND WITHOUT THE NECESSITY OF ANY ACTION (INCLUDING ANY TRANSFER OF ANY SUCH PLEDGED COLLATERAL ON THE RECORD BOOKS OF THE ISSUER THEREOF) BY ANY PERSON (INCLUDING THE ISSUER OF SUCH PLEDGED COLLATERAL OR ANY OFFICER OR AGENT THEREOF), UPON THE OCCURRENCE AND DURING THE CONTINUANCE OF AN EVENT OF DEFAULT.

6.4 Nature of Appointment; Limitation of Duty. THE APPOINTMENT OF THE LENDER AS PROXY AND ATTORNEY-IN-FACT IN THIS ARTICLE VI IS COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE UNTIL THE DATE ON WHICH THIS SECURITY AGREEMENT IS TERMINATED IN ACCORDANCE WITH SECTION 7.14. NOTWITHSTANDING ANYTHING CONTAINED HEREIN, NEITHER THE LENDER, NOR ANY SECURED PARTY, NOR ANY OF THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES SHALL HAVE ANY DUTY TO EXERCISE ANY RIGHT OR POWER GRANTED HEREUNDER OR OTHERWISE OR TO PRESERVE THE SAME AND SHALL NOT BE LIABLE FOR ANY FAILURE TO DO SO OR FOR ANY DELAY IN DOING SO, EXCEPT IN RESPECT OF DAMAGES ATTRIBUTABLE SOLELY TO THEIR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AS FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION; PROVIDED THAT, IN NO EVENT SHALL THEY BE LIABLE FOR ANY PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES.

ARTICLE VII
GENERAL PROVISIONS

7.1 Waivers. Each Grantor hereby waives notice of the time and place of any public sale or the time after which any private sale or other disposition of all or any part of the Collateral may be made. To the extent such notice may not be waived under applicable law, any notice made shall be deemed reasonable if sent to the Grantors, addressed as set forth in Article VIII, at least ten days prior to the date of any such public sale or the time after which any such private sale or other disposition may be made. To the maximum extent permitted by applicable law, each Grantor waives all claims, damages, and demands against the Lender or any Secured Party arising out of the repossession, retention or sale of the Collateral, except such as (x) arise solely out of the gross negligence or willful misconduct of the Lender or such Secured Party as finally determined by a court of competent jurisdiction or (y) result from a claim not involving an act or omission of any Loan Party and that is brought by an Indemnitee against another Indemnitee (other than against the Arranger or Lender in their capacities as such). To the extent it may lawfully do so, each Grantor absolutely and irrevocably waives and relinquishes the benefit and advantage of, and covenants not to assert against the Lender or any Secured Party, any valuation, stay, appraisal, extension, moratorium, redemption or similar laws and any and all rights or defenses it may have as a surety now or hereafter existing which, but for this provision, might be applicable to the sale of any Collateral made under the judgment, order or decree of any court, or privately under the power of sale conferred by this Security Agreement, or otherwise. Except as otherwise specifically provided herein, each Grantor hereby waives presentment, demand, protest or any notice (to the maximum extent permitted by applicable law) of any kind in connection with this Security Agreement or any Collateral.

7.2 Limitation on Lender's and any Secured Party's Duty with Respect to the Collateral. The Lender shall have no obligation to clean-up or otherwise prepare the Collateral for sale. The Lender and each Secured Party shall use reasonable care with respect to the Collateral in its possession or under its control. Neither the Lender nor any Secured Party shall have any other duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee of the Lender or such Secured Party, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto. To the extent that applicable law imposes duties on the Lender to exercise remedies in a commercially reasonable manner, each Grantor acknowledges and agrees that it is commercially reasonable for the Lender to fail to incur expenses deemed significant by the Lender to prepare Collateral for disposition or otherwise to transform raw material or work in process into finished goods or other finished products for disposition, to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, to fail to exercise collection remedies against Account Debtors or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, to exercise collection remedies against Account Debtors and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, to contact other Persons, whether or not in the same business as such Grantor, for expressions of interest in acquiring all or any portion of such Collateral, to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, to dispose of assets in wholesale rather than retail markets, to disclaim disposition warranties, such as title, possession or quiet enjoyment, to purchase insurance or credit enhancements to insure the Lender against risks of loss, collection or disposition of Collateral or to provide to the Lender a guaranteed return from the collection or disposition of Collateral, or to the extent deemed appropriate by the Lender, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist the Lender in the collection or disposition of any of the Collateral. Each Grantor acknowledges that the purpose of this Section 7.2 is to provide non-exhaustive indications of what actions or omissions by the Lender would be commercially reasonable in the Lender's exercise of remedies against the Collateral and that other actions or omissions by the Lender shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 7.2. Without limitation upon the foregoing, nothing contained in this Section 7.2 shall be construed to grant any rights to any Grantor or to impose any duties on the Lender that would not have been granted or imposed by this Security Agreement or by applicable law in the absence of this Section 7.2.

7.3 Compromises and Collection of Collateral. The Grantors and the Lender recognize that setoffs, counterclaims, defenses and other claims may be asserted by obligors with respect to certain of the Receivables, that certain of the Receivables may be or become uncollectible in whole or in part and that the expense and probability of success in litigating a disputed Receivable may exceed the amount that reasonably may be expected to be recovered with respect to a Receivable. In view of the foregoing, each Grantor agrees that the Lender may at any time and from time to time, if an Event of Default has occurred and is continuing, compromise with the obligor on any Receivable, accept in full payment of any Receivable such amount as the Lender in its sole discretion shall determine or abandon any Receivable, and any such action by the Lender shall be commercially reasonable so long as the Lender acts within its reasonable discretion based on information known to it at the time it takes any such action.

7.4 Secured Party Performance of Debtor Obligations. Without having any obligation to do so, the Lender may perform or pay any obligation which any Grantor has agreed to perform or pay in this Security Agreement and the Grantors shall reimburse the Lender for any amounts paid by the Lender pursuant to this Section 7.4.

7.5 Reserved.

7.6 Reserved.

7.7 No Waiver; Amendments; Cumulative Remedies. No delay or omission of the Lender to exercise any right or remedy granted under this Security Agreement shall impair such right or remedy or be construed to be a waiver of any Default or an acquiescence therein, and any single or partial exercise of any such right or remedy shall not preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver, amendment or other variation of the terms, conditions or provisions of this Security Agreement whatsoever (other than any Amendment or Assumption Agreement) shall be valid unless in writing signed by the Lender and then only to the extent in such writing specifically set forth. All rights and remedies contained in this Security Agreement or by law afforded shall be cumulative and all shall be available to the Lender and the Secured Parties until the Indebtedness has been paid in full.

7.8 Limitation by Law; Severability of Provisions. All rights, remedies and powers provided in this Security Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Security Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Security Agreement invalid, unenforceable or not entitled to be recorded or registered, in whole or in part. Any provision in this Security Agreement that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of this Security Agreement are declared to be severable.

7.9 Reinstatement. This Security Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against any Grantor for liquidation or reorganization, should any Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of any Grantor’s assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Indebtedness, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Indebtedness, whether as a “voidable preference,” “fraudulent conveyance,” or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Indebtedness shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

7.10 Benefit of Agreement. The terms and provisions of this Security Agreement shall be binding upon and inure to the benefit of the Grantors, the Lender and the Secured Parties and their respective successors and assigns (including all persons who become bound as a debtor to this Security Agreement), except that no Grantor shall have the right to assign its rights or delegate its obligations under this Security Agreement or any interest herein, without

the prior written consent of the Lender. No sales of participations, assignments, transfers, or other dispositions of any agreement governing the Indebtedness or any portion thereof or interest therein shall in any manner impair the Lien granted to the Lender, for the benefit of the Lender and the Secured Parties, hereunder.

7.11 Survival of Representations. All representations and warranties of the Grantors contained in this Security Agreement shall survive the execution and delivery of this Security Agreement.

7.12 Taxes and Expenses. Any taxes (including income taxes) payable or ruled payable by Federal or State authority in respect of this Security Agreement shall be paid by the Grantors, together with interest and penalties, if any. The Grantors shall reimburse the Lender for any and all reasonable out-of-pocket expenses and internal charges (including reasonable attorneys', auditors' and accountants' fees and reasonable time charges of attorneys, paralegals, auditors and accountants who may be employees of the Lender) paid or incurred by the Lender in connection with the preparation, execution, delivery, administration, collection and enforcement of this Security Agreement and in the audit, analysis, administration, collection, preservation or sale of the Collateral (subject to the terms of the Loan Agreement, which may also include the expenses and charges associated with any periodic or special audit of the Collateral). Any and all costs and expenses incurred by the Grantors in the performance of actions required pursuant to the terms hereof shall be borne solely by the Grantors.

7.13 Headings. The title of and section headings in this Security Agreement are for convenience of reference only, and shall not govern the interpretation of any of the terms and provisions of this Security Agreement.

7.14 Termination; Release. This Security Agreement shall continue in effect (notwithstanding the fact that from time to time there may be no Indebtedness outstanding) until the Commitments under the Loan Agreement have terminated and all of the amounts payable under the Loan Agreement and under the other Loan Documents (other than contingent indemnification and expense reimbursement amounts for which no claim has been made) has been indefeasibly paid and performed in full (or with respect to any outstanding Letters of Credit, a cash deposit or supporting letter of credit has been delivered to the Lender as required by the Loan Agreement), whether or not any Secured Products remain outstanding or any amounts are payable thereunder, whereupon the Lender shall forthwith cause to be assigned, transferred and delivered, against receipt but without any recourse, warranty or representation whatsoever, any remaining Collateral and money received in respect thereof, to or on the order of the respective Grantor and to be released and canceled all licenses and rights referred to in Section 5.4. The Lender shall also, at the expense of such Grantor, execute and deliver to the respective Grantor upon such termination such Uniform Commercial Code termination statements, certificates for terminating the Liens and such other documentation as shall be reasonably requested by the respective Grantor to effect the termination and release of the Liens on the Collateral as required by this Section 7.14.

Upon any disposition of property permitted by the Loan Agreement, the Liens granted herein shall be deemed to be automatically released and such property shall automatically revert to the applicable Grantor with no further action on the part of any Person. The Lender shall, at the applicable Grantor's expense, execute and deliver or otherwise authorize the filing of such documents as such Grantor shall reasonably request, in form and substance reasonably satisfactory to the Lender, including financing statement amendments to evidence such release.

7.15 Entire Agreement. This Security Agreement embodies the entire agreement and understanding between the Grantors and the Lender relating to the Collateral and supersedes all prior agreements and understandings between the Grantors and the Lender relating to the Collateral.

7.16 CHOICE OF LAW. THIS SECURITY AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF, BUT INCLUDING SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

7.17 CONSENT TO JURISDICTION. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THE SECURITY INSTRUMENTS MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EITHER CASE

LOCATED IN NEW YORK COUNTY, NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HERETO HEREBY ACCEPTS FOR ITSELF AND (TO THE EXTENT PERMITTED BY APPLICABLE LAW) IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH PARTY HERETO IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS. THIS SUBMISSION TO JURISDICTION IS NON-EXCLUSIVE AND DOES NOT PRECLUDE A PARTY FROM BRINGING SUIT AGAINST ANOTHER PARTY IN ANY COURT OTHERWISE HAVING JURISDICTION.

7.18 WAIVER OF JURY TRIAL; SERVICE OF PROCESS.

(a) EACH PARTY TO THIS SECURITY AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (i) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR (ii) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS SECURITY AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO. IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE, EACH PARTY HERETO HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTIONS SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(b) EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES THIS SECTION 7.18 AND NOTHING IN THIS SECURITY AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW, WITHOUT LIMITING THE OTHER PROVISIONS OF THIS SECTION 7.18.

7.19 Indemnity. Section 8.20 of the Loan Agreement is hereby incorporated by reference mutatis mutandis, as if stated verbatim herein as agreements and obligations of each Grantor.

7.20 Counterparts. This Security Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Security Agreement by signing any such counterpart. Delivery of an executed counterpart of a signature page of this Security Agreement by facsimile or other electronic imaging means (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Security Agreement. Any signature to this Security Agreement may be delivered by facsimile, electronic mail (including pdf) or as any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or any other similar state laws based on the Uniform Electronic Transactions Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and electronic signatures or the keeping of records in electronic form shall be valid and effective for all purposes to the fullest extent permitted by applicable law, including having the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this Security Agreement.

7.21 Lien Absolute. All obligations of each Grantor hereunder, shall be absolute and unconditional irrespective of:

(a) any extension, renewal, settlement, compromise, waiver or release in respect of any of the Indebtedness, by operation of law or otherwise, or any obligation of any other guarantor of any of the Indebtedness, or any default, failure or delay, willful or otherwise, in the payment or performance of the Indebtedness;

(b) any lack of validity or enforceability relating to or against Borrower, any other Loan Party or any other guarantor of any of the Indebtedness, for any reason related to the Loan Agreement, any other Security Instrument or any other agreement or instrument governing or evidencing any Indebtedness, or any applicable law purporting to prohibit the payment by Borrower, any other Loan Party or any other guarantor of the Indebtedness of the principal of or interest on the Indebtedness;

(c) any modification or amendment of or supplement to the Loan Agreement or any other Security Instrument;

(d) any change in the time, manner or place of payment of, or in any other term of, all or any part of the Indebtedness, or any other amendment or waiver of or any consent to any departure from the Loan Agreement, any other Security Instrument or any other agreement or instrument governing or evidencing any Indebtedness, including any increase or decrease in the rate of interest thereon;

(e) any change in the corporate existence, structure or ownership of the Borrower, any other Loan Party or any other guarantor of any of the Indebtedness, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting Borrower, any other Loan Party or any other guarantor of the Indebtedness, or any of their assets or any resulting release of discharge of any obligation of Borrower, any other Loan Party or any other guarantor or any of the Indebtedness;

(f) any present or future law, regulation or order of any jurisdiction (whether of right or in fact) or of any agency thereof purporting to reduce, amend, restructure or otherwise affect any term of any Security Instrument or Indebtedness;

(g) any other setoff, defense or counterclaim whatsoever (in any case, whether based on contract, tort or any other theory) with respect to the Loan Agreement, any other Security Instrument, any other agreement or instrument or the transactions contemplated thereby which might constitute a legal or equitable defense available to, or discharge of any Grantor; or

(h) any other act or omission to act or delay of any kind by Borrower, any other Loan Party, any other guarantor of the Indebtedness, the Lender or any other Person or any other circumstance whatsoever which might, but for the provisions of this paragraph, constitute a legal or equitable discharge of any Grantor’s obligations hereunder.

7.22 Release. Each Grantor consents and agrees that the Lender may at any time, or from time to time, in its discretion:

(a) renew, extend or change the time of payment, and/or the manner, place or terms of payment of all or any part of the Indebtedness; and

(b) exchange, release and/or surrender all or any of the Collateral (including the Pledged Collateral), or any part thereof, by whomsoever deposited, which is now or may hereafter be held by the Lender in connection with all or any of the Indebtedness; all in such manner and upon such terms as the Lender may deem proper, and without notice to or further assent from any Grantor, it being hereby agreed that each Grantor shall be and remain bound upon this Security Agreement, irrespective of the value or condition of any of the Collateral, and notwithstanding any such change, exchange, settlement, compromise, surrender, release, renewal or extension, and notwithstanding also that the Indebtedness may, at any time, exceed the aggregate principal amount thereof set forth in the Loan Agreement, or any other agreement governing any Indebtedness.

ARTICLE VIII
NOTICES

8.1 Sending Notices. Any notice required or permitted to be given under this Security Agreement shall be given in accordance with Section 8.01 of the Loan Agreement, with each notice to each Grantor other than the Borrower being given in the same manner as notice to the Borrower under the Loan Agreement, provided that such notice shall in each case be addressed to the Grantors at the notice address set forth on Exhibit A.

8.2 Change in Address for Notices. Each of the Grantors and the Lender may change the address for service of notice upon it by a notice in writing to the other parties.

ARTICLE IX
CONSENT TO PLEDGED COLLATERAL

9.1 Each Grantor and each of its Subsidiaries, in its respective capacity as an issuer of Pledged Collateral (in such capacity, an "Issuer"), hereby (a) consents to the grant by each other Grantor to the Lender, for the benefit of the Secured Parties, of a security interest in and lien on all of the Pledged Collateral, (b) represents to the Lender that it has no rights of setoff or other claims against any of the Pledged Collateral and (c) consents to the transfer of such Pledged Collateral to the Lender or its nominee following an Event of Default and to the substitution of the Lender or its nominee as a partner in any partnership or as a member in any limited liability company with all the rights and powers related thereto.

9.2 Each Grantor hereby authorizes and instructs each Issuer to comply with any reasonable instruction received by it from the Lender in writing that (a) states that an Event of Default has occurred and (b) is otherwise in accordance with the terms of this Security Agreement, without any other or further instructions from such Grantor.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Grantors and the Lender have executed this Security Agreement as of the date first above written.

GRANTORS:

HARTE HANKS, INC.,
a Delaware corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Chief Financial Officer

HARTE-HANKS DIRECT, INC.,
a New York corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS LOGISTICS, LLC,
a Florida limited liability company
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS RESPONSE MANAGEMENT/AUSTIN, INC.,
a Delaware corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS RESPONSE MANAGEMENT/BOSTON, INC.,
a Massachusetts corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS STS, INC.,
a Delaware corporation
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

LENDER:

TEXAS CAPITAL BANK,
as Lender
By: /s/ Jerra Jayden
Name: Jerra Hayden
Title: Senior Vice President

The undersigned is executing this Security Agreement as of the date and year first above written for the sole purpose of Article IX of this Security Agreement.

ISSUERS:

HARTE-HANKS DATA SERVICES LLC
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS DIRECT MARKETING/BALTIMORE, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS DIRECT MARKETING/DALLAS, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS DIRECT MARKETING/FULLERTON, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS DIRECT MARKETING/CINCINNATI, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS FLORIDA, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

SALES SUPPORT SERVICES, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS UK LIMITED
By: /s/ Brian Linscott
Name: Brian Linscott
Title: President

HARTE HANKS STRATEGIC MARKETING, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS DO BRAZIL CONSULTORIA E SERVICOS LTDA.
By: Harte Hanks, Inc., its sole owner
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Chief Financial Officer

HARTE-HANKS PRINT, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS BELGIUM N.V.
By: /s/ Brian Linscott
Name: Brian Linscott
Title: Director

HARTE-HANKS EUROPE B.V.
By: /s/ Brian Linscott
Name: Brian Linscott
Title: Director

HARTE-HANKS MARKET INTELLIGENCE ESPANA LLC
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE-HANKS PHILIPPINES, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President

HARTE-HANKS SHOPPERS, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

NSO, INC.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

SOUTHERN COMPRINT CO.
By: /s/ Laurilee Kearnes
Name: Laurilee Kearnes
Title: Vice President and Treasurer

HARTE HANKS TRANQUILITY LIMITED
By: /s/ Brian Linscott
Name: Brian Linscott
Title: Director, Secretary

HARTE HANKS, INC.

2020 EQUITY INCENTIVE PLAN

Section 1. Purpose. The purposes of this Harte Hanks, Inc. 2020 Equity Incentive Plan (as may be amended from time to time, the "Plan") are to promote the interests of Harte Hanks, Inc. and its stockholders by (a) attracting and retaining employees and directors of, and certain consultants to, the Company and its Affiliates; (b) motivating such individuals by means of performance-related incentives to achieve longer-range performance goals; and/or (c) enabling such individuals to participate in the long-term growth and financial success of the Company.

Section 2. Definitions. As used in the Plan, the following terms shall have the meanings set forth below:

"Affiliate" shall mean any entity (i) that, directly or indirectly, is controlled by, controls or is under common control with, the Company or (ii) in which the Company has a significant equity interest, in either case as determined by the Committee.

"Award" shall mean any Option, Stock Appreciation Right, Restricted Stock Award, Restricted Stock Unit Award, Performance Award, or Other Stock-Based Award made or granted from time to time hereunder.

"Award Agreement" shall mean any written agreement, contract, or other instrument or document evidencing any Award, which may, but need not, be executed or acknowledged by a Participant. An Award Agreement may be in an electronic medium, may be limited to notation on the books and records of the Company and, unless otherwise determined by the Committee, need not be signed by a representative of the Company.

"Board" shall mean the Board of Directors of the Company.

"Cause" as a reason for a Participant's termination of employment or service shall have the meaning assigned such term in the employment, severance or similar agreement, if any, between the Participant and the Company or a subsidiary of the Company. If the Participant is not a party to an employment, severance or similar agreement with the Company or a subsidiary of the Company in which such term is defined, then unless otherwise defined in the applicable Award Agreement, "Cause" shall mean (i) persistent neglect or negligence in the performance of the Participant's duties; (ii) conviction (including, but not limited to, pleas of guilty or no contest) for any act of fraud, misappropriation or embezzlement, or for any criminal offense related to the Company, any Affiliate or the Participant's service; (iii) any deliberate and material breach of fiduciary duty to the Company or any Affiliate, or any other conduct that leads to the material damage or prejudice of the Company or any Affiliate; or (iv) a material breach of a policy of the Company or any Affiliate, such as the Company's code of conduct.

"Change in Control" shall mean the occurrence of any of the following events:

(a) the acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Exchange Act) of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of more than 50% of the combined voting power of the then-outstanding securities entitled to vote generally in the election of members of the Board (the "Voting Power") at such time; provided that the following acquisitions shall not constitute a Change in Control: (i) any such acquisition directly from the Company; (ii) any such acquisition by the Company; (iii) any such acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any of its subsidiaries; or (iv) any such acquisition pursuant to a transaction that complies with clauses (i), (ii) and (iii) of paragraph (c) below; or

(b) individuals who, as of immediately prior to the Effective Date, constitute the Board (the "Incumbent Board") cease for any reason (other than death or disability) to constitute at least a majority of the Board; provided, that any individual becoming a director on or after the Effective Date, whose election, or nomination for election by the Company's stockholders, was approved by a vote of the directors then comprising the Incumbent Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without objection to such nomination) shall be considered as though such individual was a member of the Incumbent Board, but excluding for this purpose, any such individual whose initial assumption of office occurs as a result of or in connection with an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consents by or on behalf of a Person other than the Board; or

(c) consummation of a reorganization, merger or consolidation or sale or other disposition of all or substantially all of the assets of the Company (a "Business Combination"), in each case, unless following such Business Combination, (i) all or substantially all of the individuals and entities who were the beneficial owners of the Voting Power immediately prior to such transaction beneficially own, directly or indirectly, more than 50% of, respectively, the then-outstanding shares of common stock and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the entity resulting from such transaction (including, without limitation, an entity that, as a result of such transaction, owns the Company or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions relative to each other as their ownership immediately prior to such transaction of the securities representing the Voting Power, (ii) no Person (excluding any entity resulting from such transaction or any employee benefit plan (or related trust) sponsored or maintained by the Company or such entity resulting from such transaction) beneficially owns, directly or indirectly, more than 50% of, respectively, the then-outstanding shares of common stock of the entity resulting from such transaction, or the combined voting power of the then-outstanding voting securities of such corporation, except to the extent that such ownership existed prior to such transaction, and (iii) at least a majority of the members of the board of directors of the entity resulting from such transaction were members of the Incumbent Board at the time of the execution of the initial agreement with respect to, or the action of the Board providing for, such transaction; or

(d) approval by the stockholders of the Company of a complete liquidation or dissolution of the Company.

Notwithstanding the foregoing, if a Change in Control constitutes a payment event with respect to any Award which provides for the deferral of compensation that is subject to Section 409A of the Code, then, to the extent required to avoid the imposition of additional taxes under Section 409A of the Code, the transaction or event described in paragraph (a), (b), (c) or (d) above, with respect to such Award, shall only constitute a Change in Control for purposes of the payment timing of such Award if such transaction also constitutes a "change in control event," as defined in Treasury Regulation §1.409A-3(i)(5).

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

"Committee" shall mean the Compensation Committee of the Board (or its successor(s)), or any other committee of the Board designated by the Board to administer the Plan and composed of not less than two directors, each of whom is required to be a "Non-Employee Director" (within the meaning of Rule 16b-3) to the extent Rule 16b-3 is applicable to the Company and the Plan.

"Company" shall mean Harte Hanks, Inc. together with any successor thereto.

"Disability" shall mean a physical or mental disability or infirmity that prevents the performance by the Participant of his or her duties lasting (or likely to last, based on competent medical evidence presented to the Company) for a continuous period of six months or longer.

"Dividend Equivalent" shall mean a dividend equivalent right granted with respect to a Share underlying an Award granted under the Plan.

"Effective Date" shall have the definition as set forth in Section 18(a) of the Plan.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended from time to time.

"Existing Plan" shall mean the Amended and Restated Harte Hanks 2013 Omnibus Incentive Plan.

"Fair Market Value" shall mean (i) with respect to any property other than Shares, the fair market value of such property determined by such methods or procedures as shall be established from time to time by the Committee and (ii) with respect to Shares, as of any date, the closing sale price (excluding any "after hours" trading) of the Shares on the date of grant or the date of calculation, as the case may be, on the stock exchange or over the counter market on which the Shares are principally trading on such date (or on the last preceding trading date if Shares were not traded on such date) if the Shares are readily tradable on a national securities exchange or other market system, and if the Shares are not readily tradable, Fair Market Value shall mean the amount determined in good faith by the Committee as the fair market value of the Shares.

"Good Reason" as a reason for a Participant's termination of employment shall have the meaning assigned such term in the employment, severance or similar agreement, if any, between the Participant and the Company or a

subsidiary of the Company. If the Participant is not a party to an employment, severance or similar agreement with the Company or a subsidiary of the Company in which such term is defined, then unless otherwise defined in the applicable Award Agreement, "Good Reason" shall mean (i) a material diminution in the Participant's base salary from the level immediately prior to the Change in Control or (ii) a material change in the geographic location at which the Participant must primarily perform the Participant's services (which shall in no event include a relocation of the Participant's current principal place of business to a location less than 50 miles away) from the geographic location immediately prior to the Change in Control; provided that no termination shall be deemed to be for Good Reason unless (a) the Participant provides the Company with written notice setting forth the specific facts or circumstances constituting Good Reason within 90 days after the initial existence of the occurrence of such facts or circumstances, (b) to the extent curable, the Company has failed to cure such facts or circumstances within 30 days of its receipt of such written notice, and (c) the effective date of the termination for Good Reason occurs no later than one 180 days after the initial existence of the facts or circumstances constituting Good Reason.

"Incentive Stock Option" shall mean a right to purchase Shares from the Company that is granted under Section 6 of the Plan and that is intended to meet the requirements of Section 422 of the Code or any successor provision thereto. Incentive Stock Options may be granted only to Participants who meet the requirements of Section 422 of the Code.

"Involuntary Termination" shall mean termination by the Company of a Participant's employment or service by the Company without Cause or termination of a Participant's employment by the Participant for Good Reason. For avoidance of doubt, an Involuntary Termination shall not include a termination of the Participant's employment or service by the Company for Cause or due to the Participant's death, Disability or resignation without Good Reason.

"Non-Qualified Stock Option" shall mean a right to purchase Shares from the Company that is granted under Section 6 of the Plan and that is not intended to be an Incentive Stock Option or does not meet the requirements of Section 422 of the Code or any successor provision thereto.

"Option" shall mean an Incentive Stock Option or a Non-Qualified Stock Option.

"Other Stock-Based Award" shall mean any right granted under Section 10 of the Plan.

"Participant" shall mean any employee of, or consultant to, the Company or its Affiliates, or non-employee director who is a member of the Board or the board of directors of an Affiliate, eligible for an Award under Section 5 of the Plan and selected by the Committee, or its designee, to receive an Award under the Plan.

"Performance Award" shall mean any right granted under Section 9 of the Plan.

"Performance Criteria" shall mean the criterion or criteria that the Committee may select from time to time for purposes of establishing the performance goal(s) for a performance period with respect to any performance-based Awards under the Plan. Performance Criteria may be described in terms of Company-wide objectives or objectives that are related to the performance of the individual Participant or of one or more of the subsidiaries, divisions, departments, regions, functions or other organizational units within the Company or its Affiliates. The Performance Criteria may be made relative to the performance of other companies or subsidiaries, divisions, departments, regions, functions or other organizational units within such other companies, and may be made relative to an index or one or more of the performance criteria themselves. The Performance Criteria will be based on objectives determined by the Committee, and may include one or more of the following: (i) return on net assets; (ii) pretax income before allocation of corporate overhead and bonus; (iii) budget; (iv) net income (before or after taxes); (v) division, group or corporate financial goals; (vi) return on stockholders' equity; (vii) return on assets; (viii) return on capital; (ix) revenue; (x) profit margin; (xi) earnings per Share; (xii) earnings or net earnings; (xiii) operating earnings; (xiv) cash flow or free cash flow; (xv) attainment of strategic or operational initiatives; (xvi) appreciation in and/or maintenance of the price of the Shares or any other publicly-traded securities of the Company; (xvii) market share; (xviii) gross profits; (xix) earnings before interest and taxes; (xx) earnings before interest, taxes, depreciation and amortization; (xxi) operating expenses; (xxii) capital expenses; (xxiii) enterprise value; (xxiv) equity market capitalization; (xxv) economic value-added models and comparisons with various stock market indices; or (xxvi) reductions in costs; (xxvii) operating income; (xxviii) operating margin; (xxix) price per Share; (xxx) return on investment; (xxxi) total shareholder return.

"Person" shall mean any individual, corporation, partnership, association, limited liability company, joint-stock company, trust, unincorporated organization, government, political subdivision or other entity.

“Restricted Stock” shall mean any Share granted under Section 8 of the Plan.

“Restricted Stock Unit” shall mean any unit granted under Section 8 of the Plan.

“Rule 16b-3” shall mean Rule 16b-3 as promulgated and interpreted by the SEC under the Exchange Act, or any successor rule or regulation thereto as in effect from time to time.

“SEC” shall mean the Securities and Exchange Commission or any successor thereto, and shall include, without limitation, the Staff thereof.

“Shares” shall mean the common stock of the Company, par value $1.00 per share, or such other securities of the Company (i) into which such common stock shall be changed by reason of a recapitalization, merger, consolidation, split-up, combination, exchange of shares or other similar transaction, or (ii) as may be determined by the Committee pursuant to Section 4(b) of the Plan.

“Stock Appreciation Right” shall mean any right granted under Section 7 of the Plan.

“Substitute Awards” shall mean any Awards granted under Section 4(c) of the Plan.

Section 3. Administration.

(a) The Plan shall be administered by the Committee. Subject to the terms of the Plan and applicable law, and in addition to other express powers and authorizations conferred on the Committee by the Plan, the Committee shall have full power and authority to: (i) designate Participants; (ii) determine the type or types of Awards to be granted to a Participant; (iii) determine the number of Shares to be covered by, or with respect to which payments, rights, or other matters are to be calculated in connection with, Awards; (iv) determine the terms and conditions of any Award; (v) determine whether, to what extent, and under what circumstances Awards may be settled or exercised in cash, Shares, other securities, other Awards or other property, or canceled, forfeited, or suspended and the method or methods by which Awards may be settled, exercised, canceled, forfeited, or suspended; (vi) determine whether, to what extent, and under what circumstances cash, Shares, other securities, other Awards, other property, and other amounts payable with respect to an Award shall be deferred either automatically or at the election of the holder thereof or of the Committee (in each case consistent with Section 409A of the Code); (vii) interpret, administer or reconcile any inconsistency, correct any defect, resolve ambiguities and/or supply any omission in the Plan, any Award Agreement, and any other instrument or agreement relating to, or Award made under, the Plan; (viii) establish, amend, suspend, or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan; (ix) establish and administer Performance Criteria and certify or determine whether, and to what extent, they have been attained; and (x) make any other determination and take any other action that the Committee deems necessary or desirable for the administration or operation of the Plan.

(b) Unless otherwise expressly provided in the Plan, all designations, determinations, interpretations, and other decisions under or with respect to the Plan or any Award or Award Agreement shall be within the sole discretion of the Committee, may be made at any time and shall be final, conclusive, and binding upon all Persons, including, but not limited to, the Company, any Affiliate, any Participant, any holder or beneficiary of any Award, and any stockholder.

(c) The mere fact that a Committee member shall fail to qualify as a “Non-Employee Director” within the meaning of Rule 16b-3 shall not invalidate any Award otherwise validly made by the Committee under the Plan. Notwithstanding anything in this Section 3 to the contrary, the Board, or any other committee or sub-committee established by the Board, is hereby authorized (in addition to any necessary action by the Committee) to grant or approve Awards as necessary to satisfy the requirements of Section 16 of the Exchange Act and the rules and regulations thereunder and to act in lieu of the Committee with respect to Awards made to non-employee directors under the Plan.

(d) No member of the Board or the Committee and no employee of the Company or any Affiliate shall be liable for any determination, act or failure to act hereunder (except in circumstances involving his or her bad faith), or for any determination, act or failure to act hereunder by any other member or employee or by any agent to whom duties in connection with the administration of the Plan have been delegated. The Company shall indemnify members of the Board and the Committee and any agent of the Board or the Committee who is an employee of the Company or an Affiliate against any and all liabilities or expenses to which they may be subjected by reason of any

determination, act or failure to act with respect to their duties on behalf of the Plan (except in circumstances involving such person's bad faith).

(e) The Committee may from time to time delegate all or any part of its authority under the Plan to a subcommittee thereof. To the extent of any such delegation, references in the Plan to the Committee will be deemed to be references to such subcommittee. In addition, subject to applicable law, the Committee may delegate to one or more officers of the Company the authority to grant Awards to Participants who are not officers or directors of the Company subject to Section 16 of the Exchange Act. The Committee may employ such legal or other counsel, consultants and agents as it may deem desirable for the administration of the Plan and may rely upon any opinion or computation received from any such counsel, consultant or agent. Expenses incurred by the Committee in the engagement of such counsel, consultant or agent shall be paid by the Company, or the Affiliate whose employees have benefited from the Plan, as determined by the Committee.

Section 4. Shares Available for Awards.

(a) Shares Available.

(i) Subject to adjustment as provided in Section 4(b), the aggregate number of Shares with respect to which Awards may be granted from time to time under the Plan shall in the aggregate not exceed, at any time, the sum of (A) 2,500,000 Shares, plus (B) any Shares granted under the Existing Plan that again become available for Awards under the Existing Plan in accordance with the terms and conditions of the Existing Plan, plus (C) any Shares that again become available for Awards under the Plan in accordance with Section 4(a)(ii). Subject to adjustment as provided in Section 4(b), the aggregate number of Shares with respect to which Incentive Stock Options may be granted under the Plan shall be 2,500,000 Shares. Subject in each instance to adjustment as provided in Section 4(b), the maximum number of Shares with respect to which Awards may be granted to any single Participant in respect of any fiscal year shall be 500,000 Shares. The maximum amount of compensation that may be paid to any single non-employee member of the Board in any single fiscal year (including Awards under the Plan, determined based on the Fair Market Value of such Award as of the grant date, as well as any retainer fees) shall not exceed $500,000 (the "Director Compensation Limit").

(ii) Shares covered by an Award granted under the Plan shall not be counted unless and until they are actually issued and delivered to a Participant and, therefore, the total number of Shares available under the Plan as of a given date shall not be reduced by Shares relating to prior Awards that (in whole or in part) have expired or have been forfeited, terminated or cancelled, and upon payment in cash of the benefit provided by any Award, any Shares that were covered by such Award will be available for issue hereunder. For the avoidance of doubt, the following Shares shall not again be made available for delivery to Participants under the Plan: (A) Shares not issued or delivered as a result of the net settlement of an outstanding Option or Stock Appreciation Right, (B) Shares used to pay the exercise price or withholding taxes related to an outstanding Award, and (C) Shares repurchased by the Company using proceeds realized by the Company in connection with a Participant's exercise of an Option or Stock Appreciation Right.

(b) Adjustments. Notwithstanding any provisions of the Plan to the contrary, in the event that the Committee determines in its sole discretion that any dividend or other distribution (whether in the form of cash, Shares, other securities, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, issuance of warrants or other rights to purchase Shares or other securities of the Company, or other corporate transaction or event affects the Shares such that an adjustment is appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, then the Committee shall equitably adjust any or all of (i) the number of Shares or other securities of the Company (or number and kind of other securities or property) with respect to which Awards may be granted, (ii) the number of Shares or other securities of the Company (or number and kind of other securities or property) subject to outstanding Awards, and (iii) the grant or exercise price with respect to any Award or, if deemed appropriate, make provision for a cash payment to the holder of an outstanding Award in consideration for the cancellation of such Award, which, in the case of Options and Stock Appreciation Rights shall equal the excess, if any, of the Fair Market Value of the Share subject to each such Option or Stock Appreciation Right over the per Share exercise price or grant price of such Option or Stock Appreciation Right. The Committee will also make or provide for such adjustments in the numbers of Shares specified in Section 4(a)(i) of the Plan as the Committee in its sole discretion, exercised in good faith, may

determine is appropriate to reflect any transaction or event described in this Section 4(b); provided, however, that any such adjustment to the numbers specified in Section 4(a)(i) of the Plan will be made only if and to the extent that such adjustment would not cause any Option intended to qualify as an Incentive Stock Option to fail to so qualify.

(c) Substitute Awards.

(i) Awards may be granted under the Plan in substitution for or in conversion of, or in connection with an assumption of, stock options, stock appreciation rights, restricted stock, restricted stock units or other stock or stock-based awards held by awardees of an entity engaging in an acquisition or merger transaction with the Company or any subsidiary of the Company. Any conversion, substitution or assumption will be effective as of the close of the merger or acquisition, and, to the extent applicable, will be conducted in a manner that complies with Section 409A of the Code.

(ii) In the event that an entity acquired by the Company or any subsidiary of the Company, or with which the Company or any subsidiary of the Company merges, has shares available under a pre-existing plan previously approved by stockholders and not adopted in contemplation of such acquisition or merger, the shares available for grant pursuant to the terms of such plan (as adjusted, to the extent appropriate, to reflect such acquisition or merger) may be used for Awards made after such acquisition or merger under the Plan; provided, however, that Awards using such available shares may not be made after the date awards or grants could not have been made under the terms of the pre-existing plan absent the acquisition or merger, and may only be made to individuals who were not employees or directors of the Company or any subsidiary of the Company prior to such acquisition or merger. The Awards so granted may reflect the original terms of the awards being assumed or substituted or converted for and need not comply with other specific terms of the Plan, and may account for Shares substituted for the securities covered by the original awards and the number of shares subject to the original awards, as well as any exercise or purchase prices applicable to the original awards, adjusted to account for differences in stock prices in connection with the transaction.

(iii) Any Shares that are issued or transferred by, or that are subject to any Awards that are granted by, or become obligations of, the Company under Sections 4(c)(i) or 4(c)(ii) of the Plan will not reduce the Shares available for issuance or transfer under the Plan or otherwise count against the limits described in Section 4(a)(i) of the Plan. In addition, no Shares that are issued or transferred by, or that are subject to any Awards that are granted by, or become obligations of, the Company under Sections 4(c)(i) or 4(c)(ii) of the Plan will be added to the aggregate limit described in Section 4(a)(i) of the Plan.

(d) Sources of Shares Deliverable Under Awards. Any Shares delivered pursuant to an Award may consist, in whole or in part, of authorized and unissued Shares or of treasury Shares.

Section 5. Eligibility. Any employee of, or consultant to, the Company or any of its Affiliates (including, but not limited to, any prospective employee), or non-employee director who is a member of the Board or the board of directors of an Affiliate, shall be eligible to be selected as a Participant.

Section 6. Stock Options.

(a) Grant. Subject to the terms of the Plan, the Committee shall have sole authority to determine the Participants to whom Options shall be granted, the number of Shares to be covered by each Option, the exercise price thereof and the conditions and limitations applicable to the exercise of the Option. The Committee shall have the authority to grant Incentive Stock Options, or to grant Non-Qualified Stock Options, or to grant both types of Options. In the case of Incentive Stock Options, the terms and conditions of such Awards shall be subject to and comply with such rules as may be prescribed by Section 422 of the Code and any regulations implementing such statute. All Options when granted under the Plan are intended to be Non-Qualified Stock Options, unless the applicable Award Agreement expressly states that the Option is intended to be an Incentive Stock Option. If an Option is intended to be an Incentive Stock Option, and if for any reason such Option (or any portion thereof) shall not qualify as an Incentive Stock Option, then, to the extent of such nonqualification, such Option (or portion thereof) shall be regarded as a Non-Qualified Stock Option appropriately granted under the Plan; provided that such Option (or portion thereof) otherwise complies with the Plan’s requirements relating to Non-Qualified Stock Options. No Option shall be exercisable more than ten years from the date of grant.

(b) Exercise Price. The Committee shall establish the exercise price at the time each Option is granted, which exercise price shall be set forth in the applicable Award Agreement and which exercise price (except with respect to Substitute Awards) shall not be less than the Fair Market Value per Share on the date of grant.

(c) Exercise. Each Option shall be exercisable at such times and subject to such terms and conditions as the Committee may, in its sole discretion, specify in the applicable Award Agreement. The Committee may impose such conditions with respect to the exercise of Options, including, without limitation, any relating to the application of federal or state securities laws, as it may deem necessary or advisable.

(d) Payment.

(i) No Shares shall be delivered pursuant to any exercise of an Option until payment in full of the aggregate exercise price therefor is received by the Company. Such payment may be made (A) in cash or its equivalent, (B) in the discretion of the Committee and subject to such rules as may be established by the Committee and applicable law, by exchanging Shares owned by the Participant (which are not the subject of any pledge or other security interest and which have been owned by such Participant for at least six months), (C) in the discretion of the Committee and subject to such rules as may be established by the Committee and applicable law, through delivery of irrevocable instructions to a broker to sell the Shares otherwise deliverable upon the exercise of the Option and to deliver promptly to the Company an amount equal to the aggregate exercise price, (D) in the discretion of the Committee and subject to such rules as may be established by the Committee and applicable law, by the Company's withholding of Shares otherwise issuable upon exercise of an Option pursuant to a "net exercise" arrangement (it being understood that, solely for purposes of determining the number of treasury shares held by the Company, the Shares so withheld will not be treated as issued and acquired by the Company upon such exercise), (E) by a combination of the foregoing, or (F) by such other methods as may be approved by the Committee and subject to such rules as may be established by the Committee and applicable law, provided that the combined value of all cash and cash equivalents and the Fair Market Value of any such Shares so tendered to the Company or withheld as of the date of such tender or withholding is at least equal to such aggregate exercise price.

(ii) Wherever in the Plan or any Award Agreement a Participant is permitted to pay the exercise price of an Option or taxes relating to the exercise of an Option by delivering Shares, the Participant may, subject to procedures satisfactory to the Committee and applicable law, satisfy such delivery requirement by presenting proof of beneficial ownership of such Shares, in which case the Company shall treat the Option as exercised without further payment and shall withhold such number of Shares from the Shares acquired by the exercise of the Option.

Section 7. Stock Appreciation Rights.

(a) Grant. Subject to the provisions of the Plan, the Committee shall have sole authority to determine the Participants to whom Stock Appreciation Rights shall be granted, the number of Shares to be covered by each Stock Appreciation Right Award, the grant price thereof and the conditions and limitations applicable to the exercise thereof. Stock Appreciation Rights may be granted in tandem with another Award, in addition to another Award, or freestanding and unrelated to another Award. Stock Appreciation Rights granted in tandem with or in addition to an Award may be granted either before, at the same time as the Award or at a later time. No Stock Appreciation Right shall be exercisable more than ten years from the date of grant.

(b) Exercise and Payment. A Stock Appreciation Right shall entitle the Participant to receive an amount equal to the excess of the Fair Market Value of one Share on the date of exercise of the Stock Appreciation Right over the grant price thereof (which grant price (except with respect to Substitute Awards) shall not be less than the Fair Market Value on the date of grant). The Committee shall determine in its sole discretion whether a Stock Appreciation Right shall be settled in cash, Shares or a combination of cash and Shares.

Section 8. Restricted Stock and Restricted Stock Units.

(a) Grant. Subject to the provisions of the Plan, the Committee shall have sole authority to determine the Participants to whom Shares of Restricted Stock and Restricted Stock Units shall be granted, the number of Shares of Restricted Stock and/or the number of Restricted Stock Units to be granted to each Participant, the duration of the period during which, and the conditions, if any, under which, the Restricted Stock and Restricted Stock Units may vest and/or be forfeited to the Company, and the other terms and conditions of such Awards.

(b) Transfer Restrictions. Unless otherwise directed by the Committee, (i) certificates issued in respect of Shares of Restricted Stock shall be registered in the name of the Participant and deposited by such Participant, together with a stock power endorsed in blank, with the Company, or (ii) Shares of Restricted Stock shall be held at the Company's transfer agent in book entry form with appropriate restrictions relating to the transfer of such Shares of Restricted Stock. Upon the lapse of the restrictions applicable to such Shares of Restricted Stock, the Company shall, as applicable, either deliver such certificates to the Participant or the Participant's legal representative, or the transfer agent shall remove the restrictions relating to the transfer of such Shares. Shares of Restricted Stock and Restricted Stock Units may not be sold, assigned, transferred, pledged or otherwise encumbered, except as provided in the Plan or the applicable Award Agreement.

(c) Payment. Each Restricted Stock Unit shall have a value equal to the Fair Market Value of one Share. Restricted Stock Units shall be paid in cash, Shares, other securities or other property, as determined in the sole discretion of the Committee, upon or after the lapse of the restrictions applicable thereto, or otherwise in accordance with the applicable Award Agreement. Dividends paid on any Shares of Restricted Stock or Dividend Equivalents paid on any Restricted Stock Units shall be withheld by the Company subject to vesting of the Restricted Stock or Restricted Stock Units, as applicable, pursuant to the terms of the applicable Award Agreement, or may be reinvested in additional Shares of Restricted Stock or in additional Restricted Stock Units, as determined by the Committee in its sole discretion. Shares of Restricted Stock and Shares issued in respect of Restricted Stock Units may be issued with or without other payments therefor or such other consideration as may be determined by the Committee, consistent with applicable law.

Section 9. Performance Awards.

(a) Grant. The Committee shall have sole authority to determine the Participants who shall receive a Performance Award, which shall consist of a right which is (i) denominated in cash or Shares, (ii) valued, as determined by the Committee, in accordance with the achievement of the applicable Performance Criteria during such performance periods as the Committee may establish, and (iii) payable at such time and in such form as the Committee determines.

(b) Terms and Conditions. Subject to the terms of the Plan and any applicable Award Agreement, the Committee shall determine the performance goals to be achieved during any performance period, the length of any performance period, the amount of any Performance Award and the amount and kind of any payment or transfer to be made pursuant to any Performance Award. The Committee may require or permit the deferral of the receipt of Performance Awards upon such terms as the Committee deems appropriate and in accordance with Section 409A of the Code.

(c) Payment of Performance Awards. Performance Awards may be paid in a lump sum or in installments following the close of the performance period, as set forth in the applicable Award Agreement.

Section 10. Other Stock-Based Awards. The Committee shall have authority to grant to Participants an Other Stock-Based Award, which shall consist of any right which is (i) not an Award described in Sections 6 through 9 of the Plan, and (ii) an Award of Shares or an Award denominated or payable in, valued in whole or in part by reference to, or otherwise based on or related to, Shares (including, without limitation, securities convertible into Shares), as deemed by the Committee to be consistent with the purposes of the Plan; provided that any such rights must comply, to the extent deemed desirable by the Committee, with Rule 16b-3 and applicable law. Subject to the terms of the Plan and any applicable Award Agreement, the Committee shall determine the terms and conditions of any such Other Stock-Based Award, including, but not limited to, the price, if any, at which securities may be purchased pursuant to any Other Stock-Based Award granted under the Plan.

Section 11. Certain Restrictions on Vesting of Awards. Notwithstanding any provision contained in the Plan to the contrary and except with respect to a maximum of 5 % of the Shares available for Awards under the Plan as of the Effective Date, Awards granted pursuant to Sections 6, 7, 8, 9 and 10 of the Plan which vest on the basis of the Participant's employment with or provision of services to the Company shall be subject to a minimum vesting period of one-year from the date of grant.

Section 12. Amendment and Termination.

(a) Amendments to the Plan. The Board may amend, alter, suspend, discontinue, or terminate the Plan or any portion thereof at any time; provided that if an amendment to the Plan (i) would materially increase the benefits accruing to Participants under the Plan, (ii) would materially increase the number of securities which may be issued under the Plan, (iii) would increase the Director Compensation Limit or (iv) must otherwise be approved by the stockholders of the Company in order to comply with applicable law or the rules of the principal national securities exchange upon which the Shares are traded or quoted, such amendment will be subject to stockholder approval and will not be effective unless and until such approval has been obtained; and provided, further, that any such amendment, alteration, suspension, discontinuance or termination that would materially impair the rights of any Participant or any holder or beneficiary of any Award previously granted shall not be effective without the written consent of the affected Participant, holder or beneficiary.

(b) Amendments to Awards. The Committee may waive any conditions or rights under, amend any terms of, or alter, suspend, discontinue, cancel or terminate, any Award theretofore granted; provided that any such waiver, amendment, alteration, suspension, discontinuance, cancellation or termination that would materially impair the rights of any Participant or any holder or beneficiary of any Award previously granted shall not be effective without the written consent of the affected Participant, holder or beneficiary.

(c) Adjustment of Awards Upon the Occurrence of Certain Unusual or Nonrecurring Events. The Committee is hereby authorized to make equitable adjustments in the terms and conditions of, and the criteria included in, all outstanding Awards in recognition of unusual or nonrecurring events (including, without limitation, the events described in Section 4(b) hereof) affecting the Company, any Affiliate, or the financial statements of the Company or any Affiliate, or of changes in applicable laws, regulations, or accounting principles, whenever the Committee determines that such adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan.

(d) Repricing. Except in connection with a corporate transaction or event described in Section 4(b) hereof, the terms of outstanding Awards may not be amended to reduce the exercise price of Options or the grant price of Stock Appreciation Rights. This Section 12(d) is intended to prohibit the repricing of "underwater" Options and Stock Appreciation Rights and will not be construed to prohibit the adjustments provided for in Section 4(b) of the Plan.

Section 13. Change in Control.

Unless otherwise determined by the Committee in a written resolution upon or prior to the date of grant or set forth in an applicable Award Agreement, (i) the vesting of any Award that is a "Replaced Award" (as such term is defined below) will not be accelerated, and any applicable restrictions thereon will not lapse, solely as a result of a Change in Control; and (ii) in the event of a Change in Control, the following acceleration, exercisability and valuation provisions will apply:

(a) Upon a Change in Control, each then-outstanding Option and Stock Appreciation Right will become fully vested and exercisable, and the restrictions applicable to each outstanding Restricted Stock Award, Restricted Stock Unit Award, Performance Award or Other Stock-Based Award will lapse, and each Award will be fully vested (with any applicable performance goals or Performance Criteria deemed to have been achieved at target level as of the date of such vesting), except to the extent that an award meeting the requirements of Section 13(b) hereof (a "Replacement Award") is provided to the Participant holding such Award in accordance with Section 13(b) hereof to replace or adjust such outstanding Award (a "Replaced Award").

(b) An award meets the conditions of this Section 13(b) (and hence qualifies as a Replacement Award) if (i) it is of the same type (e.g., stock option for Option, restricted stock for Restricted Stock, restricted stock unit for Restricted Stock Unit, etc.) as the Replaced Award, (ii) it has a value at least equal to the value of the Replaced Award, (iii) it relates to publicly traded equity securities of the Company or its successor in the Change in Control or another entity that is affiliated with the Company or its successor following the Change in Control, (iv) if the Participant holding the Replaced Award is subject to U.S. federal income tax under the Code, the tax consequences to such Participant under the Code of the Replacement Award are not less favorable to such Participant than the tax consequences of the Replaced Award, and (v) its other terms and conditions are not less favorable to the Participant holding the Replaced Award than the terms and conditions of the Replaced Award (including, but not limited to, the provisions that would apply in the event of a subsequent Change in Control). Without limiting the generality of the foregoing, the Replacement Award may take the form of a continuation of the Replaced Award if the requirements

of the preceding sentence are satisfied. The determination of whether the conditions of this Section 13(b) are satisfied will be made by the Committee, as constituted immediately before the Change in Control, in its sole discretion (taking into account the requirements of Treasury Regulation 1.409A-3(i)(5)(iv)(B) and compliance of the Replaced Award or Replacement Award with Section 409A of the Code). Without limiting the generality of the foregoing, the Committee may determine the value of Awards and Replacement Awards that are stock options by reference to either their intrinsic value or their fair value.

(c) Upon the Involuntary Termination, during the period of two years immediately following a Change in Control, of a Participant holding Replacement Awards, (i) all Replacement Awards held by the Participant will become fully vested and, if applicable, exercisable and free of restrictions (with any applicable performance goals deemed to have been achieved at a target level as of the date of such vesting), and (ii) all Options and Stock Appreciation Rights held by the Participant immediately before such Involuntary Termination that the Participant also held as of the date of the Change in Control and all stock options and stock appreciation rights that constitute Replacement Awards will remain exercisable for a period of 90 days following such Involuntary Termination or until the expiration of the stated term of such stock option or stock appreciation right, whichever period is shorter (provided, however, that, if the applicable Award Agreement provides for a longer period of exercisability, that provision will control).

(d) Notwithstanding anything in the Plan or any Award Agreement to the contrary, to the extent that any provision of the Plan or an applicable Award Agreement would cause a payment of deferred compensation that is subject to Section 409A of the Code to be made upon the occurrence of (i) a Change in Control, then such payment shall not be made unless such Change in Control also constitutes a "change in control event" within the meaning of Section 409A of the Code and the regulatory guidance promulgated thereunder or (ii) a termination of employment or service, then such payment shall not be made unless such termination of employment or service also constitutes a "separation from service" within the meaning of Section 409A of the Code and the regulatory guidance promulgated thereunder. Any payment that would have been made except for the application of the preceding sentence shall be made in accordance with the payment schedule that would have applied in the absence of a Change in Control or termination of employment or service, but disregarding any future service and/or performance requirements.

Section 14. Non-U.S. Participants. In order to facilitate the granting of any Award or combination of Awards under the Plan, the Committee may provide for such special terms for awards to Participants who are foreign nationals or who are employed by the Company or any Affiliate outside of the United States of America or who provide services to the Company or an Affiliate under an agreement with a foreign nation or agency, as the Committee may consider necessary or appropriate to accommodate differences in local law, tax policy or custom. Moreover, the Committee may approve such supplements to or amendments, restatements or alternative versions of the Plan (including, without limitation, sub-plans) as it may consider necessary or appropriate for such purposes, without thereby affecting the terms of the Plan as in effect for any other purpose, and the Secretary or other appropriate officer of the Company may certify any such document as having been approved and adopted in the same manner as the Plan. No such special terms, supplements, amendments or restatements, however, will include any provisions that are inconsistent with the terms of the Plan as then in effect unless the Plan could have been amended to eliminate such inconsistency without further approval by the stockholders of the Company.

Section 15. Detrimental Activity and Recapture Provisions. Any Award Agreement may provide for the cancellation or forfeiture of an Award or the forfeiture and repayment to the Company of any gain related to an Award, or other provisions intended to have a similar effect, upon such terms and conditions as may be determined by the Committee from time to time, including, without limitation, in the event that a Participant, during employment or other service with the Company or an Affiliate, shall engage in activity detrimental to the business of the Company. In addition, notwithstanding anything in the Plan to the contrary, any Award Agreement may also provide for the cancellation or forfeiture of an Award or the forfeiture and repayment to the Company of any gain related to an Award, or other provisions intended to have a similar effect, upon such terms and conditions as may be required by the Committee or under Section 10D of the Exchange Act and any applicable rules or regulations promulgated by the SEC or any national securities exchange or national securities association on which the Shares may be traded or under any clawback policy adopted by the Company.

Section 16. General Provisions.

(a) Nontransferability.

(i) Each Award, and each right under any Award, shall be exercisable only by the Participant during the Participant's lifetime, or, if permissible under applicable law, by the Participant's legal guardian or representative.

(ii) No Award may be sold, assigned, alienated, pledged, attached or otherwise transferred or encumbered by a Participant otherwise than by will or by the laws of descent and distribution, and any such purported sale, assignment, alienation, pledge, attachment, transfer or encumbrance shall be void and unenforceable against the Company or any Affiliate; provided that the designation of a beneficiary shall not constitute a sale, assignment, alienation, pledge, attachment, transfer or encumbrance. In no event may any Award granted under the Plan be transferred for value.

(iii) Notwithstanding the foregoing, at the discretion of the Committee, an Award may be transferred by a Participant solely to the Participant's spouse, siblings, parents, children and grandchildren or trusts for the benefit of such persons or partnerships, corporations, limited liability companies or other entities owned solely by such persons, including, but not limited to, trusts for such persons, subject to any restriction in the applicable Award Agreement.

(b) Dividend Equivalents. In the sole discretion of the Committee, an Other Stock-Based Award or an Award granted pursuant to Sections 8, 9 or 10 hereof, may provide the Participant with dividends or Dividend Equivalents, payable in cash, Shares, other securities or other property on a current or deferred basis; provided, that no dividends or Dividend Equivalents may be paid on any Award until the underlying Award vests.

(c) No Rights to Awards. No Participant or other Person shall have any claim to be granted any Award, and there is no obligation for uniformity of treatment of Participants, Awards, or holders or beneficiaries of Awards. The terms and conditions of Awards and the Committee's determinations and interpretations with respect thereto need not be the same with respect to each or any Participant (whether or not such Participants are similarly situated).

(d) Share Certificates. Shares or other securities of the Company or any Affiliate delivered under the Plan pursuant to any Award or the exercise thereof shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan or the rules, regulations, and other requirements of the SEC, any stock exchange upon which such Shares or other securities are then listed, and any applicable Federal or state laws. The Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

(e) Withholding.

(i) A Participant may be required to pay to the Company or any Affiliate, and, subject to Section 409A of the Code, the Company or any Affiliate shall have the right and is hereby authorized to withhold from any Award, from any payment due or transfer made under any Award or under the Plan or from any compensation or other amount owing to a Participant the amount (in cash, Shares, other securities, other Awards or other property) of any applicable withholding taxes in respect of an Award, its exercise, or any payment or transfer under an Award or under the Plan, and to take such other action(s) as may be necessary in the opinion of the Company to satisfy all obligations for the payment of such taxes.

(ii) Without limiting the generality of clause (i) above, in the discretion of the Committee and subject to such rules as it may adopt (including, without limitation, any as may be required to satisfy applicable tax and/or non-tax regulatory requirements) and applicable law, a Participant may satisfy, in whole or in part, the foregoing withholding liability by delivery of Shares owned by the Participant (which are not subject to any pledge or other security interest and which have been owned by the Participant for at least six months) with a Fair Market Value equal to such withholding liability or by having the Company withhold from the number of Shares otherwise issuable pursuant to the exercise of the Option (or the settlement of such Award in Shares) a number of Shares with a Fair Market Value equal to such withholding liability.

(f) Award Agreements. Each Award hereunder shall be evidenced by an Award Agreement, which shall be delivered to the Participant and shall specify the terms and conditions of the Award and any rules applicable thereto, including, but not limited to, the effect on such Award of the death, disability or termination of employment or service of a Participant and the effect, if any, of such other events as may be determined by the Committee.

(g) No Limit on Other Compensation Arrangements. Nothing contained in the Plan shall prevent the Company or any Affiliate from adopting or continuing in effect other compensation arrangements, which may, but need not,

provide for the grant of options, restricted stock, restricted stock units, Shares and other types of Awards provided for hereunder (subject to stockholder approval if such approval is required), and such arrangements may be either generally applicable or applicable only in specific cases.

(h) No Right to Employment. The grant of an Award shall not be construed as giving a Participant the right to be retained in the employ of, or in any consulting or other service relationship to, or as a director on the Board or board of directors, as applicable, of, the Company or any Affiliate. Further, the Company or an Affiliate may at any time dismiss a Participant from employment or discontinue any consulting or other service relationship, free from any liability or any claim under the Plan or any Award Agreement, unless otherwise expressly provided in any applicable Award Agreement or any applicable employment or other service contract or agreement with the Company or an Affiliate.

(i) No Rights as Stockholder. Subject to the provisions of the applicable Award, no Participant or holder or beneficiary of any Award shall have any rights as a stockholder with respect to any Shares to be distributed under the Plan until he or she has become the holder of such Shares. Notwithstanding the foregoing, in connection with each grant of Restricted Stock hereunder, the applicable Award shall specify if and to what extent the Participant shall be entitled to the rights of a stockholder in respect of such Restricted Stock.

(j) Governing Law. The validity, construction, and effect of the Plan and any rules and regulations relating to the Plan and any Award Agreement shall be determined in accordance with the laws of the State of Delaware, applied without giving effect to its conflict of laws principles.

(k) Severability. If any provision of the Plan or any Award is or becomes or is deemed to be invalid, illegal, or unenforceable in any jurisdiction or as to any Person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction, Person or Award and the remainder of the Plan and any such Award shall remain in full force and effect.

(l) Other Laws. The Committee may refuse to issue or transfer any Shares or other consideration under an Award if, acting in its sole discretion, it determines that the issuance or transfer of such Shares or such other consideration might violate any applicable law or regulation or entitle the Company to recover the same under Section 16(b) of the Exchange Act, and any payment tendered to the Company by a Participant, other holder or beneficiary in connection with the exercise of such Award shall be promptly refunded to the relevant Participant, holder or beneficiary. Without limiting the generality of the foregoing, no Award granted hereunder shall be construed as an offer to sell securities of the Company, and no such offer shall be outstanding, unless and until the Committee in its sole discretion has determined that any such offer, if made, would be in compliance with the requirements of all applicable securities laws.

(m) No Trust or Fund Created. Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate and a Participant or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Affiliate pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of the Company or such Affiliate.

(n) No Fractional Shares. No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash, other securities, or other property shall be paid or transferred in lieu of any fractional Shares or whether such fractional Shares or any rights thereto shall be canceled, terminated, or otherwise eliminated without additional consideration.

(o) Deferrals. In the event the Committee permits a Participant to defer any Award payable in the form of cash, all such elective deferrals shall be accomplished by the delivery of a written, irrevocable election by the Participant on a form provided by the Company. All deferrals shall be made in accordance with administrative guidelines established by the Committee to ensure that such deferrals comply with all applicable requirements of Section 409A of the Code.

(p) Headings. Headings are given to the Sections and subsections of the Plan solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of the Plan or any provision thereof.

Section 17. Compliance with Section 409A of the Code.

(a) To the extent applicable, it is intended that the Plan and any Awards granted hereunder comply with the provisions of Section 409A of the Code, so that the income inclusion provisions of Section 409A(a)(1) of the Code do not apply to the Participants. The Plan and any Awards granted hereunder shall be administered in a manner consistent with this intent. Any reference in the Plan to Section 409A of the Code will also include any regulations or any other formal guidance promulgated with respect to such Section by the U.S. Department of the Treasury or the Internal Revenue Service.

(b) Neither a Participant nor any of a Participant's creditors or beneficiaries shall have the right to subject any deferred compensation (within the meaning of Section 409A of Code) payable under the Plan and Awards granted hereunder to any anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, attachment or garnishment. Except as permitted under Section 409A of the Code, any deferred compensation (within the meaning of Section 409A of the Code) payable to a Participant or for a Participant's benefit under the Plan and Awards granted hereunder may not be reduced by, or offset against, any amount owing by a Participant to the Company or any of its Affiliates.

(c) If, at the time of a Participant's separation from service (within the meaning of Section 409A of the Code), (i) the Participant shall be a specified employee (within the meaning of Section 409A of the Code and using the identification methodology selected by the Company from time to time) and (ii) the Company shall make a good faith determination that an amount payable hereunder constitutes deferred compensation (within the meaning of Section 409A of the Code) the payment of which is required to be delayed pursuant to the six-month delay rule set forth in Section 409A of the Code in order to avoid taxes or penalties under Section 409A of the Code, then the Company shall not pay such amount on the otherwise scheduled payment date but shall instead pay it on the earlier of (A) the first business day of the seventh month following the Participant's separation from service or (B) the date of the Participant's death.

(d) Notwithstanding anything to the contrary in the Plan or any Award Agreement, to the extent that the Plan and/or Awards granted hereunder are subject to Section 409A of the Code, the Committee may, in its sole discretion and without a Participant's prior consent, amend the Plan and/or Award, adopt policies and procedures, or take any other actions (including, without limitation, amendments, policies, procedures and actions with retroactive effect) as the Committee determines are necessary or appropriate to (i) exempt the Plan and/or any Award from the application of Section 409A of the Code, (ii) preserve the intended tax treatment of any such Award, or (iii) comply with the requirements of Section 409A of the Code, including, without limitation, any regulations or other guidance that may be issued after the date of the grant. In any case, notwithstanding anything to the contrary, a Participant shall be solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on a Participant or for a Participant's account in connection with the Plan and Awards granted hereunder (including, but not limited to, any taxes and penalties under Section 409A of the Code), and neither the Company nor any of its Affiliates shall have any obligation to indemnify or otherwise hold a Participant harmless from any or all of such taxes or penalties.

Section 18. Term of the Plan.

(a) Effective Date. The Plan shall be effective as of the date of its approval by the Board (the "Effective Date"). No awards will be made under the Existing Plan following shareholder approval of the Plan, except that outstanding awards granted under the Existing Plan shall continue unaffected from and after the Effective Date.

(b) Expiration Date. No Award will be granted under the Plan more than ten years after the Effective Date, but all Awards granted on or prior to such date will continue in effect thereafter subject to the terms thereof and of the Plan.

SEPARATION AND RELEASE AGREEMENT

This SEPARATION AND RELEASE AGREEMENT (this "Agreement") dated June 21, 2023, is made and entered into by and between Harte Hanks, Inc. (the "Company"), and Brian Linscott (the "Former Executive").

WHEREAS, the Company and the Former Executive previously entered into an Employment Agreement dated June 22, 2021 (the "Employment Agreement");

WHEREAS, the Former Executive's employment with the Company has terminated effective as of 11:59 pm EST on June 16, 2023 (the "Termination Date"), and the Former Executive is eligible for payments and benefits pursuant to the Employment Agreement, subject to certain terms and conditions set forth in the Employment Agreement; and

WHEREAS, pursuant to the Employment Agreement, it is a condition precedent to the Company's obligations to pay or provide certain of the severance benefits under the Employment Agreement that Former Executive executes, delivers and does not revoke, this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein and in the Employment Agreement, the sufficiency and receipt of which is hereby acknowledged, the Former Executive agrees as follows:

1. The Severance Package. In exchange for the Former Executive's agreements as set forth herein, the Company will provide the Former Executive with the following (collectively, the "Severance Package"):

(a) The Company will provide Former Executive with a "Separation Payment" in the gross amount of $675,000, less withholdings and deductions required by law. The Separation Payment will be paid in equal installments via the Company's regular payroll for a period of eighteen (18) months following the Termination Date. The first payment will be made on the sixtieth (60th) day following the Termination Date (the "First Payment Date") and will include the amount of the Separation Payment that would have been due and payable from the Termination Date through the First Payment Date.

(b) Former Executive's participation in the Company's group health plan as an active employee will cease on June 30, 2023. If Former Executive elects to continue Former Executive's group health coverage through COBRA, and properly completes and submits the necessary election forms, the Company will pay, on Former Executive's behalf, the employer-portion of Former Executive's monthly COBRA premiums for the lesser of (i) a period of twelve (12) months following the Termination Date, and (ii) the date Former Executive becomes eligible for healthcare coverage under another employer's plans.

(c) 43,334 time-based restricted stock units, which are unvested as of the Termination Date, will become vested and will be settled at the time(s) set forth in the applicable award agreement(s), and will otherwise continue to be subject to the terms of the applicable award agreement and the applicable equity plan.

(d) 18,000 performance-based restricted stock units (the "PSUs") will remain eligible to vest during the 90-day period immediately following the Termination Date (the "Extended Period"), to the extent the Company's common stock has been maintained at or above $11.00 for a consecutive 90-day period that ends at any time during the Extended Period, and will otherwise continue to be subject to the terms of the applicable award agreement and applicable equity plan; if the PSUs do not vest during the Extended Period, the PSUs will be cancelled for no consideration on the last day of the Extended Period. All other performance-based restricted stock units held by the Former Executive as of the Termination Date will be cancelled for no consideration as of the Termination Date.

Regardless of whether Former Executive executes this Agreement, he will be entitled to receive the Accrued Amounts (as defined in the Employment Agreement); provided, that Executive acknowledges that no Earned Annual Bonus remains payable as of the Termination Date.

2. General Release and Waiver of Claims.

(a) In consideration of the Severance Package to be provided to Former Executive by the Company as set forth herein, Former Executive hereby releases and forever discharges and holds the Company, each

subsidiary of the Company, each affiliate of the Company and each officer, director, employee, partner (general and limited), equity holder, member, manager, agent, subsidiary, affiliate, successor and assign and insurer of any of the foregoing (collectively, the "Releasees") harmless from all claims or suits, of any nature whatsoever (whether known or unknown), being directly or indirectly related to Former Executive's employment or service with the Company or the termination thereof, including, but not limited to, any claims for notice, pay in lieu of notice, wrongful dismissal, discrimination, harassment, severance pay, bonus, incentive compensation, equity compensation, and all other claims relating to Former Executive's employment or service with the Company or the termination thereof.

(b) This release includes, but is not limited to, contract and tort claims arising out of any legal restriction on the Company's right to terminate its employees and claims or rights under federal, state, and local laws prohibiting employment discrimination, including by not limited to, claims or rights under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, the Civil Rights Act of 1991; the Equal Pay Act, the Age Discrimination in Employment Act of 1967 ("ADEA"), including the Older Workers Benefit Protection Act of 1990; the Americans with Disabilities Act; the Employee Retirement Income Security Act; the Worker Adjustment and Retraining Notification Act, and any other federal, state, or local law (statutory or decisional), regulation or ordinance (if and to the extent applicable and as the same may be amended from time to time), or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Releasees; or any claim for wrongful discharge, breach of contract, negligence, infliction of emotional distress, defamation or any claim for costs, fees, or other expenses (including attorney's fees incurred in these matters), which arose through the date Former Executive executes this Agreement.

(c) Former Executive acknowledges that the consideration given for this Agreement (the Severance Package) is in addition to anything of value to which Former Executive was already entitled.

(d) Former Executive acknowledges that because this Agreement contains a general release of all claims, including under the ADEA, and is an important legal document, he has been advised to consult with legal counsel of his own choosing. Former Executive may take up to twenty-one (21) days following the Termination Date to decide whether to execute this Agreement, and he may revoke his signature on this Agreement by delivering or mailing (including via email) a signed notice of revocation to the Company at its corporate offices (Attn: Bob Wyman) within seven (7) days after executing this Agreement.

(e) Notwithstanding the foregoing, this Agreement does not release (i) claims which cannot be lawfully released, and (ii) any rights the Former Executive has to indemnification under any Company plan, policy, insurance coverage or by-law, or pursuant to applicable law. Further, the release contained herein does not, and shall not be construed to, release or limit the scope of any existing obligation of the Company (A) to Former Executive and his eligible, participating dependents or beneficiaries with respect to any vested benefits under any existing group welfare (excluding severance) or retirement plan of the Company in which Former Executive is a participant, or (B) with respect to the Severance Package.

(f) Former Executive acknowledges that there is a risk that after signing this Agreement he may discover losses or claims that are released under this Agreement , but that are presently unknown to him. Former Executive assumes this risk and understands that this Agreement shall apply to any such losses and claims. Former Executive understands that this Agreement includes a full and final release covering all known and unknown, suspected or unsuspected injuries, debts, claims or damages which have arisen or may have arisen from any matters, acts, omissions or dealings released herein. Former Executive acknowledges that by accepting the Severance Package, he assumes and waives the risks that the facts and the law may be other than as he believes.

3. Nothing in this Agreement shall be construed to affect the independent right and responsibility of the Equal Employment Opportunity Commission ("EEOC") or any other government agency to enforce the law; provided, however, Former Executive is barred from receiving any monetary damages in connection with any EEOC or other government agency proceeding concerning matters covered by this Agreement to the fullest extent permitted by law.

4. This Agreement shall not be construed as an admission by any of the Releasees or the Former Executive of any violation of any federal, state or local law.

5. Resignations. As of the Termination Date, Former Executive will be deemed to have resigned from all board of director seats and other positions held with the Company and any of its affiliates without any further action on the part of the Company or Former Executive; provided that Former Executive will execute any additional documents the Company determines may be necessary to effectuate such resignations.

6. Cooperation. For a reasonable period following the Termination Date, Former Executive agrees to provide assistance to the Company and any of the other Releasees by making himself available by telephone and/or email at reasonable times (but without unreasonably impairing any other employment or consulting obligations Former Executive may have) to provide information to, and to consult with, the Company or any of the other Releasees on matters about which Former Executive has knowledge as a result of Former Executive's relationship with any of them, including but not limited to all matters (formal or informal) in connection with any investigations, litigation (potential or ongoing) and administrative, regulatory or other proceedings which currently exist or which may arise following the signing of this Agreement. Such cooperation will include, but not be limited to, Former Executive's willingness to be interviewed by representatives of the Company and to participate in any such proceedings by deposition or testimony.

7. Conditions to Payment. Former Executive acknowledges that the Company's obligations to pay or continue to provide any portion of the Severance Package is expressly conditioned on his continued compliance with the Non-Solicitation and Non-Compete Agreement and Confidentiality/Non-Disclosure Agreement previously executed by the Former Executive (collectively, the "Restrictive Covenants"), which Restrictive Covenants are incorporated into this Agreement by reference. In addition, the Company's obligations to pay or continue to provide any portion of the Severance Package is expressly conditioned on Former Executive's compliance with Sections 12, 13 and 15 of the Employment Agreement and Section 8 of this Agreement.

8. Non-Disparagement.

(a) Former Executive will not make any statement to any person or induce any third party to make any such statement, whether written or oral, and whether expressed as a fact, opinion or otherwise, that disparages, maligns, defames, libels or slanders the Company or any of its parents, subsidiaries and affiliates, or any of their respective present and former directors, officers, partners, members, agents, representatives, employees, successors and assigns. Notwithstanding the foregoing, Former Executive will not be prohibited from making truthful statements to any government agency, pursuant to lawfully compelled testimony or as otherwise required or protected by applicable law. Further, nothing in this Agreement shall limit or prevent Former Executive from fully exercising his rights as a shareholder of the Company, consistent with other shareholders, including without limitation his right to ask questions or raise issues, request information or engage with management about the strategies and operations of the Company, subject to the Former Executive’s compliance with the Restrictive Covenants noted in Section 7.

9. FORMER EXECUTIVE ACKNOLWEDGES THAT HE HAS BEEN ADVISED TO CONSULT WITH AN ATTORNEY; THAT TO THE EXTENT HE HAS DESIRED, HE HAS AVAILED HIMSELF OF THAT RIGHT; THAT HE HAS CAREFULLY READ AND UNDERSTANDS ALL OF THE PROVISIONS OF THIS AGREEMENT; AND THAT HE IS KNOWINGLY AND VOLUNTARILY ENTERING INTO THIS AGREEMENT.

10. 10. Miscellaneous.

(a) Governing Law. This Agreement and any and all claims arising out of, under pursuant to, or in any way related to this Agreement, including but not limited to any and all claims (whether sounding in contract or tort) as to this Agreement's scope, validity, enforcement, interpretation, construction, and effect shall be governed by the laws of the State of New York (without regard to any conflict of law rules which might result in the application of the laws of any other jurisdiction).

(b) Construction. There shall be no presumption that any ambiguity in this Agreement should be resolved in favor of one party hereto and against another party hereto. Any controversy concerning the construction of this Agreement shall be decided neutrally without regard to authorship.

(c) Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed will be deemed to be an original, and such counterparts will, when executed by the parties hereto,

together constitute but one agreement. Facsimile and electronic signatures shall be deemed to be the equivalent of manually signed originals.

(d) Successors and Assigns. All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective successors and permitted assigns. Neither this Agreement nor any rights or obligations hereunder may be assigned by Former Executive, other than by will or the laws of descent or distribution.

(e) Severability. All provisions of this Agreement are intended to be severable. In the event any provision or restriction contained herein is held to be invalid or unenforceable in any respect, in whole or in part, such finding shall in no way affect the validity or enforceability of any other provision of this Agreement. The parties hereto further agree that any such invalid or unenforceable provision shall be deemed modified so that it shall be enforced to the greatest extent permissible under law, and to the extent that any arbitrator or court of competent jurisdiction determines any restriction herein to be unreasonable in any respect, such court or arbitrator may limit this Agreement to render it reasonable in the light of the circumstances in which it was entered into and specifically enforce this Agreement as limited.

(f) Modification; Waiver. This Agreement may not be modified or amended except in writing signed by the parties. No term or condition of this Agreement will be deemed to have been waived except in writing by the party charged with waiver. A waiver shall operate only as to the specific term or condition waived and will not constitute a waiver for the future or act on anything other than that which is specifically waived.

(g) Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof, and this Agreement supersedes all other agreements and drafts hereof, oral or written, between the parties hereto with respect to the subject matter hereof No promises, statements, understandings, representations or warranties of any kind, whether oral or in writing, express or implied, have been made to Former Executive to induce Former Executive to enter into this Agreement other than the express terms set forth herein, and Former Executive is not relying upon any promises, statements, understandings, representations, or warranties other than those expressly set forth in this Agreement.

(h) Section 409A. The parties agree that this Agreement is intended to be administered in accordance with Section 409A of the Internal Revenue Code of 1986 (together with Treasury Regulations and related written guidance from the Internal Revenue Service, "Section 409A"). It is the intention of the parties that the compensation and benefits set forth in this Agreement be exempt from Section 409A as short-term deferrals or payments under the separation pay exemption. To the extent that any provision of this Agreement is ambiguous as to its compliance with Section 409A, the provision shall be read in such a manner so that all payments hereunder comply with Section 409A, and to the extent required, be subject to any applicable six (6) month delay for "specified employees" if required in order to avoid the imposition of any excise tax under Section 409A. Each payment pursuant to this Agreement is intended to constitute a separate payment for purposes of Treasury Regulation Section 1.409A-2(b)(2). The parties agree that this Agreement may be amended, as reasonably requested by either party, as may be necessary to fully comply with Section 409A in order to preserve the payments and benefits provided hereunder without additional cost to either party. Notwithstanding the foregoing, nothing contained herein constitutes tax advice or provides any form of tax indemnity, and the Company shall have no obligation to indemnify or bear any responsibility for any adverse tax consequence(s) to the Former Executive in connection with this Agreement.

(i) Surviving Obligations. In addition to the Restrictive Covenants, the provisions of Sections 7, 10 (with respect to the Severance Package), 12, 13, 15, 16, and l 7(g), (j), (l) (m), and (n) of the Employment Agreement shall continue and survive the termination of Former Executive's employment/service with the Company and the termination of the Employment Agreement, effective as of the Termination Date.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.

Harte Hanks, Inc.

BY: /s/ Lauri Kearnes

Name: Lauri Kearnes

Title:Chief Financial Officer

Accepted and Agreed to:

I ACKNOWLEDGE THAT I HAVE CAREFULLY READ THE FOREGOING RELEASE AGREEMENT, THAT I UNDERSTAND ALL OF ITS TERMS, AND THAT I AM ENTERING INTO IT VOLUNTARTILY. I FURTHER ACKNOWLEDGE THAT I AM AWARE OF MY RIGHTS TO REVIEW AND CONSIDER THIS RELEASE FOR 21 DAYS FOLLOWING THE TERMINATION DATE AND TO CONSULT WITH AN ATTORNEY ABOUT IT, AND STATE THAT BEFORE SIGNING THIS AGREEMENT, I HAVE EXERCISED THESE RIGHTS TO THE FULL EXTENT THAT I DESIRED. I ALSO UNDERSTAND THAT I MAY REVOKE MY SIGNATURE WITHIN SEVEN (7) DAYS AFTER SIGNING.

BRIAN LINSCOTT

/s/ Brian Linscott Date: 6/21/2023

SUBSIDIARIES OF REGISTRANT

Subsidiary Name	Type of Entity	State or Country of Organization or Incorporation
Harte-Hanks Belgium N.V.	Corporation	Belgium
Harte-Hanks Data Services LLC	Limited Liability Company	Maryland
Harte-Hanks Direct, Inc.	Corporation	New York
Harte-Hanks Direct Marketing/Dallas, Inc.	Corporation	Delaware
Harte-Hanks Direct Marketing/Cincinnati, Inc.	Corporation	Ohio
Harte-Hanks Direct Marketing/Fullerton, Inc.	Corporation	California
Harte-Hanks Direct Marketing/Jacksonville LLC	Limited Liability Company	Delaware
Harte-Hanks Direct Marketing/Kansas City, LLC	Limited Liability Company	Delaware
Harte-Hanks Do Brazil Consoltoria E Servicos LTDA.	Limited Liability Company	Brazil
Harte Hanks Europe B.V.	Corporation	The Netherlands
Harte-Hanks Florida, Inc.	Corporation	Delaware
Harte-Hanks GmbH	Corporation	Germany
Harte-Hanks Logistics, LLC	Limited Liability Company	Florida
Harte-Hanks Market Intelligence Espana LLC	Limited Liability Company	Colorado
Harte-Hanks Philippines, Inc.	Corporation	Philippines
Harte-Hanks Print, Inc.	Corporation	New Jersey
Harte-Hanks Response Management/Austin, Inc.	Corporation	Delaware
Harte-Hanks Response Management/Boston, Inc.	Corporation	Massachusetts
Harte-Hanks Shoppers, Inc.	California	California
Harte-Hanks Strategic Marketing, Inc.	Corporation	Delaware
Harte-Hanks SRL	Limited Liability Company	Romania
Harte-Hanks STS, Inc.	Corporation	Delaware
Harte Hanks Tranquility Limited	Limited Liability Company	United Kingdom
Harte Hanks UK Limited	Limited Liability Company	United Kingdom
HHMIX SAS	Limited Liability Company	France
NSO, Inc.	Corporation	Ohio
Sales Support Services, Inc.	Corporation	New Jersey
Southern Comprint Co.	Corporation	California
Harte Hanks Direct Marketing/Baltimore, Inc.	Corporation	Maryland

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 033-54303, 333-03045, 333-30995, 333-63105, 333-41370, 333-159151, 333-189162, 333-189781, 333-227325, 333-227326 and 333-240325) of Harte Hanks, Inc. and Subsidiaries of our report dated April 1, 2024, relating to the consolidated financial statements of Harte Hanks, Inc. and Subsidiaries as of and for the years ended December 31, 2023 and 2022, which appears in this Annual Report on Form 10-K for the year ended December 31, 2023.

/s/ Baker Tilly US, LLP
Tewksbury, Massachusetts

April 1, 2024

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Kirk Davis, Chief Executive Officer of Harte Hanks, Inc. (the "Company"), hereby certify that:

1. I have reviewed this annual report on Form 10-K of the Company;

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 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 function):

   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 controls over financial reporting.

April 1, 2024	/s/ Kirk Davis
Date	Kirk Davis Chief Executive Officer

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, David Garrison, Chief Financial Officer of Harte Hanks, Inc. (the "Company"), hereby certify that:

1. I have reviewed this annual report on Form 10-K of the Company;

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 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 function):

   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 controls over financial reporting.

April 1, 2024	/s/ David Garrison
Date	David Garrison Chief Financial Officer

Exhibit 32.1
2023 10-K

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Kirk Davis, Chief Executive Officer of Harte Hanks, Inc. (the "Company"), hereby certify that the accompanying report on Form 10-K for the year ended December 31, 2023 and filed with the Securities and Exchange Commission on the date hereof pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (the "Report") by the Company fully complies with the requirements of those sections.

I further certify that, based on my knowledge, the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

April 1, 2024	/s/ Kirk Davis
Date	Kirk Davis Chief Executive Officer

Note: This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

Exhibit 32.2
2023 10-K

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, David Garrison, Chief Financial Officer of Harte Hanks, Inc. (the "Company"), hereby certify that the accompanying report on Form 10-K for the year ended December 31, 2023 and filed with the Securities and Exchange Commission on the date hereof pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (the "Report") by the Company fully complies with the requirements of those sections.

I further certify that, based on my knowledge, the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

April 1, 2024	/s/ David Garrison
Date	
	David Garrison
	Chief Financial Officer

Note: This certification accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

HARTE HANKS INC.
CLAWBACK POLICY
Adopted Effective: November 16, 2023

1. POLICY
In accordance with the applicable rules of Rule 5608 of the Nasdaq ("Nasdaq") listing rules (the "Listing Rules") and Section 10D and Rule 10D-1 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") ("Rule 10D-1"), the Board of Directors (the "Board") of Harte Hanks, Inc. (the "**Company**") has adopted this Clawback Policy (this "**Clawback Policy**") to provide for the recovery of erroneously awarded incentive-based compensation from Officers of the Company.

2. APPLICABILITY
This Clawback Policy applies to all current or former "Officers" of the Company (as defined below) who received Recoverable Incentive Compensation (as defined below) during the Recoupment Period (as defined below). For purposes of this Clawback Policy, "**Officers**" means each individual who is or was at any time during the Recoupment Period designated by the Board (or Compensation Committee thereof) as an "officer" of the Company, as defined in Rule 16a-1(f) under the Exchange Act, and any other senior officer of the Company as designated by the Board and/or Compensation Committee from time to time.

3. RECOUPMENT/CLAWBACK
In the event of a Restatement (as defined below), the Compensation Committee (if composed entirely of independent directors, or in the absence of such a committee, a majority of independent directors serving on the Board) (as applicable, the "Committee") shall require a current or former Officer to reasonably promptly reimburse, repay or otherwise forfeit any Excess Incentive Compensation (as defined below) received by such Officer at any time during the three completed fiscal years immediately preceding a Restatement Determination (as defined below), including any applicable transition period that results from a change in the Company's fiscal year within or immediately following those three (3) completed fiscal years (such period, the "**Recoupment Period**"). For purposes of this Clawback Policy, Recoverable Incentive Compensation (as defined below) is deemed "received" during the Company's fiscal period during which the financial reporting measure specified for the incentive compensation award is attained, even if the payment or grant of the Recoverable Incentive Compensation occurs after the end of that period.
"Excess Incentive Compensation" means, without regard to any taxes paid or payable, the amount of Recoverable Incentive Compensation that was received by the Officer based on the incorrectly reported financial results of the Company that exceeds the amount of Recoverable Incentive Compensation that otherwise would have been received by the Officer if such amount(s) had been determined based on the restated financial results of the Company, in each case, as determined by the Committee. If the Committee cannot reasonably determine the amount of Excess Incentive Compensation received by the Officer based on the information set forth or reflected in the Restatement, then it will make its determination based on a reasonable estimate of the effect of the Restatement on the Company or relevant measure (i.e., the stock price or total shareholder return). The Company must maintain documentation of that reasonable estimate and provide such documentation to Nasdaq.
"Financial Reporting Measures" means measures that are determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return are financial reporting measures for purposes of this Clawback Policy. A Financial Reporting Measure need not be presented within the financial statements or included in a filing with the SEC.
"Incentive Compensation" means any compensation to the extent the amount is paid, earned, vested or granted based wholly or in part on the attainment of one or more Financial Reporting Measures.
"Recoverable Incentive Compensation" means all Incentive Compensation received on or after the Effective Date by an Officer: (i) after beginning service as an Officer; (ii) while the Company has a class of securities listed on a national securities exchange or a national securities association; and (iii) during the Recoupment Period.
"Restatement" means an accounting restatement (i) due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial restatements that is material to the previously issued financial statements, or

(ii) that corrects an error that is not material to previously issued financial statements, but would result in a material misstatement if the error were not corrected in the current period or left uncorrected in the current period.

"Restatement Determination" means the earlier to occur of (i) the date the Board, the Committee and/or management concludes (or reasonably should have concluded) that a Restatement is required, or (ii) the date a regulator, court or other legally authorized entity directs the Company to prepare a Restatement of a previously issued financial statement.

In the event of a Restatement Determination, the Committee shall promptly determine the amount of any Excess Incentive Compensation for each Officer in connection with the Restatement and shall promptly thereafter provide each Officer with a written notice containing the amount of Excess Incentive Compensation and a demand for repayment or return, as applicable. The Committee shall have discretion to determine the appropriate means of recovery of Excess Incentive Compensation based on all applicable facts and circumstances and taking into account the time value of money and the cost to shareholders of delaying recovery. The Committee seeks to recover any Excess Incentive Compensation reasonably promptly. The right of recovery under this Clawback Policy shall run in favor of the Company and its parents and subsidiaries.

4. ADMINISTRATION OF CLAWBACK POLICY

Administration of this Clawback Policy is incumbent on the Committee. The Committee is authorized to interpret and construe this Clawback Policy and to make all determinations necessary, appropriate, or advisable for the administration of this Clawback Policy and for the Company's compliance with the Listing Rules, Section 10D, Rule 10D-1 and any other applicable law, regulation, rule or interpretation of the SEC or Nasdaq promulgated or issued in connection therewith. Any determinations made by the Committee shall be final and binding on all affected individuals.

Notwithstanding anything set forth herein to the contrary, the Company shall not be required to seek recovery of compensation under this Clawback Policy (i) if the Committee reasonably determines that the direct expenses to be paid to a third party to recover the Excess Incentive Compensation would exceed the amount of the compensation to be recovered, making recovery impracticable, and provides all required documentation of prior reasonable attempt(s) to recover the Excess Incentive Compensation to Nasdaq, (ii) if recovery would be in violation of any home country law applicable to the Company or an Officer which law was adopted prior to November 28, 2022, *provided that,* before determining that it would be impracticable to recover any amount of Excess Incentive Compensation based on violation of home country law, the Company has obtained an opinion of home country counsel, acceptable to Nasdaq, that recovery would result in such a violation and a copy of the opinion is provided to Nasdaq, or (iii) to the extent applicable, if recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder. In connection with the foregoing, the Committee must also make a determination that, as a result of any or all of the foregoing, recovery under this Clawback Policy would be impracticable.

5. NO INDEMNIFICATION

None of the Company or any of its subsidiaries shall be permitted to indemnify or insure any Officer against (i) the loss of any Excess Incentive Compensation that is repaid, returned or recovered pursuant to the terms of this Clawback Policy, or (ii) any claims relating to the Company's enforcement of its rights under this Clawback Policy.

6. OTHER RECOVERY RIGHTS

This Clawback Policy shall be binding and enforceable against all Officers and, to the extent required by applicable law or guidance from the SEC or Nasdaq, their beneficiaries, heirs, executors, administrators or other legal representatives. Any right of recoupment under this Policy shall be in addition to, and not in lieu of, any other remedies or rights of recoupment that may be available to the Company pursuant to the terms of any similar policy in any employment agreement, equity award agreement, or similar agreement and any other legal remedies available to the Company, including the right to recover Incentive Compensation paid to an Officer in the event the Officer is in breach of a non-compete or other covenant within the Officer's employment agreement/ offer letter, if an Officer is terminated "for cause", or if the Officer commits some other form of misconduct in violation of a Company policy. Separately, any right of recovery under this Clawback Policy shall be in addition to, and not in lieu of, any other remedies or rights of recovery that may be available to the Company under applicable law, regulation or rule. The Committee intends that this Clawback Policy will be applied to the fullest extent required by applicable law.

Any employment agreement, equity award agreement, compensatory plan or any other agreement or arrangement with an Officer shall be deemed to include, as a condition to the grant of any benefit thereunder, an agreement by the Officer to abide by the terms of this Clawback Policy. Any amounts paid to the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 shall be considered in determining any amounts recovered under this Clawback Policy.

If an Officer fails to repay the Excess Incentive Compensation that is owed to the Company under this Clawback Policy, the Company shall take all appropriate action to recover such Excess Incentive Compensation from the Officer, and the Officer shall be required to reimburse the Company for all expenses (including legal expenses) incurred by the Company in recovering such Excess Incentive Compensation.

7. EFFECTIVENESS OF CLAWBACK POLICY

This Clawback Policy will become effective as of November 16, 2023 (the "**Effective Date**") and will thereafter remain in effect for an indefinite period of time, provided, however, that this Clawback Policy may be suspended or terminated by the Board of Directors/the Committee at any time.