UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 10-K

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

For the year ended December 31, 2018

or

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

Commission file number: 001-38211

ROKU, INC.

(Exact name of Registrant as specified in its charter)

Delaware	**4841**	**26-2087865**
(State or other jurisdiction of incorporation or organization)	***(Primary standard industrial code number)***	***(I.R.S. employer identification no.)***

150 Winchester Circle
Los Gatos, California 95032

(408) 556-9040

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

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

Title of each class	**Name of each exchange on which registered**
Class A Common Stock, $0.0001 par value	**The Nasdaq Global Select Market**

Securities registered pursuant to Section 12(g) of the Act:
None

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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

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

Large accelerated filer	☑	Accelerated Filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
Emerging Growth Company	☐		

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

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

As of June 30, 2018, the aggregate market value of voting stock held by non-affiliates of the registrant, based upon the closing sales price for the registrant's common stock, as reported in the Nasdaq Global Select Market System, was $2,857,084,378. Shares of common stock beneficially owned by each executive officer and director of the Registrant and by each person known by the Registrant to beneficially own 10% or more of the outstanding common stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for any other purpose.

As of January 31, 2019, the registrant had 78,138,197 shares of Class A common stock, $0.0001 par value per share and 31,869,921 shares of Class B common stock, $0.0001 par value per share.

DOCUMENTS INCORPORATED BY REFERENCE

Part III incorporates by reference certain information from the Registrant's definitive proxy statement (the "2018 Proxy Statement") for the 2019 Annual Meeting of Stockholders. The 2018 Proxy Statement will be filed with the Securities and Exchange Commission within 120 days of the registrant's fiscal year ended December 31, 2018.

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NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, about us and our industry that involve substantial risks and uncertainties. All statements other than statements of historical facts contained in this report, including statements regarding our future results of operations and financial condition, business strategy and plans and objectives of management for future operations, are forward-looking statements. In some cases, forward-looking statements may be identified by words such as "anticipate," "believe," "continue," "could," "design," "estimate," "expect," "intend," "may," "plan," "potentially," "predict," "project," "should," "will" or the negative of these terms or other similar expressions.

Forward-looking statements are based on our management's beliefs and assumptions and on information currently available. These forward-looking statements are subject to a number of known and unknown risks, uncertainties and assumptions, including risks described in the section titled "Risk Factors" and elsewhere in this Form 10-K, regarding, among other things:

- *our financial performance, including our revenue, cost of revenue, operating expenses and our ability to attain and sustain profitability;*
- *our ability to attract and retain users and increase hours streamed;*
- *our ability to attract and retain advertisers;*
- *our ability to attract and retain additional TV brands and service operators to deploy our technology;*
- *our ability to acquire rights to distribute popular content on our platform on favorable terms, or at all, including the renewals of our existing agreements with content publishers;*
- *changes in consumer viewing habits or the growth of TV streaming;*
- *the growth of our relevant markets, including the growth in advertising spend on TV streaming platforms, and our ability to successfully grow our business in those markets;*
- *our ability to adapt to changing market conditions and technological developments, including developing integrations with our platform partners;*
- *our ability to develop and launch new streaming products and provide ancillary services and support;*
- *our ability to compete effectively with existing competitors and new market entrants;*
- *our ability to successfully manage domestic and international expansion;*
- *our ability to attract and retain qualified employees and key personnel;*
- *security breaches and system failures;*
- *our ability to maintain, protect and enhance our intellectual property; and*
- *our ability to comply with laws and regulations that currently apply or may become applicable to our business both in the United States and internationally, including compliance with the EU General Data Protection Regulation.*

We caution you that the foregoing list may not contain all of the forward-looking statements made in this Annual Report on Form 10-K.

Other sections of this report may include additional factors that could harm our business and financial performance. Moreover, we operate in a very competitive and rapidly changing environment. New risk factors emerge from time to time, and it is not possible for our management to predict all risk factors nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ from those contained in, or implied by, any forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. We cannot assure you that the events and circumstances reflected in the forward-looking statements will be achieved or occur. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Except as required by law, we undertake no obligation to update publicly any forward-looking statements for any reason after the date of this report or to conform these statements to actual results or to changes in our expectations. You should read this Annual Report on Form 10-K and the documents that we reference in this Annual Report on Form 10-K and have filed as exhibits to this report with the understanding that our actual future results, levels of activity, performance and achievements may be materially different from what we expect. We qualify all of our forward-looking statements by these cautionary statements.

Investors and others should note that we may announce material business and financial information to our investors using our investor relations website (ir.roku.com/investor-relations), SEC filings, webcasts, press releases, and conference calls. We use these mediums, including our website, to communicate with investors and the general public about our company, our products, and other issues. It is possible that the information that we make available may be deemed to be material information. We therefore encourage investors and others interested in our company to review the information that we make available on our website.

PART I

Item 1: Business

Overview

Roku pioneered streaming to the TV and we are capitalizing on this large economic opportunity as a leading TV streaming platform for users, content publishers and advertisers. Roku connects users to the streaming content they love, enables content publishers to build and monetize large audiences, and provides advertisers with unique capabilities to engage consumers. As of December 31, 2018, we had 27.1 million active accounts and during 2018 our users streamed 24.0 billion hours on the Roku platform. TV streaming's disruptive content distribution model is shifting billions of dollars of economic value.

Our business model is to grow gross profit by increasing the number of active accounts and related streaming hours, and growing revenue through the monetization of our streaming platform. We measure our platform monetization progress through average revenue per user, or ARPU, which we believe represents the inherent value of our business model. We grow new accounts through three primary channels: we sell streaming players; we partner with TV brands through our Roku TV licensing program; and we have licensing relationships with service operators. The fastest growing source of new accounts comes from our licensing relationships with TV brands and service operators which accounted for 50% of new accounts in 2018, up from 48% in 2017. We believe we have a significant opportunity to grow platform revenue as we further monetize users' engagement with our TV streaming platform through the insertion of targeted video advertising in ad supported channels, our participation in revenues generated through sales of subscriptions and other transactions on our platform, and the placement of audience development and brand sponsorship promotions across our user interface. ARPU was $17.95 during the year ended December 31, 2018 up by 30% as compared to $13.78 for the year ended December 31, 2017.

Our Products and Services

Advertising, Content Distribution and Audience Development

We generate advertising revenues primarily by serving video ads to our users and measuring the return on investment of these ads to advertisers. We collect a variety of information on the Roku platform, including user registration data as well as anonymized information like audience engagement, frequency and content-related use of features, and interactions with advertisements. With our co-branded smart TVs, or Roku TVs, we give users the ability to opt-in to use automatic content recognition and other technology to collect information about what users watch via antenna and devices connected to Roku TVs, and we collect data about the use of the Roku TV's home screen and antenna programming guide.

Advertisers on our platform can reach our over the top, or OTT, audience with ads that are more relevant, interactive and measurable than advertising delivered on traditional linear TV. Our advertisers include brand marketers and content publishers who use our advertising services to attract and develop their target audiences and promote their content on our streaming platform. As traditional TV audiences shrink, OTT audiences have become increasingly important to advertisers who must continue to reach large audiences. Our growth in active accounts and hours streamed has attracted more advertisers and content publishers to our TV streaming platform creating a better user experience.

In addition, we continue to refine and advance measurement capabilities on our advertising platform. Through our Measurement Partner Program, we use tools and partners to provide advertisers the capability to measure audience demographics, validate ad effectiveness, and quantify sales lift from advertising on the Roku platform. We offer engagement analytics such as impressions served, click-through rates and video completion rates. We also work with a wide variety of third-party measurement companies to measure the branding impact of the ads we serve. Furthermore, we have relationships with third-party providers that focus on transactional or point of sale data, which enables our advertisers to compare the effectiveness of Roku ads to traditional linear television advertising.

Our primary advertising products include:

- *Video ads.* Our ad-supported content publishers use video ads to monetize our users and we also use video ads to monetize our platform. Video ads are sold within channels on the Roku platform as 15-

second or 30-second spots inserted before a program starts or during a program break. One of the ways we secure video ad insertion rights from content publishers is via our distribution deals with those publishers. In addition, we can also serve as a source of revenue for content publishers who participate on The Roku Channel, and channels that authorize us to fill their unsold advertising inventory. Except for a minority of video ads that are passed unmodified in a traditional linear broadcast, all video ads are selected and delivered to a user in real-time, as the user is engaging on our platform. On the Roku platform, our video ads play full screen, are not skippable in most channels and are delivered into a curated channel list, which alleviates many of the concerns that some digital advertisers have with major online video distributors.

- *Brand sponsorships*. We support a variety of promotional opportunities for advertisers, such as sponsored themes on our home screen and content sponsorships to give users the opportunity to experience a free movie or show (e.g. "Family movie night brought to you by…"). We also sell branded content rows on The Roku Channel.
- *Audience Marketplace*. Through our Audience Marketplace program, we provide advertising buyers and sellers with the means to more effectively target audiences on the Roku platform in the United States. We leverage our first-party data and proprietary ad technology to enhance the ability of publishers to sell targeted audiences on the Roku platform to advertisers.

We utilize a variety of ad placements, particularly native display ads, on the Roku home screen and screen saver to help content publishers drive channel downloads and traffic to their channels in order to drive subscriptions or movie and TV show consumption. We also sell branded channel buttons on player and Roku TV remote controls. The branded buttons provide easy access and drive incremental usage by allowing users to launch straight into the channel.

We provide our content publishers with access to the most engaged OTT audience, as measured by average hours streamed. We negotiate revenue share agreements with content publishers for distribution on the Roku platform. Our platform enables content publishers to distribute streaming content through three primary business models, transaction video on demand, or TVOD, that includes channels that offer a la carte movie purchases or rentals, subscription video on demand, or SVOD, that includes subscriptions to individual video on demand channels and so-called virtual multichannel video programming distribution services, and advertising supported video on demand, AVOD, that includes channels that do not charge a subscription fee to users. We generate revenue from TVOD and SVOD channels from various forms of revenue sharing arrangements. Our revenue sharing arrangements generally apply to new subscriptions for accounts that sign up for new services and at the time of a movie rental or purchase for TVOD. Revenue from the distribution of AVOD channels is generated through the sale of advertising within the channel.

AVOD is our fastest growing distribution model, and we are increasing the monetization of these hours by expanding our advertising capabilities both on and off the Roku platform. We intend to continue to leverage our data and analytics to deliver relevant advertising and improve the ability of our advertisers to optimize their campaigns and measure their results. We also plan to continue to expand our direct sales teams to increase the number of advertisers who use our services.

In late 2017, we launched The Roku Channel, which offers ad-supported free access for users to a collection of films, television series and other content, and at the same time we began a fundamental transition to increase video advertising inventory under our control and to create another way of connecting content publishers with users. The Roku Channel has grown from providing customers with free access to 1,000 movies and TV episodes to roughly 10,000 today and is rapidly becoming one of our leading sources of advertising inventory. In January 2019, we launched Premium Subscriptions within The Roku Channel, through which we resell ad-free premium content subscription services from providers such as Showtime, Starz and Epix directly to our users.

Roku TVs and Streaming Players

We acquire users by offering low cost streaming players and through Roku TVs that are manufactured and sold by TV brands that enter into licensing arrangements with us.

Roku TVs integrate our Roku Operating System, or Roku OS, and leverage our smart TV hardware reference design. We work with our TV brand licensees to assist in all phases of the development of Roku TVs, including development, planning, manufacturing and marketing. Roku TV brand licensees include TCL, Element, Hisense, Hitachi, JVC, RCA, Philips, Sanyo, Sharp, and Magnavox. They are available in sizes ranging from 24" to 75" at leading retailers in the United States, Canada and Mexico. In 2018, more than one in four smart TVs sold in the United States were Roku TVs.

We offer streaming players for sale under the Roku brand in the United States, Canada, the United Kingdom, France, the Republic of Ireland, Mexico and several other Latin American countries. We also license our Roku OS and streaming player designs, and provide ongoing technology and support services, to certain service operators that distribute Roku Powered players to their subscribers. All players run on the Roku OS, and stream content via built-in Ethernet or Wi-Fi capability, depending on the model. Our current streaming player line for the U.S. market includes several models at a range of manufacturers' suggested retail prices to meet the needs of different users starting at $29.99.

Technology

We believe that the core technology supporting the Roku OS is a critical competitive advantage and therefore we continue to make substantial investments in our research and development efforts to enhance our platform for users, content publishers and advertisers. We have invested in delivering broad search and discovery capabilities for our users in order to organize and manage the vast amounts of content and pricing information on our platform. Our cloud-based search and discovery features for users are powered by state-of-the-art servers and databases that are purpose-built and support large scale audiences. We have also introduced user experience technology such as private listening and voice search for certain streaming devices.

For content publishers, we offer our open Channel Developer Program to create streaming channels. The Channel Developer Program is based on our Software Development Kit, or SDK, and proprietary implementation of the Brightscript scripting language, which is optimized to provide robust performance and a consistent user experience on any device with the Roku platform. Channel Developers may also take advantage of our feed-based Roku Direct Publisher program, which does not require content publishers to write a single line of code to publish a channel on our platform.

For advertisers, the Roku Ad Framework, or RAF, technology is integrated into the Roku OS. RAF provides a variety of critical and advanced advertising capabilities, including IAB VAST ad processing, interactive rich media features, demographic measurement, device IDs, user privacy controls and compatibility with all major video ad servers, SSPs and DSPs.

Our proprietary systems leverage our feature extraction, information retrieval and matching systems to provide the most relevant ads. The Roku OS also includes our core data platform that manages and analyzes billions of technical and user events and terabytes of uncompressed data that is processed through our platform each day. We use leading big data analytic technologies to identify rich insights to improve user, content publisher and advertiser value from the Roku platform.

Sales and Marketing

We drive growth in our platform by building relationships with content publishers, advertisers, TV brands and service operators. We have dedicated business development teams that develop and maintain relationships, to promote and build awareness of the features and advantages of the Roku platform. Our data science team supports our sales and marketing efforts by analyzing data on our platform to increase effectiveness for our content publishers and advertisers as well as for our consumer marketing campaigns. We enter into distribution agreements with our content publishers and license their content through our dedicated content relationship management team. We sell advertising with two direct sales teams, one focused on content publishers, the other focused on traditional advertisers. Our relationship with content publishers is typically client-direct. We secure direct access to publishers' video ad inventory as part of our distribution agreements and serve as an additional channel for content publishers to monetize their audience. These sales efforts are differentiated and complementary to that of our content publishers. Whereas our publishers typically sell on a cross-platform basis and feature their brand and content in their sale, we

focus on delivering a large OTT audience across many channels at once. We work with the major ad agencies and holding companies including Dentsu, Havas, Horizon, IPG, Publicis and WPP. We also offer smaller content publishers a self-serve platform to buy promotions and are increasingly incorporating programmatic capabilities into our advertising sales. We work with TV brands to assist in all phases of the development of Roku TVs, including development, planning, manufacturing and marketing, and similarly work with service operators on the planning and development of their Roku Powered players.

We grow our users by providing consumers with low cost, widely available players and TVs and we promote them using a wide range of marketing techniques. Our players and TVs are available at over 16,000 retail locations in the United States, Canada, the United Kingdom, France, the Republic of Ireland, Mexico and several other Latin American countries. The majority of streaming players and Roku TVs are sold in the United States through traditional brick and mortar retailers, such as Best Buy, Target and Walmart, including their online sales platforms, and online retailers such as Amazon. We also sell players in the United States directly through our website. In addition, in some cases, we sell our streaming players to service operators or channel partners who bundle such players with services that they sell to their customers. We also sell products internationally through distributors and to retailers such as Currys in the United Kingdom and Amazon in France. In 2018 and 2017, Amazon, Best Buy and Walmart each accounted for more than 10% of our player revenue. These three retailers collectively accounted for 68% and 61% of our player revenue for the years ended December 31, 2018 and 2017. These retailers also sell products offered by our competitors. We support retailers with an experienced sales management team and work closely with these retailers to assist with in-store marketing and product mix forecasting, leading us to be a category captain in many major retail locations.

Research and Development

Our research and development model relies upon a combination of in-house staff and out-sourced design and manufacturing partners to cost-effectively improve and enhance our platform, and to develop new players, TVs, features and functionality. We work closely with content publishers, advertisers, TV brands and service operators to understand their current and future needs. We have designed a product development process that captures and integrates their feedback. In addition, we solicit user feedback in the development of new features and enhancements to the Roku platform.

We intend to continue to significantly invest in research and development to bring new devices to market and expand our platform and capabilities.

Manufacturing

We outsource the manufacturing of our products to contract manufacturers, using our design specifications. All of our products are manufactured by contract manufacturers located in the People's Republic of China. Our contracts do not obligate them to supply products to us in any specific quantity or at any specific price. Our contract manufacturers procure components and assemble our products to demand forecasts we establish based upon historical trends and analysis from our sales and product management functions. The contract manufacturers ship our products to our third-party warehouses in California and England where they ship players directly to retailers, wholesale distributors and to end users.

Government Regulation

Our devices and platform are subject to numerous domestic and foreign laws and regulations covering a wide variety of subject matters. These laws and regulations include general business regulations and laws, as well as regulations and laws specific to providers of Internet-delivered streaming services and devices. New laws and regulations in these areas may have an adverse effect on our business. The costs of compliance with these laws and regulations are high and are likely to increase in the future. If we fail to comply with these laws, we may be subject to significant liabilities and other penalties.

In particular, our business is subject to foreign and domestic laws and regulations applicable to companies conducting business using the Internet. Both domestic and international jurisdictions vary widely as to how, or whether, existing laws governing areas such as personal privacy and data security, consumer protection, payment processing or sales and other taxes and intellectual property apply to the Internet and e-commerce, and these laws

are continually evolving. Moreover, the laws governing these areas, as well as those governing electronic contracts and Internet content and access restrictions, among other areas, are rapidly evolving. The laws in these areas are unsettled and future developments are unpredictable. Laws that lead to more stringent regulation of companies engaging in businesses using the Internet may have a negative impact on our business.

We are also subject to both general and e-commerce specific privacy laws and regulations that may require us to provide users with our policies on sharing information with third parties and advance notice of any changes to these policies. Related laws may govern the manner in which we store or transfer sensitive information or impose obligations on us in the event of a security breach or inadvertent disclosure of such information. International jurisdictions impose different, and sometimes more stringent, consumer and privacy protections, including the European Union's newly enacted General Data Protection Regulation. Such consumer privacy laws are constantly changing and may become more diverse and restrictive over time, challenging our ability to fully comply with these laws in all jurisdictions. Privacy laws also may limit the ability of advertisers to fully utilize our platform, which could have a negative impact on our business.

Tax regulations in domestic and international jurisdictions where we do not currently collect state or local taxes may subject us to the obligation to collect and remit such taxes, to additional taxes or to requirements intended to assist jurisdictions with their tax collection efforts. New legislation or regulation, the application of laws from jurisdictions whose laws do not currently apply to our business or the application of existing laws and regulations to the Internet and e-commerce generally could result in significant additional taxes on our business. Further, we could be subject to fines or other payments for any past failures to comply with these requirements. The continued growth and demand for e-commerce is likely to result in more laws and regulations that impose additional compliance burdens on e-commerce companies, and any such developments could harm our business.

In addition, the Internet is a vital component of our business and also is subject to a variety of laws and regulations in jurisdictions throughout the world. We expect to rely on the historical openness and accessibility of the Internet to conduct our business, and government regulations that impede or fail to preserve the open Internet could harm our business. To the extent regulatory agencies adopt rules that allow network operators to restrict the flow of content over the Internet, such operators may seek to extract fees from us or our content publishers to deliver our traffic or may otherwise engage in blocking, throttling or other discriminatory practices with respect to our traffic, which could adversely impact our business.

Our content publishers also are subject to a wide range of government regulations that may vary by jurisdiction. Because our business depends on the availability of third-party content delivered over the Internet, increased regulation of our content publishers or changes in laws or regulations governing Internet retransmission of third-party content could increase our expenses and adversely affect our business and the attractiveness of our platform.

Intellectual Property

Our success depends in part upon our ability to protect our intellectual property. We rely on a combination of trade secrets, copyrights, trademarks, patents and domain names to protect our intellectual property. Our trademarks, including "Roku" and the Roku logo and design, are an important part of our branding and the value of our business. As of December 31, 2018, we owned 70 issued U.S. patents (of which 16 are design patents) and 9 issued European Community design patents.

The claims for which we have sought patent protection apply to both our devices and software. Our patent and patent applications generally apply to the features and functions of our Roku OS and the applications associated with our platform.

We also incorporate generally available third-party software, including open source software, in our Roku OS and our platform, pursuant to licenses with such third parties. The termination of these software licenses would require redesign of parts of the Roku OS and our platform, which could delay or impair our ability to offer our devices and platform.

We enter into confidentiality agreements with employees, consultants and business partners, and generally control access and use of our proprietary and other confidential information through the use of internal and external controls. These steps may not be adequate, however, and may not be effective to protect our intellectual property in the United States or other international markets in which we do business. Third parties may infringe or misappropriate our intellectual property rights or may challenge our issued patents. If we fail to adequately protect our intellectual property rights, our competitors could offer similar products and services which would harm our business.

Competition

The market for streaming media is continuing to grow and evolve. We face substantial competition from large technology and consumer electronics companies including Amazon, Google and Apple. These competitors have helped to increase consumer awareness of TV streaming and have contributed to the growth and evolution of the overall streaming media marketplace. However, their resources and brand recognition pose significant competitive challenges. In the face of this competition, our success in capitalizing on the expanding opportunities in the streaming market will depend on our ability to acquire users by delivering high quality devices at competitive prices and developing and monetizing engaged audiences with compelling content, promotional services and advertising.

Employees

As of December 31, 2018, we had 1,111 full-time employees, of which 624 were in research and development, 304 were in sales and marketing, and 183 were in general and administrative and operations. None of our employees are represented by a labor union with respect to his or her employment. We have not experienced any work stoppages and we consider our relations with our employees to be good.

Information about Segment and Geographic Areas

The segment and geographic information required herein is contained in Note 15 to the Consolidated Financial Statements in Item 8, which is incorporated herein by reference.

Corporate Information

We originally formed in October 2002 as Roku LLC under the laws of the State of Delaware. On February 1, 2008, Roku LLC was converted into Roku, Inc. a Delaware corporation. We completed our initial public offering, or the IPO, in October 2017 and our Class A common stock is listed on The Nasdaq Global Select Market under the symbol of “ROKU”. Our website address is www.roku.com. Information contained on or accessible through our website is not a part of this report and the inclusion of our website address in this report is an inactive textual reference only. Roku, the Roku logo and other trade names, trademarks or service marks of Roku appearing in this report are the property of Roku. Trade names, trademarks and service marks of other companies appearing in this report are the property of their respective holders.

Available Information

We make available, free of charge through our website, our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, and amendments to those reports, filed or furnished pursuant to Sections 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after they have been electronically filed with, or furnished to, the Securities Exchange Commission, or SEC. The SEC maintains an internet site (http://www.sec.gov) that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. Our website address is www.roku.com. Information contained on or accessible through these websites is not incorporated by reference nor otherwise included in this report, and any references to these websites are intended to be inactive textual references only.

Item 1A. Risk Factors

Our business involves significant risks, some of which are described below. You should carefully consider the risks and uncertainties described below, together with all the other information in this Annual Report on Form 10-K, including "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the consolidated financial statements and the related notes. If any of the following risks actually occurs, our business, reputation, financial condition, results of operations, revenue, and future prospects could be seriously harmed. Unless otherwise indicated, references to our business being harmed in these risk factors will include harm to our business, reputation, financial condition, results of operations, revenue, and future prospects. In that event, the market price of our Class A common stock could decline, and you could lose part or all of your investment.

Risks Related to Our Business and Industry

We have incurred operating losses in the past, expect to incur operating losses in the future and may never achieve or maintain profitability.

We began operations in 2002 and we have experienced net losses and negative cash flows from operations in each year since inception. As of December 31, 2018, we had an accumulated deficit of $253.9 million and for the year ended December 31, 2018, we experienced a net loss of $8.9 million. We expect our operating expenses to increase in the future as we expand our operations. If our revenue and gross profit do not grow at a greater rate than our operating expenses, we will not be able to achieve and maintain profitability. We expect to incur significant losses in the future for a number of reasons, including without limitation the other risks and uncertainties described herein. Additionally, we may encounter unforeseen operating or legal expenses, difficulties, complications, delays and other factors that may result in losses in future periods. If our expenses exceed our revenue, we may never achieve or maintain profitability and our business may be harmed.

TV streaming is highly competitive and many companies, including large technology companies, content owners and aggregators, TV brands and service operators, are actively focusing on this industry. If we fail to differentiate ourselves and compete successfully with these companies, it will be difficult for us to attract and retain users and our business will be harmed.

TV streaming is increasingly competitive and global. Our success depends in part on attracting and retaining users on, and effective monetization of, our TV streaming platform. To attract and retain users, we need to be able to respond efficiently to changes in consumer tastes and preferences and continue to increase the type and number of content offerings. Effective monetization requires us to continue to update the features and functionality of our streaming platform for users, content publishers and advertisers. We must also effectively support the most popular sources of streaming content, such as Netflix, Amazon Prime Video, Hulu and YouTube and respond rapidly to actual and anticipated market trends in the U.S. TV streaming industry.

Companies such as Amazon, Apple and Google offer TV streaming devices that compete with our streaming players and Roku TV. In addition, Google licenses its operating system software for integration into smart TVs and service provider set top boxes and Amazon licenses its operating system software for integration into smart TVs. These companies have the financial resources to subsidize the cost of their streaming devices in order to promote

their other products and services making it harder for us to acquire new users and increase hours streamed. These companies could also implement standards or technology that are not compatible with our products or that provide a better streaming experience on competitive products. These companies also promote their brands through traditional forms of advertising, such as TV commercials, as well as internet advertising or website product placement, and have greater resources than us to devote to such efforts.

In addition, many TV brands, such as LG, Samsung Electronics Co., Ltd. and VIZIO, Inc., offer their own TV streaming solutions within their TVs. Other devices, such as Microsoft's Xbox and Sony's PlayStation game consoles and many DVD and Blu-ray players, also incorporate TV streaming functionality. Similarly, some service operators, such as Comcast and Altice, offer TV streaming applications as part of their cable service plans and can leverage their existing consumer bases, installation networks, broadband delivery networks and name recognition to gain traction in the TV streaming market. If consumers of TV streaming content prefer these alternative products to Roku streaming players and Roku TVs, we may not able to achieve our expected growth in player revenue or gross profit.

In July 2018, we launched our new Roku TV Wireless Speaker product line, designed specifically for use with Roku TVs. As a result, we may face additional competition from makers of TV audio speakers and soundbars, as well as makers of other TV peripheral devices. While our wireless speaker products have not generated significant revenue, if our wireless speaker products do not operate as designed, do not achieve marketplace acceptance, or do not enhance or produce the benefits to the Roku TV viewing experience as we intend, our users' overall viewing experience may be diminished, and this may impact the overall demand for Roku TVs or other Roku products.

We expect competition in TV streaming from the large technology companies and service operators described above, as well as new and growing companies, to increase in the future. This increased competition could result in pricing pressure, lower revenue and gross profit or the failure of our players, Roku TV and our platform to gain or maintain broad market acceptance. To remain competitive and maintain our position as a leading TV streaming provider we need to continuously invest in product development, marketing, service and support and device distribution infrastructure. In addition, evolving TV standards such as 4K, 8K, HDR and unknown future developments may require further investments in the development of our players, Roku TV and our platform. We may not have sufficient resources to continue to make the investments needed to maintain our competitive position. In addition, most of our competitors have longer operating histories, greater name recognition, larger customer bases and significantly greater financial, technical, sales, marketing and other resources than us, which provide them with advantages in developing, marketing or servicing new products and offerings. As a result, they may be able to respond more quickly to market demand, devote greater resources to the development, promotion and sales of their products or the distribution of their content, and influence market acceptance of their products better than we can. These competitors may also be able to adapt more quickly to new or emerging technologies or standards and may be able to deliver products and services at a lower cost. Increased competition could reduce our market share, revenue and operating margins, increase our operating costs, harm our competitive position and otherwise harm our business.

We also compete for video viewing hours with mobile platforms (phones and tablets), and users may prefer to view streaming content on such devices. Increased use of mobile platforms for video streaming could adversely impact the growth of our streaming hours, harm our competitive position and otherwise harm our business.

We may not be successful in our efforts to further monetize our streaming platform, which may harm our business.

Our business model depends on our ability to generate platform revenue from advertisers and content publishers. We generate platform revenue primarily from the video advertising and audience development campaigns that run across our platform and from our content partners on a transactional basis when new subscriptions are purchased and content transactions occur on our platform. As such, we are seeking to expand our user base and increase the number of hours that are streamed across our platform in an effort to create additional platform revenue opportunities. The total number of hours streamed, however, does not correlate with platform revenue on a period-by-period basis, because we do not monetize every hour streamed on our platform. As our user base grows and as we increase the amount of content offered and streamed across our platform, we must effectively monetize our expanding user base and streaming activity. Moreover, streaming hours on our platform are measured

whenever a Roku player or a Roku TV is streaming content, whether a viewer is actively watching or not. For example, if a Roku player is connected to a TV, and the viewer turns off the TV, steps away or falls asleep and does not stop or pause the player then the particular streaming channel may auto-play subsequent content for a period of time determined by the streaming channel. We believe that this also occurs across a wide variety of non-Roku streaming devices and other set-top boxes.

Our ability to deliver more relevant advertisements to our users and to increase our platform's value to advertisers and content publishers depends on the collection of user engagement data, which may be restricted or prevented by a number of factors. Users may decide to opt out or restrict our ability to collect personal viewing data or to provide them with more relevant advertisements. Content publishers may also refuse to allow us to collect data regarding user engagement or refuse to implement mechanisms we request to ensure compliance with our legal obligations or technical requirements. For example, we are not able to fully utilize program level viewing data from many of our most popular channels to improve the relevancy of advertisements provided to our users. Other channels available on our platform, such as Amazon Prime Video, Hulu and YouTube, are focused on increasing user engagement and time spent within their channel by allowing them to purchase additional content and streaming services within their channels. In addition, we do not currently monetize content provided on non-certified channels on our platform. If our users spend most of their time within particular channels where we have limited or no ability to place advertisements or leverage user information, or users opt out from our ability to collect data for use in providing more relevant advertisements, then we may not be able to achieve our expected growth in platform revenue or gross profit. If we are unable to further monetize our platform, our business may be harmed.

To date, the majority of the hours streamed on our platform have consisted of subscription video on demand content; however, in order to materially increase the monetization of our platform through the sale of video advertising, we will need our users to stream significantly more ad-supported content. Our efforts to monetize our platform through ad-supported content is still developing and may not grow as we expect. Further, while we have experienced, and expect to continue to experience, growth in our advertising revenue as we have expanded our user base and streaming hours, our efforts to monetize our platform through the sale of advertising video on demand content are still developing and our revenue from advertising video on demand offerings may not grow as we expect. This means of monetization will require us to continue to attract advertising dollars to our platform as well as deliver advertising video on demand content that appeals to users. Accordingly, there can be no assurance that we will be successful in monetizing our platform through the sale of advertising-supported video.

We depend on a small number of content publishers for a majority of our streaming hours, and if we fail to maintain these relationships, our business could be harmed, even though the revenues received, directly or indirectly, from streaming on certain of these channels has not been significant to our overall revenue.

Historically, a small number of content publishers have accounted for a significant portion of the content streamed across our platform and the terms and conditions of our relationships with content publishers vary. In the year ended December 31, 2018, and December 31, 2017, Netflix and YouTube accounted for a majority of all hours streamed in each period. However, although YouTube's free ad-supported channel is the most viewed ad-supported channel and the second most viewed channel overall by hours streamed on our platform for the year ended December 31, 2018 we do not receive material revenue from it. In addition, our agreements with content publishers generally have a term of one to three years and can be terminated before the end of the term by the content publisher under certain circumstances, such as if we materially breach the agreement, become insolvent, enter bankruptcy, commit fraud or fail to adhere to the content publishers' security requirements. If we fail to maintain our relationships with the content publishers on terms favorable to us, or at all, or if these content publishers face problems in delivering their content across our platform, we may lose channel partners or users and our business may be harmed.

We operate in an evolving industry, which makes it difficult to evaluate our business and prospects. If TV streaming develops more slowly than we expect, our operating results and growth prospects could be harmed. In addition, our future growth depends on the growth of TV streaming advertising.

TV streaming is a relatively new and rapidly evolving industry, making our business and prospects difficult to evaluate. The growth and profitability of this industry and the level of demand and market acceptance for our products and streaming platform are subject to a high degree of uncertainty. We believe that the continued growth of streaming as an entertainment alternative will depend on the availability and growth of cost-effective broadband internet access, the quality of broadband content delivery, the quality and reliability of new devices and technology, the cost for users relative to other sources of content, as well as the quality and breadth of content that is delivered across streaming platforms. These technologies, products and content offerings continue to emerge and evolve. Users, content publishers or advertisers may find TV streaming platforms to be less attractive than traditional TV, which would harm our business. In addition, many advertisers continue to devote a substantial portion of their advertising budgets to traditional advertising, such as TV, radio and print. The future growth of our business depends on the growth of TV streaming advertising, and on advertisers increasing spend on such advertising. We cannot be certain that they will do so. If advertisers do not perceive meaningful benefits of TV streaming advertising, then this market may develop more slowly than we expect, which could adversely impact our operating results and our ability to grow our business.

If we are unable to maintain an adequate supply of quality video ad inventory on our platform, our business may be harmed.

We may fail to attract content publishers that generate sufficient quantity or quality of ad-supported content hours on our platform and continue to grow supply of quality video ad inventory. Our business model depends on our ability to grow video ad inventory on our platform and sell it to advertisers. We grow video ad inventory by adding and retaining content publishers on our platform with ad-supported channels that we can monetize. In addition, our access video ad inventory in ad-supported streaming channels on our platform varies greatly among channels, accordingly, we do not have access to all of the video ad inventory on our platform. For certain channels, including YouTube's ad supported channel, we have no access to video ad inventory at this time, and we may not secure access in the future. The amount, quality and cost of video ad inventory available to us can change at any time. If we are unable to grow and maintain a sufficient supply of quality video advertising inventory at reasonable costs to keep up with demand, our business may be harmed.

We operate in a highly competitive industry and we compete for advertising revenue with other internet streaming platforms and services, as well as traditional media, such as radio, broadcast, cable and satellite TV and satellite and internet radio. These competitors offer content and other advertising mediums that may be more attractive to advertisers than our TV streaming platform. These competitors are often very large and have more advertising experience and financial resources than we do, which may adversely affect our ability to compete for advertisers and may result in lower revenue and gross profit from advertising. If we are unable to increase our advertising revenue by, among other things, continuing to improve our platform's data capabilities to further optimize and measure advertisers' campaigns, increase our advertising inventory and expand our advertising sales team and programmatic capabilities, our business and our growth prospects may be harmed. We may not be able to compete effectively or adapt to any such changes or trends, which would harm our ability to grow our advertising revenue and harm our business.

Our players and Roku TVs must operate with various offerings, technologies and systems from our content publishers that we do not control. If Roku devices do not operate effectively with those offerings, technologies and systems, our business may be harmed.

Our Roku OS is designed for performance using relatively low-cost hardware, which enables us to drive user growth with our players and Roku TVs offered at a low cost to consumers. However, our hardware must be interoperable with all channels and other offerings, technologies and systems from our content publishers, including virtual multi-channel video programming distributors such as Sling TV. We have no control over these offerings, technologies and systems beyond our channel certification requirements, and if our players do not provide our users with a high-quality experience on those offerings on a cost-effective basis or if changes are made to those offerings

that are not compatible with our players, we may be unable to increase user growth and content hours streamed, we may be required to increase our hardware costs and our business will be harmed. We plan to continue to introduce new products regularly and we have experienced that it takes time to optimize such products to function well with these offerings, technologies and systems. In addition, many of our largest content publishers have the right to test and certify our new products before we can publish their channels on new products. These certification processes can be time consuming and introduce third party dependencies into our product release cycles. If content publishers do not certify new products on a timely basis or require us to make changes in order to obtain certifications, our product release plans may be adversely impacted. To continue to grow our active accounts and user engagement, we will need to prioritize development of our products to work better with new offerings, technologies and systems. If we are unable to maintain consistent operability of Roku devices that is on parity with or better than other platforms, our business could be harmed. In addition, any future changes to offerings, technologies and systems from our content publishers such as virtual service operators may impact the accessibility, speed, functionality, and other performance aspects of our products, which issues are likely to occur in the future from time to time. We may not successfully develop products that operate effectively with these offerings, technologies or systems. If it becomes more difficult for our users to access and use these offerings, technologies or systems, our business could be harmed.

Changes in consumer viewing habits could harm our business.

The manner in which consumers access streaming content is changing rapidly. As the technological infrastructure for internet access continues to improve and evolve, consumers will be presented with more opportunities to access video, music and games on-demand with interactive capabilities. Time spent on mobile devices is growing rapidly, in particular by young adults streaming video content, including popular streaming channels like Netflix and YouTube, as well as content from cable or satellite providers available live or on-demand on mobile devices. In addition, personal computers, smart TVs, DVD players, Blu-ray players, gaming consoles and cable set top boxes allow users to access streaming entertainment content. If other streaming or technology providers are able to respond and take advantage of changes in consumer viewing habits and technologies better than us, our business could be harmed.

New entrants may enter the TV streaming market with unique service offerings or approaches to providing video. In addition, our competitors may enter into business combinations or alliances that strengthen their competitive positions. If new technologies render the TV streaming market obsolete or we are unable to successfully compete with current and new competitors and technologies, our business will be harmed, and we may not be able to increase or maintain our market share and revenue.

If we fail to obtain or maintain popular content, we may fail to retain existing users and attract new users.

We have invested a significant amount of time to cultivate relationships with our content publishers; however, such relationships may not continue to grow or yield further financial results. We must continuously maintain existing relationships and identify and establish new relationships with content publishers to provide popular content. In order to remain competitive, we must consistently meet user demand for popular streaming channels and content; particularly as we launch new players or enter new markets, including international markets. If we are not successful in helping our content publishers launch and maintain streaming channels that attract and retain a significant number of users on our platform or if we are not able to do so in a cost-effective manner, our business will be harmed. Our ability to successfully help content publishers maintain and expand their channel offerings on a cost-effective basis largely depends on our ability to:

- effectively market new streaming channels and enhancements to our existing streaming channels;
- minimize launch delays of new and updated streaming channels; and
- minimize platform downtime and other technical difficulties.

If we fail to help our content publishers maintain and expand their channel offerings our business may be harmed.

If the advertising and audience development campaigns on our platform are not relevant or not engaging to our users, our growth in active accounts and hours streamed may be adversely impacted.

We have made, and are continuing to make, investments to enable advertisers and content providers to deliver relevant advertisements and audience development campaigns to users on our platform. Existing and prospective advertisers and content providers may not be successful in serving ads and audience development campaigns that lead to and maintain user engagement. Those ads and campaigns may seem irrelevant, repetitive or overly targeted and intrusive. We are continuously seeking to balance the objectives of our users and advertisers with our desire to provide an optimal user experience, but we may not be successful in achieving a balance that continues to attract and retain users and advertisers. If we do not introduce relevant advertisements and audience development campaigns or such advertisements and audience development campaigns are overly intrusive and impede the use of our TV streaming platform, our users may stop using our platform which will harm our business.

The Roku Channel may not continue to attract a large number of users and/or generate significant advertising revenues, and our users may not purchase Premium Subscriptions.

We operate "The Roku Channel," which offers both ad-supported free access for users to a collection of films, television series and other content as well as "Premium Subscriptions," which we launched in January 2019, allowing our users to pay for ad-free content from various content providers, all on one streaming channel. Although the Roku Channel was a top five channel on our platform based on the number of active accounts that accessed the channel at least once in the quarter ended December 31, 2018 other than through our Premium Subscriptions feature, we do not receive subscriptions or other fees from users that access content on The Roku Channel. We have incurred, and will continue to incur, costs and expenses in connection with the launch, development, expansion and operation of The Roku Channel, which we monetize through advertising and selling Premium Subscriptions. If our users do not continue to stream the free, ad-supported content we make available on The Roku Channel or purchase Premium Subscriptions, we will not have the opportunity to monetize The Roku Channel through revenue generated from advertising as well as Premium Subscriptions. In order to attract users to the ad-supported content on The Roku Channel and drive streaming of ad-supported video on The Roku Channel, we must secure rights to stream content that is appealing to our users and advertisers. In part, we do this by directly licensing certain content from content owners, such as television and movie studios. The agreements that we enter into with these content owners have varying terms and provide us with rights to make specific content available through The Roku Channel during certain periods of time. Upon expiration of these agreements, we are required to re-negotiate and renew these agreements with the content owners, or enter into new agreements with other content owners, in order to obtain rights to distribute additional titles or to extend the duration of the rights previously granted. If for any period of time, we are unable to enter into content license agreements on acceptable terms to access content that enables us to attract and retain users of the ad-supported content on The Roku Channel, usage of The Roku Channel may decline, and our business may be harmed. Furthermore, if the advertisements on The Roku Channel are not relevant to our users or such advertisements are overly intrusive and impede our users' enjoyment of the content we make available, our users may not stream content and view advertisements on The Roku Channel, and The Roku Channel may not generate sufficient advertising revenues to be cost effective for us to operate, regardless of our ability to sell Premium Subscriptions. In addition, we recently began distributing The Roku Channel on platforms other than our own streaming platform, and there can be no assurance that we will be successful in attracting a large number of users and/or generating significant advertising revenues through the distribution of The Roku Channel on such other streaming platforms.

Our growth will depend in part upon our ability to develop relationships with TV brands and, to a lesser extent, service operators.

We developed, and intend to continue to develop, relationships with TV brands and service operators in both the United States and international markets. Our licensing arrangements are complex and time-consuming to negotiate and complete. Our current and potential partners include TV brands, cable and satellite companies and telecommunication providers. Under these license arrangements, we generally have limited control over the amount and timing of resources these entities dedicate to the relationship. If our TV brand or service operator partners fail to meet their forecasts for distributing licensed devices, our business may be harmed.

We license our Roku OS to certain TV brands to manufacture co-branded smart TVs, or Roku TVs. The primary economic benefits that we derive from these license arrangements have been and will likely continue to be indirect, primarily from growing our active accounts and increasing hours streamed. We have not received, nor do we expect to receive significant license revenue from these arrangements in the near term, but we expect to incur expenses in connection with these commercial agreements. If these arrangements do not result in increased users and hours streamed, our business may be harmed. The loss of a relationship with a TV brand or service operator could harm our results of operations, damage our reputation, increase pricing and promotional pressures from other partners and distribution channels or increase our marketing costs. If we are not successful in maintaining existing and creating new relationships with any of these third parties, or if we encounter technological, content licensing or other impediments to our development of these relationships, our ability to grow our business could be adversely impacted.

If our users sign up for offerings and services outside of our platform or though other channels on our platform, our business may be harmed.

We earn revenue by acquiring subscribers for certain of our content publishers activated on or through our platform. If users do not use our platform for these purchases or subscriptions for any reason, and instead pay for services directly with content publishers or by other means that we do not receive attribution for, our business may be harmed. In addition, certain channels available on our platform allow users to purchase additional streaming services from within their channels. The revenues we earn from these transactions are generally not equivalent to the revenues we earn from activations on or through our platform that we receive full attribution credit for. Accordingly, if users activate their subscriptions for content or services through other channels on our platform, our business may be harmed.

If we were to lose the services of our Chief Executive Officer or other members of our senior management team, we may not be able to execute our business strategy.

Our success depends in a large part upon the continued service of key members of our senior management team. In particular, our founder, President and Chief Executive Officer, Anthony Wood, is critical to our overall management, as well as the continued development of our devices and the Roku platform, our culture and our strategic direction. All of our executive officers are at will employees, and we do not maintain any key person life insurance policies. The loss of any member of our senior management team could harm our business.

If we are unable to attract and retain highly qualified employees, we may not be able to continue to grow our business.

Our ability to compete and grow depends in large part on the efforts and talents of our employees. Our employees, particularly engineers and other product developers, are in high demand, and we devote significant resources to identifying, hiring, training, successfully integrating and retaining these employees. As competition with other companies increases, we may incur significant expenses in attracting and retaining high quality engineers and other employees. The loss of employees or the inability to hire additional skilled employees as necessary to support the rapid growth of our business and the scale of our operations could result in significant disruptions to our business, and the integration of replacement personnel could be time-consuming and expensive and cause additional disruptions to our business.

We believe a critical component to our success and our ability to retain our best people is our culture. As we continue to grow and develop a public company infrastructure, we may find it difficult to maintain our entrepreneurial, execution-focused culture. In addition, many of our employees, may be able to receive significant proceeds from sales of our equity in the public markets, which may reduce their motivation to continue to work for us. Moreover, the equity ownership of many of our employees could create disparities in wealth among our employees, which may harm our culture and relations among employees and our business.

Most of our agreements with content publishers are not long term. Any disruption in the renewal of such agreements may result in the removal of certain content from our platform and may harm our active account growth and engagement.

We enter into agreements with all our content publishers, which have varying expiration dates; typically over one to three years. Upon expiration of these agreements, we are required to re-negotiate and renew these agreements in order to continue providing offerings from these content publishers on our platform. We may not be able to reach a satisfactory agreement before our existing agreements have expired. If we are unable to renew such agreements on a timely basis, we may be required to temporarily or permanently remove certain content from our platform. The loss of such content from our platform for any period of time may harm our business.

If our content publishers do not continue to develop channels for our platform and participate in new features that we may introduce from time to time, our business may be harmed.

As our platform and products evolve, we will continue to introduce new features, which may or may not be attractive to our content publishers or meet their requirements. For example, some content publishers have elected not to participate in our cross-channel search feature, our integrated advertising framework, known as RAF, or have imposed limits on our data gathering for usage within their channels. In addition, our platform utilizes our proprietary Brightscript scripting language in order to allow our content publishers to develop and create channels on our platform. If we introduce new features or utilize a new scripting language in the future, such a change may not comply with our content publishers' certification requirements. In addition, our content publishers may find other languages, such as HTML5, more attractive to develop for and shift their resources to developing their channels on other platforms. If content publishers do not find our platform simple and attractive to develop channels for, do not value and participate in all of the features and functionality that our platform offers, or determine that our software developer kit or new features of our platform do not meet their certification requirements, our business may be harmed.

Our quarterly operating results may be volatile and are difficult to predict, and our stock price may decline if we fail to meet the expectations of securities analysts or investors.

Our revenue, gross profit and other operating results could vary significantly from quarter-to-quarter and year-to-year and may fail to match our past performance due to a variety of factors, including many factors that are outside of our control. Factors that may contribute to the variability of our operating results and cause the market price of our Class A common stock to fluctuate include:

- the entrance of new competitors or competitive products in our market, whether by established or new companies;
- our ability to retain and grow our active account base and increase engagement among new and existing users;
- our ability to maintain effective pricing practices, in response to the competitive markets in which we operate or other macroeconomic factors, such as inflation or increased product taxes;
- our revenue mix, which drives gross profit;
- seasonal or other shifts in advertising revenue or player sales;
- the timing of the launch of new or updated products, streaming channels or features;
- the addition or loss of popular content;
- the ability of retailers to anticipate consumer demand;
- an increase in the manufacturing or component costs of our players or the manufacturing or component costs of our TV brand licensees for Roku TVs; and
- an increase in costs associated with protecting our intellectual property, defending against third-party intellectual property infringement allegations or procuring rights to third-party intellectual property.

Our gross margins vary across our devices and platform offerings. Player revenue has a lower gross margin compared to platform revenue derived through our arrangements with advertising, content distribution, billing and licensing activities. Gross margins on our players vary across player models and can change over time as a result of product transitions, pricing and configuration changes, component costs, player returns and other cost fluctuations. In addition, our gross margin and operating margin percentages, as well as overall profitability, may be adversely impacted as a result of a shift in device, geographic or sales channel mix, component cost increases, price competition, or the introduction of new players, including those that have higher cost structures with flat or reduced pricing. We have in the past and may in the future strategically reduce our player gross margin in an effort to increase our active accounts and grow our gross profit. As a result, our player revenue may not increase as rapidly as it has historically, or at all, and, unless we are able to adequately increase our platform revenue and grow our active accounts, we may be unable to grow gross profit and our business will be harmed. If a reduction in gross margin does not result in an increase in our active accounts and gross profit, our financial results may suffer, and our business may be harmed.

Our revenue and gross profit are subject to seasonality and if our sales during the holiday season fall below our expectations, our business may be harmed.

Seasonal consumer shopping patterns significantly affect our business. Specifically, our revenue and gross profit are traditionally strongest in the fourth quarter of each fiscal year and represent a high percentage of the total net revenue for such fiscal year due to higher consumer purchases and increased advertising during holiday periods. Furthermore, a significant percentage of our player sales through retailers in the fourth quarter are pursuant to committed sales agreements with retailers for which we recognize significant discounts in the average selling prices in the third quarter in an effort to grow our active accounts, which will reduce our player gross margin.

Given the seasonal nature of our player sales, accurate forecasting is critical to our operations. We anticipate that this seasonal impact on revenue and gross profit is likely to continue and any shortfall in expected fourth quarter revenue, due to macroeconomic conditions, a decline in the effectiveness of our promotional activities, actions by our competitors or disruptions in our supply or distribution chain, or for any other reason, would cause our full year results of operations to suffer significantly. For example, delays or disruptions at U.S. ports of entry could adversely affect our or our licensees' ability to timely deliver players and co-branded Roku TVs to retailers during the holiday season. A substantial portion of our expenses are personnel related and include salaries, stock-based compensation and benefits that are not seasonal in nature. Accordingly, in the event of a revenue shortfall, we would be unable to mitigate the negative impact on margins, at least in the short term, and our business would be harmed.

We and our TV brand partners depend on our retail sales channels to effectively market and sell our players and Roku TVs, and if we or our partners fail to maintain and expand effective retail sales channels we could experience lower player or Roku TV sales.

To continue to acquire new active accounts, we must maintain and expand our retail sales channels. The majority of our players and Roku TVs are sold through traditional brick and mortar retailers, such as Best Buy, Target and Walmart, including their online sales platforms, and online retailers such as Amazon. To a lesser extent, we sell players directly through our website and internationally through distributors. For the year ended December 31, 2018, Amazon, Best Buy and Walmart in total accounted for 68% of our player revenue and are expected to each account for more than 10% of our player revenue in fiscal 2019. These three retailers collectively accounted for 61% of our player revenue for the years ended December 31, 2017 and 2016. These retailers and our international distributors also sell products offered by our competitors. We have no minimum purchase commitments or long-term contracts with any of these retailers or distributors. If one or several retailers or distributors were to discontinue selling our players or Roku TVs or choose not to prominently display those devices in their stores or on their websites, the volume of Roku devices sold could decrease, which would harm our business. For example, in April 2018, Amazon and Best Buy announced a partnership whereby two Best Buy controlled smart TV brands will exclusively utilize Amazon's operating system, and such TVs will be sold by Best Buy and Amazon. Although this arrangement is not expected to limit our TV brand partners' ability to sell on either Amazon or at Best Buy, if our existing TV brands choose to work with other operating system developers, this may impact our Roku TV program and our ability to continue to grow active accounts. Traditional retailers have limited shelf and end cap space in their

stores and limited promotional budgets, and online retailers have limited prime website product placement space. Competition is intense for these resources, and a competitor with more extensive product lines and stronger brand identity, such as Apple or Google, possesses greater bargaining power with retailers. In addition, one of our online retailers, Amazon, sells its own competitive TV streaming products and is able to market and promote these products more prominently on its website, and could refuse to offer our devices. Any reduction in our ability to place and promote our devices, or increased competition for available shelf or website placement, would require us to increase our marketing expenditures simply to maintain our product visibility, which may harm our business. In particular, the availability of product placement during peak retail periods, such as the holiday season, is critical to our revenue growth, and if we are unable to effectively sell our devices during these periods, our business would be harmed.

If our efforts to build a strong brand and maintain customer satisfaction and loyalty are not successful, we may not be able to attract or retain users, and our business may be harmed.

Building and maintaining a strong brand is important to attract and retain users, as potential users have a number of TV streaming choices. Successfully building a brand is a time consuming and comprehensive endeavor and can be positively and negatively impacted by any number of factors. Some of these factors, such as the quality or pricing of our players or our customer service, are within our control. Other factors, such as the quality and reliability of Roku TVs and the quality of the content that our content publishers provide, may be out of our control, yet users may nonetheless attribute those factors to us. Our competitors may be able to achieve and maintain brand awareness and market share more quickly and effectively than we can. Many of our competitors are larger companies and promote their brands through traditional forms of advertising, such as print media and TV commercials, and have substantial resources to devote to such efforts. Our competitors may also have greater resources to utilize internet advertising or website product placement more effectively than we can. If we are unable to execute on building a strong brand, it may be difficult to differentiate our business and platform from our competitors in the marketplace, therefore our ability to attract and retain users may be adversely affected and our business may be harmed.

Our streaming platform allows our customers to choose from thousands of channels, representing a variety of content from a wide range of content publishers. Our customers can choose and control which channels they download and watch, and they can use parental control settings to prevent channels from being downloaded to our devices. While we have policies that prohibit the publication of content that is unlawful, incites illegal activities or violates third-party rights, among other things, we may distribute channels that include controversial content. Controversies related to the content included on certain of the channels that we distribute could result in negative publicity, cause harm to our reputation and brand or subject us to claims and may harm our business.

We must successfully manage streaming device and other product introductions and transitions in order to remain competitive.

We must continually develop new and improved streaming devices and other products that meet changing consumer demands. Moreover, the introduction of a new streaming device or other product is a complex task, involving significant expenditures in research and development, promotion and sales channel development. For example, in 2018, we introduced our new Roku TV Wireless Speaker, designed specifically for use with Roku TVs. Whether users will broadly adopt new products is not certain. Our future success will depend on our ability to develop new and competitively priced streaming devices and other products and add new desirable content and features to our platform. Moreover, we must introduce new streaming devices and other products in a timely and cost-effective manner, and we must secure production orders for those products from our contract manufacturers. The development of new products is a highly complex process, and while our research and development efforts are aimed at solving increasingly complex problems, we do not expect that all of our projects will be successful. The successful development and introduction of new products depends on a number of factors, including the following:

- the accuracy of our forecasts for market requirements beyond near term visibility;
- our ability to anticipate and react to new technologies and evolving consumer trends;
- our development, licensing or acquisition of new technologies;

- our timely completion of new designs and development;
- the ability of our contract manufacturer to cost-effectively manufacture our new products;
- the availability of materials and key components used in manufacturing; and
- our ability to attract and retain world-class research and development personnel.

If any of these or other factors becomes problematic, we may not be able to develop and introduce new products in a timely or cost-effective manner, and our business may be harmed.

We do not have manufacturing capabilities and primarily depend upon few contract manufacturers, and our operations could be disrupted if we encounter problems with the contract manufacturers.

We do not have any internal manufacturing capabilities and primarily rely upon one contract manufacturer, Foxconn Industrial Internet Co. Ltd., or Foxconn, to build our players. We similarly rely on one contract manufacturer, Tonly Electronics Holdings Ltd., or Tonly, to manufacture our wireless speakers. Our contract manufacturers may be vulnerable to capacity constraints and reduced component availability, and our control over delivery schedules, manufacturing yields and costs, particularly when components are in short supply or when we introduce a new player or other product or feature, is limited. In addition, we have limited control over Foxconn's or Tonly's quality systems and controls, and therefore must rely on them to manufacture our players and other products to our quality and performance standards and specifications. Delays, component shortages and other manufacturing and supply problems could impair the retail distribution of our players and other products and ultimately our brand. Furthermore, any adverse change in our contract manufacturers' financial or business condition could disrupt our ability to supply players to our retailers and distributors.

Our contracts with our contract manufacturers generally do not obligate them to supply our players or other products in any specific quantity or at any specific price. In the event our contracts manufacturers are unable to fulfill our production requirements in a timely manner or decide to terminate their relationship with us, our order fulfillment may be delayed, and we would have to identify, select and qualify acceptable alternative contract manufacturers. Alternative contract manufacturers may not be available to us when needed or may not be in a position to satisfy our production requirements at commercially reasonable prices or to our quality and performance standards. Any significant interruption in manufacturing at one of our contract manufacturers would require us to reduce our supply of players or other products to our retailers and distributors, which in turn would reduce our revenue. In addition, the Foxconn and Tonly facilities are located in the People's Republic of China and may be subject to political, economic, social and legal uncertainties that may harm our relationships with these parties. We believe that the international location of these facilities increases supply risk, including the risk of supply interruptions. Furthermore, any manufacturing issues affecting the quality of our products, including wireless speakers, players, could harm our business.

If either of our contract manufacturers fail for any reason to continue manufacturing our players or other products in required volumes and at high quality levels, or at all, we would have to identify, select and qualify acceptable alternative contract manufacturers. Alternative contract manufacturers may not be available to us when needed or may not be in a position to satisfy our production requirements at commercially reasonable prices or to our quality and performance standards. Any significant interruption in manufacturing at a contract manufacturer could require us to reduce our supply of players or other products to our retailers and distributors, which in turn would reduce our revenue and user growth.

Certain of our Roku TV brand partners do not have manufacturing capabilities and primarily depend upon contract manufacturers, and the supply of Roku TVs to the market could be disrupted if they encounter problems with their contract manufacturers or suppliers.

Certain of our Roku TV brand partners do not have internal manufacturing capabilities and primarily rely upon contract manufacturers to build the Roku TVs that they sell to retailers. Their contract manufacturers may be vulnerable to capacity constraints and reduced component availability, and their control over delivery schedules, manufacturing yields and costs, particularly when components are in short supply may be limited. Delays,

component shortages and other manufacturing and supply problems could impair the retail distribution of their Roku TVs. A significant interruption in the supply of Roku TVs to retailers and distributors could, in turn, reduce our user growth.

Furthermore, any manufacturing issues affecting the quality of our Roku TV brand partners' Roku TVs, could harm our brand and our business.

Changes in general economic conditions, geopolitical conditions, U.S. trade policies and other factors beyond our control may adversely impact our business and operating results.

Our businesses are subject to risks generally associated with doing business abroad, such as foreign governmental regulation in the countries in which our manufacturing sources are located. Our operations and performance depend significantly on global, regional and U.S. economic and geopolitical conditions. For example, there has been discussion and dialogue regarding potential significant changes to U.S. trade policies, legislation, treaties and tariffs, including the North American Free Trade Agreement, or NAFTA. On November 30, 2018 the United States, Mexico, and Canada signed a replacement trade deal for NAFTA, known as the United States-Mexico-Canada Agreement, or USMCA, which still needs to be ratified by the respective government of each of the three countries. The USMCA could undergo changes that lead to further modifications of certain USMCA provisions before being passed into law. Furthermore, the current administration has threatened tougher trade terms with China and other countries, leading to the imposition of substantially higher U.S. Section 301 tariffs on $250 billion of imports from China so far and higher Chinese tariffs on a large amount of U.S. exports to China. In addition, the administration has threatened to impose Section 301 tariffs on an additional $267 billion of imports from China. At this time, it is unknown whether and to what extent new USMCA legislation will be passed into law, whether or how long U.S. tariffs on Chinese goods will remain in effect or whether additional tariffs imposed, or new regulatory proposals will be adopted, whether international trade agreements will be negotiated or existing free trade agreements re-negotiated, or the effect that any such action would have, either positively or negatively, on our industry or our business or licensees. If any new legislation and/or regulations are implemented, or if existing trade agreements are renegotiated or terminated, or if tariffs are imposed on foreign-sourced or U.S. goods, it may be inefficient and expensive for us to alter our business operations in order to adapt to or comply with such changes. Such operational changes could have a material adverse effect on our business, financial condition, results of operations or cash flows.

Also, various countries, in addition to the United States, regulate the import and export of certain technology, including import and export licensing requirements, and have enacted laws that could limit our ability to distribute our products or could limit our commercial and/or strategic partners ability to implement our products in those countries. Changes in our products or future changes in export and import regulations may create delays in the introduction of our products in international markets, prevent our commercial and/or strategic partners with international operations from deploying our products globally or, in some cases, prevent the export or import of our products to certain countries, governments, or persons altogether. Any change in export or import regulations, the imposition of customs duties on intangible goods such as cross-border data flows which are currently duty-free under the WTO's temporary e-commerce moratorium, economic sanctions or related legislation, increased export and import controls stemming governmental policies, or change in the countries, governments, persons or technologies targeted by such regulations, could result in decreased use of our products by, or in our decreased ability to export or sell our products to, existing or new customers in international markets. Any decreased use of our products or limitation on our ability to export or sell our products would harm our business.

If we fail to accurately forecast our manufacturing requirements and manage our inventory with our contract manufacturers, we could incur additional costs, experience manufacturing delays and lose revenue.

We bear supply risk under our contract manufacturing arrangements with Foxconn and Tonly. Lead times for the materials and components that our contract manufacturers orders on our behalf through different component suppliers vary significantly and depend on numerous factors, including the specific supplier, contract terms and market demand for a component at a given time. Lead times for certain key materials and components incorporated into our players are currently lengthy, requiring our contract manufacturer to order materials and components several months in advance. If we overestimate our production requirements, our contract manufacturer may

purchase excess components and build excess inventory. If our contract manufacturer, at our request, purchase excess components that are unique to our players or build excess players, we could be required to pay for these excess components or players. In the past, we have agreed to reimburse our contract manufacturer for purchased components that were not used as a result of our decision to discontinue players or the use of particular components. If we incur costs to cover excess supply commitments, this would harm our business.

Conversely, if we underestimate our player or other product requirements, our contract manufacturers may have inadequate component inventory, which could interrupt the manufacturing of our players or other products and result in delays or cancellation of orders from retailers and distributors. In addition, from time to time we have experienced unanticipated increases in demand that resulted in the need to ship players via air freight, which is more expensive than ocean freight, and adversely affected our player gross margin during such periods of high demand, for example, during end-of-year holidays. If we fail to accurately forecast our manufacturing requirements, our business may be harmed.

Our players incorporate key components from sole source suppliers and if our contract manufacturer is unable to source these components on a timely basis, due to fabrication capacity issues or other material supply constraints, we will not be able to deliver our players to our retailers and distributors.

We depend on sole source suppliers for key components in our players. Our players utilize specific system on chip, or SoC, Wi-Fi silicon products and Wi-Fi front-end modules from various manufacturers, depending on the player, for which we do not have a second source. Although this approach allows us to maximize player performance on lower cost hardware, reduce engineering qualification costs and develop stronger relationships with our strategic suppliers, this also creates supply chain risk. These sole source suppliers could be constrained by fabrication capacity issues or material supply issues, stop producing such components, cease operations or be acquired by, or enter into exclusive arrangements with, our competitors or other companies. Any such interruption or delay may force us to seek similar components from alternative sources, which may not be available. Switching from a sole source supplier would require that we redesign our players to accommodate new components and would require us to re-qualify our players with regulatory bodies, such as the Federal Communications Commission, or FCC, which would be costly and time-consuming.

Our reliance on sole source suppliers involves a number of additional risks, including risks related to:

- supplier capacity constraints;
- price increases;
- timely delivery;
- component quality; and
- delays in, or the inability to execute on, a supplier roadmap for components and technologies.

Any interruption in the supply of sole source components for our players could adversely affect our ability to meet scheduled player deliveries to our retailers and distributors, result in lost sales and higher expenses and harm our business.

If we have difficulty managing our growth in operating expenses, our business could be harmed.

We have experienced significant growth in research and development, sales and marketing, support services and operations in recent years and expect to continue to expand these activities. Our historical growth has placed, and expected future growth will continue to place, significant demands on our management, as well as our financial and operational resources, to:

- manage a larger organization;
- hire more employees, including engineers with relevant skills and experience;
- expand our manufacturing and distribution capacity;

- increase our sales and marketing efforts;
- broaden our customer support capabilities;
- support a larger number of TV brand and service operators;
- implement appropriate operational and financial systems;
- expand internationally; and
- maintain effective financial disclosure controls and procedures.

In addition, due to the continued growth in our headcount, we have recently entered into lease agreements for a new corporate headquarters, and we will start to incur material expenses in future years, beginning in 2019.

If we fail to manage our growth effectively, we may not be able to execute our business strategies and our business will be harmed.

We may be unable to successfully expand our international operations, including our recent expansion into Latin America. In addition, our international expansion plans, if implemented, will subject us to a variety of risks that may harm our business.

We currently generate the vast majority of our revenue in the United States and have limited experience marketing, selling and supporting our players and monetizing our platform outside the United States. In addition, we have limited experience managing the administrative aspects of a global organization. We currently sell our players in Canada, the United Kingdom, the Republic of Ireland, France and several Latin American countries. While we intend to continue to explore opportunities to expand our business in international markets in which we see compelling opportunities to build relationships with users, advertisers and retail distributors, TV brands and service operators, we may not be able to create or maintain international market demand for our players and TV streaming platform. In addition, as we expand our operations internationally, our support organization will face additional challenges, including those associated with delivering support, training and documentation in languages other than English. We may also be subject to new statutory restrictions and risks. For example, we have been subject to the EU General Data Protection Regulation, or GDPR, since May 2018. The GDPR includes detailed requirements related to the collection, storage and use of data related to people resident in the EU and places new data protection obligations and restrictions on organizations and may requires us to make further change our policies and procedures in the future beyond what we have already done. Further, following a referendum in June 2016 in which voters in the United Kingdom approved an exit from the European Union, the United Kingdom government has initiated a process to leave the European Union, known as Brexit. Brexit has created uncertainty with regard to the regulation of data protection in the United Kingdom. In particular, although the United Kingdom enacted a Data Protection Act in May 2018 that is designed to be consistent with the GDPR, uncertainty remains regarding how data transfers to and from the United Kingdom will be regulated. We made changes to our data protection compliance program to prepare for the GDPR and will continue to monitor the implementation and evolution of global data protection regulations, but if we are not compliant with GDPR requirements, we may be subject to significant fines and our business may be harmed. In addition, there may be no foreign equivalents to the Digital Millennium Copyright Act to shield us from liability in connection with infringing materials that content publishers may make available on our platform. In addition, we may be required in international jurisdictions to offer longer warranty periods than we currently offer in the United States. If we invest substantial time and resources to expand our international operations and are unable to do so successfully and in a timely manner, our business and financial condition may be harmed.

In the course of expanding our international operations and operating overseas, we will be subject to a variety of risks, including:

- differing regulatory requirements, including country-specific data privacy and security laws and regulations, consumer protection laws and regulations, tax laws, trade laws, labor regulations, tariffs, export quotas, custom duties on cross-border movements of goods or data flows, or other trade restrictions;
- the slower adoption and acceptance of streaming products in other countries;
- competition with existing local traditional pay TV services and products;
- greater difficulty supporting and localizing our players and platform;
- our ability to deliver or provide access to popular streaming channels to users in certain international markets;
- different or unique competitive pressures as a result of, among other things, the presence of local consumer electronics companies and the greater availability of free content on over-the-air channels in certain countries;
- challenges inherent in efficiently managing an increased number of employees over large geographic distances, including the need to implement appropriate systems, policies, compensation and benefits and compliance programs;
- differing legal and court systems, including limited or unfavorable intellectual property protection;
- risk of change in international political or economic conditions;
- restrictions on the repatriation of earnings; and
- working capital constraints.

If we experience higher player returns than we expect and are unable to resell such returned players as refurbished players, our business could be harmed.

We offer customers who purchase players through our website 30 days to return such players. We also generally honor the return policies of our retail and distribution partners, who typically allow customers to return players, even with open packaging within certain time periods that may exceed 30 days. We generally resell any returned players as refurbished players. In the event we decide to permanently reduce the retail prices of our players, we provide price protection to certain distribution partners for the players they hold in inventory at the time of the price drop. To the extent we experience a greater number of returns than we expect, are unable to resell returned players as refurbished players or are required to provide price protection in amounts greater than we expect, our business could be harmed.

We are subject to payment-related risks and, if our advertisers or advertising agencies do not pay or dispute their invoices, our business may be harmed.

Many of our contracts with advertising agencies provide that if the advertiser does not pay the agency, the agency is not liable to us, and we must seek payment solely from the advertiser, a type of arrangement called sequential liability. Contracting with these agencies, which in some cases have or may develop higher-risk credit profiles, may subject us to greater credit risk than if we were to contract directly with advertisers. This credit risk may vary depending on the nature of an advertising agency's aggregated advertiser base. We may also be involved in disputes with agencies and their advertisers over the operation of our platform or the terms of our agreements. If we are unable to collect or make adjustments to bills, we could incur write-offs for bad debt, which could have a material adverse effect on our results of operations for the periods in which the write-offs occur. In the future, bad debt may exceed reserves for such contingencies and our bad debt exposure may increase over time. Any increase in write-offs for bad debt could have a materially negative effect on our business, financial condition and operating results. If we are not paid by our advertisers or advertising agencies on time or at all, our business may be harmed.

Any significant disruption in our computer systems or those of third parties we utilize in our operations could result in a loss or degradation of service on our platform and could harm our business.

We rely on the expertise of our engineering and software development teams for the performance and operation of our platform and computer systems. Service interruptions, errors in our software or the unavailability of computer systems used in our operations could diminish the overall attractiveness of our devices and platform to existing and potential users. We utilize computer systems located either in our facilities or those of third-party server hosting providers and third-party internet-based or cloud computing services. Although we generally enter into service level agreements with these parties, we exercise no control over their operations, which makes us vulnerable to any errors, interruptions or delays that they may experience. In the future, we may transition additional features of our services from our managed hosting systems to cloud computing services, which may require significant expenditures and engineering resources. If we are unable to manage a transition effectively, we may experience operational delays and inefficiencies until the transition is complete. Upon the expiration or termination of any of our agreements with third-party vendors, we may not be able to replace their services in a timely manner or on terms and conditions, including service levels and cost, that are favorable to us, and a transition from one vendor to another vendor could subject us to operational delays and inefficiencies until the transition is complete. In addition, fires, floods, earthquakes, power losses, telecommunications failures, break-ins and similar events could damage these systems and hardware or cause them to fail completely. As we do not maintain entirely redundant systems, a disrupting event could result in prolonged downtime of our operations and could adversely affect our business. Any disruption in the services provided by these vendors could have adverse impacts on our business reputation, customer relations and operating results.

If any aspect of our computer systems or those of third parties we utilize in our operations fails, it may lead to downtime or slow processing time, either of which may harm the experience of users. We have experienced, and may in the future experience, service disruptions, outages and other performance problems due to a variety of factors, including infrastructure changes, human or software errors and capacity constraints. We expect to continue to make significant investments in our technology infrastructure to maintain and improve the user experience and platform performance. To the extent that we do not effectively address capacity constraints, upgrade our systems as needed and continually develop our technology and network architecture to accommodate increasingly complex services and functions, increasing numbers of users, and actual and anticipated changes in technology, our business may be harmed.

Significant disruptions of our information technology systems or data security incidents could harm our reputation and our business and subject us to liability.

We are increasingly dependent on information technology systems and infrastructure to operate our business. In the ordinary course of our business, we collect, store, process and transmit large amounts of sensitive corporate and other information, including intellectual property, proprietary business information, user information and other confidential information. It is critical that we do so in a secure manner to maintain the confidentiality, integrity and availability of such information. Our ability to maintain the confidentiality, integrity and availability of personal information in our possession or control create potential legal liability, both from regulators as well as from affected consumers, and also impacts the attractiveness of our subscription service to existing and potential members. We have also outsourced elements of our operations (including elements of our information technology infrastructure) to third parties, or may have incorporated technology into our platform, that collects, processes, transmits and stores our users' personal and credit card information, and as a result, we manage a number of third-party vendors who may or could have access to our computer networks or to confidential information that moves across our platform. In addition, many of those third parties in turn subcontract or outsource some of their responsibilities to third parties. As a result, our information technology systems, including the functions of third parties that are involved or have access to those systems, is very large and complex. While all information technology operations are inherently vulnerable to inadvertent or intentional security breaches, incidents, attacks and exposures, the size, complexity, accessibility and distributed nature of our information technology systems, and the large amounts of sensitive or personal information stored on those systems, make such systems potentially vulnerable to unintentional or malicious, internal and external attacks on our technology environment. Vulnerabilities can be exploited from inadvertent or intentional actions of our employees, third-party vendors, business partners, or by malicious third parties. Attacks of this nature are increasing in their frequency, levels of persistence, sophistication and intensity, and are being conducted by sophisticated and organized groups and individuals with a wide range of motives

(including, but not limited to, industrial espionage) and expertise, including organized criminal groups, "hacktivists," nation states and others. In addition to the extraction of sensitive or personal information, such attacks could include the deployment of harmful malware, ransomware, denial-of-service attacks, social engineering and other means to affect service reliability and threaten the confidentiality, integrity and availability of information. Some of these external threats may be amplified by the nature of our third-party web hosting, cloud computing, or network-dependent streaming services or suppliers. Our systems likely experience directed attacks on at least a periodic basis that are intended to interrupt our operations, interrupt our customers' ability to access our services, extract money from our company, and/or obtain our data (including without limitation customer or employee personal information or proprietary information). Although we have implemented certain systems, processes, and safeguards intended to thwart attackers and mitigate risks to our systems and data, we cannot be certain that threat actors will not have a material impact on our systems or services in the future.

We maintain limited insurance policies to cover losses relating to our systems. However, there may be exceptions to our insurance coverage such that our insurance policies may not cover some or all aspects of a security incident. Even where an incident is covered by our insurance, the insurance limits may not cover the costs of complete remediation and redress that we may be faced with in the wake of a security incident. Though it is difficult to determine what harm may directly result from any specific interruption or breach, any failure to maintain performance, reliability, security and availability of our network infrastructure to the satisfaction of our users or regulators may harm our reputation and our ability to retain existing users and attract new users. Because of our prominence in the TV streaming industry, we believe we may be a particularly attractive target for hackers. Our platform also incorporates licensed software from third-parties, including open source software, and we may also be vulnerable to attacks that focus on such third-party software. Any attempts by hackers to disrupt our platform, our devices, website, computer systems or our mobile apps, if successful, could harm our business, subject us to liability, be expensive to remedy, cause harm to our systems and operations and damage our reputation. Efforts to prevent hackers from entering our computer systems or exploiting vulnerabilities in our devices are expensive to implement and may not be effective in detecting or preventing intrusion or vulnerabilities. Such unauthorized access to users' data could damage our reputation and our business and could expose us of the risk to contractual damages, litigation and regulatory fines and penalties that could harm our business. The risk of harm to our business caused by security incidents may also increase as we expand our product and service offerings and as we enter into new markets. Implementing, maintaining, and updating security safeguards requires substantial resources now and will likely be an increasing and substantial cost in the future.

Significant disruptions of our third-party vendors' and/or commercial partners' information technology systems or other similar data security incidents could adversely affect our business operations and/or result in the loss, misappropriation, and/or unauthorized access, use or disclosure of, or the prevention of access to, sensitive information, which could harm our business. In addition, information technology system disruptions, whether from attacks on our technology environment or from computer viruses, natural disasters, terrorism, war and telecommunication and electrical failures, could result in a material disruption of our product development and our business operations.

There is no way of knowing with certainty whether we have experienced any data security incidents that have not been discovered. While we have no reason to believe this to be the case, attackers have become very sophisticated in the way they conceal access to systems, and many companies that have been attacked are not aware that they have been attacked. Any event that leads to unauthorized access, use or disclosure of personal information, including but not limited to personal information regarding our customers, could disrupt our business, harm our reputation, compel us to comply with applicable federal and/or state breach notification laws and foreign law equivalents, subject us to time consuming, distracting and expensive litigation, regulatory investigation and oversight, mandatory corrective action, require us to verify the correctness of database contents, or otherwise subject us to liability under laws, regulations and contractual obligations, including those that protect the privacy and security of personal information. This could result in increased costs to us and result in significant legal and financial exposure and/or reputational harm. In addition, any failure or perceived failure by us or our vendors or business partners to comply with our privacy, confidentiality or data security-related legal or other obligations to third parties, or any further security incidents or other unauthorized access events that result in the unauthorized access, release or transfer of sensitive information, which could include personally identifiable information, may result in governmental investigations, enforcement actions, regulatory fines, litigation, or public statements against

us by advocacy groups or others, and could cause third parties, including current and potential partners, to lose trust in us or we could be subject to claims by third parties that we have breached our privacy- or confidentiality-related obligations, which could materially and adversely affect our business and prospects. Moreover, data security incidents and other inappropriate access can be difficult to detect, and any delay in identifying them may lead to increased harm of the type described above. While we have implemented security measures intended to protect our information technology systems and infrastructure, as well as the personal and proprietary information that we possess or control, there can be no assurance that such measures will successfully prevent service interruptions or further security incidents. Data protection laws around the world often take a principled, risk-based approach to information security and require "reasonable", "appropriate" or "adequate" technical and organizational security measures, meaning that the interpretation and application of those laws are often uncertain and evolving, and there can be no assurance that our security measures will be deemed adequate or reasonable in all instances. In addition to potential fines, we could be subject to mandatory corrective action due to a data security incident, which could adversely affect our business operations and result in substantial costs for years to come.

Changes in how network operators manage data that travel across their networks could harm our business.

Our business relies upon the ability of consumers to access high-quality streaming content through the internet. As a result, the growth of our business depends on our users' ability to obtain low-cost, high-speed access to the internet, which relies in part on the network operators' continuing willingness to upgrade and maintain their equipment as needed to sustain a robust internet infrastructure as well as their continued willingness to preserve the open and interconnected nature of the internet. We exercise no control over network operators, which makes us vulnerable to any errors, interruptions or delays in their operations. Any material disruption in internet services could harm our business.

To the extent that the number of internet users continues to increase, network congestion could adversely affect the reliability of our platform. We may also face increased costs of doing business if network operators engage in discriminatory practices with respect to streamed video content in an effort to monetize access to their networks by data providers. In the past, ISPs have attempted to implement usage-based pricing, bandwidth caps and traffic "shaping" or throttling. To the extent network operators were to create tiers of internet access service and either charge us for access to these tiers or prohibit our content offerings from being available on some or all of these tiers, our quality of service could decline, our operating expenses could increase and our ability to attract and retain customers could be impaired, each of which would harm our business.

In addition, most network operators that provide consumers with access to the internet also provide these consumers with multichannel video programming. These network operators have an incentive to use their network infrastructure in a manner adverse to the continued growth and success of other companies seeking to distribute similar video programming. To the extent that network operators are able to provide preferential treatment to their own data and content, as opposed to ours, our business could be harmed.

We could become subject to litigation regarding intellectual property rights that could be costly, result in the loss of rights important to our devices and platform or otherwise harm our business.

Some internet, technology and media companies, including some of our competitors, own large numbers of patents, copyrights and trademarks, which they may use to assert claims against us. Third parties have asserted, and may in the future assert, that we have infringed, misappropriated or otherwise violated their intellectual property rights. As we face increasing competition, the possibility of intellectual property rights claims against us will grow. Plaintiffs who have no relevant product revenue may not be deterred by our own issued patents and pending patent applications in bringing intellectual property rights claims against us. The cost of patent litigation or other proceedings, even if resolved in our favor, could be substantial. Some of our competitors may be better able to sustain the costs of such litigation or proceedings because of their substantially greater financial resources. Patent litigation and other proceedings may also require significant management time and divert management from our business. Uncertainties resulting from the initiation and continuation of patent litigation or other proceedings could impair our ability to compete in the marketplace. The occurrence of any of the foregoing could harm our business.

As a result of intellectual property infringement claims, or to avoid potential claims, we may choose or be required to seek licenses from third parties. These licenses may not be available on commercially reasonable terms, or at all. Even if we are able to obtain a license, the license would likely obligate us to pay license fees or royalties or both, and the rights granted to us might be nonexclusive, with the potential for our competitors to gain access to the same intellectual property. In addition, the rights that we secure under intellectual property licenses may not include rights to all of the intellectual property owned or controlled by the licensor, and the scope of the licenses granted to us may not include rights covering all of the products and services provided by us and our licensees. Furthermore, an adverse outcome of a dispute may require us to pay damages, potentially including treble damages and attorneys' fees, if we are found to have willfully infringed a party's intellectual property; cease making, licensing or using technologies that are alleged to infringe or misappropriate the intellectual property of others; expend additional development resources to redesign our solutions; enter into potentially unfavorable royalty or license agreements in order to obtain the right to use necessary technologies, content or materials; and to indemnify our partners and other third parties. In addition, any lawsuits regarding intellectual property rights, regardless of their success, could be expensive to resolve and would divert the time and attention of our management and technical personnel.

Under our agreements with many of our content publishers, licensees, distributors, retailers, contract manufacturers and suppliers, we are required to provide indemnification in the event our technology is alleged to infringe upon the intellectual property rights of third parties.

In certain of our agreements we indemnify our content publishers, licensees, distributors, retailers, manufacturing partners and suppliers. We could incur significant expenses defending these partners if they are sued for patent infringement based on allegations related to our technology. If a partner were to lose a lawsuit and in turn seek indemnification from us, we also could be subject to significant monetary liabilities. In addition, because the devices sold by our licensing partners and TV brands often involve the use of third-party technology, this increases our exposure to litigation in circumstances where there is a claim of infringement asserted against the player in question, even if the claim does not pertain to our technology.

If we fail to protect or enforce our intellectual property or proprietary rights, our business and operating results could be harmed.

We regard the protection of our patents, trade secrets, copyrights, trademarks, trade dress, domain names and other intellectual property or proprietary rights as critical to our success. We strive to protect our intellectual property rights by relying on federal, state and common law rights, as well as contractual restrictions. We seek to protect our confidential proprietary information, in part, by entering into confidentiality agreements and invention assignment agreements with all our employees, consultants, contractors, advisors and any third parties who have access to our proprietary know-how, information or technology. However, we cannot be certain that we have executed such agreements with all parties who may have helped to develop our intellectual property or who had access to our proprietary information, nor can we be certain that our agreements will not be breached. Any party with whom we have executed such an agreement could potentially breach that agreement and disclose our proprietary information, including our trade secrets, and we may not be able to obtain adequate remedies for such breaches. We cannot guarantee that our trade secrets and other confidential proprietary information will not be disclosed or that competitors will not otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. Detecting the disclosure or misappropriation of a trade secret and enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, time-consuming and could result in substantial costs and the outcome of such a claim is unpredictable. Further, the laws of certain foreign countries do not protect proprietary rights to the same extent or in the same manner as the laws of the United States. As a result, we may encounter significant problems in protecting and defending our intellectual property or proprietary rights both in the United States and abroad. If we are unable to prevent the disclosure of our trade secrets to third parties, or if our competitors independently develop any of our trade secrets, we may not be able to establish or maintain a competitive advantage in our market, which could harm our business.

We have filed and will in the future file patent applications on inventions that we deem to be innovative. There is no guarantee that our patent applications will issue as granted patents, that the scope of the protection gained will be sufficient or that an issued patent may subsequently be deemed invalid or unenforceable. Patent laws, and scope of coverage afforded by them, have recently been subject to significant changes, such as the change to "first-to-file" from "first-to-invent" resulting from the Leahy-Smith America Invents Act. This change in the determination of inventorship may result in inventors and companies having to file patent applications more frequently to preserve rights in their inventions, which may favor larger competitors that have the resources to file more patent applications. Another change to the patent laws may incentivize third parties to challenge any issued patent in the United States Patent and Trademark Office, or USPTO, as opposed to having to bring such an action in U.S. federal court. Any invalidation of a patent claim could have a significant impact on our ability to protect the innovations contained within our devices and platform and could harm our business.

The USPTO and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other provisions to maintain patent applications and issued patents. We may fail to take the necessary actions and to pay the applicable fees to obtain or maintain our patents. Noncompliance with these requirements can result in abandonment or lapse of a patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, competitors might be able to use our technologies and enter the market earlier than would otherwise have been the case.

We pursue the registration of our domain names, trademarks and service marks in the United States and in certain locations outside the United States. We are seeking to protect our trademarks, patents and domain names in an increasing number of jurisdictions, a process that is expensive and time-consuming and may not be successful or which we may not pursue in every location.

Litigation may be necessary to enforce our intellectual property or proprietary rights, protect our trade secrets or determine the validity and scope of proprietary rights claimed by others. Any litigation of this nature, regardless of outcome or merit, could result in substantial costs, adverse publicity or diversion of management and technical resources, any of which could adversely affect our business and operating results. If we fail to maintain, protect and enhance our intellectual property or proprietary rights, our business may be harmed.

We and our third-party contractors collect, process, transmit and store the personal information of our users, which creates legal obligations and exposes us to potential liability.

We collect, process, transmit and store information about our users' device usage patterns, and rely on third-party contractors to collect, process, transmit and store personal information of our users, including our users' credit card data. Further, we and third parties use tracking technologies, including cookies, device identifiers and related technologies, to help us manage and track our users' interactions with our platform, devices, website and partners' content streaming channels and deliver relevant advertising for ourselves and on behalf of our partners on our devices.

We collect information about the interaction of users with our devices, our advertisements, and our partners' streaming channels. To deliver relevant advertisements effectively, we must successfully leverage this data as well as data provided by third parties. Our ability to collect and use such data could be restricted by a number of factors, including consumers having the ability to opt out from our collection and use of this data for advertising purposes or the ability of our advertisers to use such data to provide more relevant advertisements, restrictions imposed by advertisers, content publishers and service providers, changes in technology, and new developments in laws, regulations and industry standards. For example, our privacy policy outlines the type of data we collect and discloses to users how to disable or restrict such data collection and the use of such data in providing more relevant advertisements. Any restrictions on our ability to collect or use data could harm our ability to grow our revenue, particularly our advertising revenue which depends on engaging the relevant recipients of advertising campaigns.

Various federal, state, and foreign laws and regulations govern the collection, use, retention, sharing and security of the data we receive from and about our users. The regulatory environment for the collection and use of consumer data by device manufacturers, online service providers, content distributors, advertisers and publishers is very unsettled in the United States and internationally. Privacy groups and government bodies, including the Federal

Trade Commission, or FTC, state attorneys general, and the European Commission, have increasingly scrutinized privacy issues with respect to devices that link personal identities or user and device data, with data collected through the internet, and we expect such scrutiny to continue to increase. The United States and foreign governments have enacted and are considering regulations that could significantly restrict industry participants' ability to collect, use and share personal information and pseudonymous data, such as by regulating the level of consumer notice and consent required before a company can place cookies or other tracking technologies. For example, we have been subject to GDPR since May 2018. The GDPR includes detailed requirements related to the collection, storage and use of data related to people resident in the EU and places new data protection obligations and restrictions on organizations and may requires us to make further change our policies and procedures in the future beyond what we have already done. Further, following a referendum in June 2016 in which voters in the United Kingdom approved an exit from the European Union, the United Kingdom government has initiated a process to leave the European Union, known as Brexit. Brexit has created uncertainty with regard to the regulation of data protection in the United Kingdom. In particular, although the United Kingdom enacted a Data Protection Act in May 2018 that is designed to be consistent with the GDPR, uncertainty remains regarding how data transfers to and from the United Kingdom will be regulated. We made changes to our data protection compliance program to prepare for the GDPR and will continue to monitor the implementation and evolution of global data protection regulations, but if we are not compliant with GDPR requirements, we may be subject to significant fines and our business may be harmed. In addition, the California Consumer Privacy Act, or CCPA, goes into effect in January 2020, with a lookback to January 2019, and places additional requirements on the handling of personal data. The CCPA was recently amended, and it is possible that it will be amended again before it goes into effect. The potential effects of this legislation are far-reaching and may require us to modify our data processing practices and policies and to incur substantial costs and expenses in an effort to comply. For example, the CCPA gives California residents expanded rights to access and require deletion of their personal information, opt out of certain personal information sharing and receive detailed information about how their personal information is used. The CCPA also provides for civil penalties for violations, as well as a private right of action for data breaches that may increase data breach litigation. We are continuing to assess the impact of the CCPA and proposed amendments to the law on our business.

Applicable data privacy and security laws also obligate us to employ reasonable security measures that are appropriate to the nature of the data we collect and process and the risks attendant to our data processing activities, among other factors, in order to protect personal information from unauthorized access or disclosure, or accidental or unlawful destruction, loss, or alteration. We have implemented security measures that we believe are appropriate, but we cannot be sure a regulator would deem our security measures to be appropriate given the lack of prescriptive measures in certain data protection laws. Without more specific guidance, we cannot know whether our chosen security safeguards are adequate according to each applicable data protection law. Given the evolving nature of security threats and evolving safeguards, we cannot be sure that our chosen safeguards will protect against security threats to our business. Moreover, data protection laws impose on us responsibility for our employees and third parties that assist with aspects of our data processing.

In addition, some countries are considering or have enacted 'data localization' laws requiring that user data regarding users in their country be maintained in their country. Maintaining local data centers in individual countries could increase our operating costs significantly. In addition, we expect that, in addition to the business as usual costs of compliance, the evolving regulatory interpretation and enforcement of new laws such as the GDPR and CCPA will lead to increased operational and compliance costs and will require us to continually monitor and, where necessary, make changes to our operations, policies, and procedures. Any failure or perceived failure to comply with privacy-related legal obligations, or any compromise of security of user data, may result in governmental enforcement actions, litigation, contractual indemnity or public statements against us by consumer advocacy groups or others. In addition to potential liability, these events could harm our business.

We have incurred, and will continue to incur, expenses to comply with privacy and security standards and protocols imposed by law, regulation, industry standards and contractual obligations. Increased regulation of data collection, use and security practices, including self-regulation and industry standards, changes in existing laws, enactment of new laws, increased enforcement activity, and changes in interpretation of laws, could increase our cost of compliance and operation, limit our ability to grow our business or otherwise harm our business.

If service operators refuse to authenticate streaming channels on our platform, our users may be restricted from accessing certain content on our platform and our business may be harmed.

Certain service operators, including pay TV providers, have from time to time refused to grant our users access to streaming content through "TV Everywhere" channels and have made that content available only on certain devices favored by such service operators, including devices offered by that service operator or its partners. If major service operators do not authenticate popular TV Everywhere channels on our platform, we may be unable to offer a broad selection of popular streaming channels and consumers may not purchase or use our streaming players. If we are unable to continue to provide access to popular streaming channels on our platform, our business may be harmed.

United States or international rules that permit ISPs to limit internet data consumption by users, including unreasonable discrimination in the provision of broadband internet access services, could harm our business.

Laws, regulations or court rulings that adversely affect the popularity or growth in use of the internet, including decisions that undermine open and neutrally administered internet access, could decrease customer demand for our service offerings, may impose additional burdens on us or could cause us to incur additional expenses or alter our business model.

On February 26, 2015, the FCC adopted open internet rules intended to protect the ability of consumers and content producers to send and receive non-harmful, lawful information on the internet, known as the Open Internet Order. The FCC's Open Internet Order prohibited broadband internet access service providers from: (i) blocking access to legal content, applications, services or non-harmful devices; (ii) throttling, impairing or degrading performance based on content, applications, services or non-harmful devices; and (iii) charging more for favorable delivery of content or favoring self-provisioned content over third-party content. The Open Internet Order also prohibited broadband internet access service providers from unreasonably interfering with consumers' ability to select, access and use the lawful content, applications, services or devices of their choosing as well as edge providers' ability to make lawful content, applications, services or devices available to consumers.

In January 2018, the FCC released a new order, known as the Restoring Internet Freedom Order, that repealed most of the blocking, throttling, and paid prioritization restrictions adopted in the Open Internet Order. The Restoring Internet Freedom Order reclassified broadband internet access service as a non-common carrier "information service" and repealed rules that had prohibited broadband internet access service providers from: (i) blocking access to legal content, applications, services or non-harmful devices; (ii) throttling, impairing or degrading performance based on content, applications, services or non-harmful devices; and (iii) charging more for favorable delivery of content or favoring self-provisioned content over third-party content. The Restoring Internet Freedom Order continued to require internet service providers to be transparent about their policies and network management practices, and subjected discriminatory practices to case-by-case assessment under antitrust and consumer protection laws. Most portions of the Restoring Internet Freedom Order went into effect on April 23, 2018 and the remainder went into effect on June 11, 2018. Numerous parties have filed judicial challenges to the Restoring Internet Freedom Order, and the litigation has been consolidated in the U.S. Court of Appeals for the District of Columbia Circuit. To the extent the courts or the agencies do not uphold or adopt sufficient safeguards to protect against discriminatory conduct, network operators may seek to extract fees from us or our content publishers to deliver our traffic or otherwise engage in blocking, throttling or other discriminatory practices, and our business could be harmed.

Several states are considering network neutrality legislation or regulation as well. On September 30, 2018, California Governor Jerry Brown signed open internet legislation into law, effective January 1, 2019. The California legislation codifies portions of the FCC's rescinded Open Internet Order. The U.S. Department of Justice filed suit on September 30, 2018 to block implementation of the California law, and the broadband service provider trade associations CTIA, the National Cable & Telecommunications Association, the United States Telecom Association and the American Cable Association, have also sued California to invalidate the state's net neutrality law on grounds that the law is contrary to the supremacy clause of the United States Constitution, among other claims. California has agreed to delay implementation of the law until the litigation is resolved. Meanwhile, at least three additional states (Oregon, Vermont and Washington) have enacted net neutrality legislation, and governors in at least six other states (Hawaii, Montana, New Jersey, New York, Rhode Island and Vermont) have signed executive orders requiring service providers contracting with state agencies to adhere to network neutrality principles. The regulatory framework for network neutrality thus remains unsettled and is subject to ongoing legislative and judicial review.

As we expand internationally, government regulation protecting the non-discriminatory provision of internet access may be nascent or non-existent. In those markets where regulatory safeguards against unreasonable discrimination are nascent or non-existent and where local network operators possess substantial market power, we could experience anti-competitive practices that could impede our growth, cause us to incur additional expenses or otherwise harm our business. Future regulations or changes in laws and regulations or their existing interpretations or applications could also hinder our operational flexibility, raise compliance costs and result in additional liabilities for us, which may harm our business.

Broadband internet providers are subject to government regulation and enforcement actions, and changes in current or future laws, regulations or enforcement actions that negatively impact our distributors or content publishers could harm our business.

Upon the effective date of the FCC's Restoring Internet Freedom Order, the FTC became primarily responsible for regulating broadband privacy and data security in the United States. The FTC follows an enforcement-focused approach to regulating broadband privacy and security. Future FTC enforcement actions could cause us or our content publishers to alter advertising claims or alter or eliminate certain features or functionalities of our products or services which may harm our business. At the FCC, many broadband internet providers provide traditional telecommunications services that are subject to FCC and state rate regulation of intrastate telecommunications services, and are recipients of federal universal service fund payments, which are intended to subsidize telecommunications services in areas that are expensive to serve. Changes in rate regulations or in universal service funding rules, either at the federal or state level, could affect these broadband internet providers' revenue and capital spending plans. In addition, various international regulatory bodies have jurisdiction over non-United States broadband internet providers. The CCPA also applies to broadband internet providers that do business in California. To the extent these broadband internet providers are adversely affected by laws or regulations regarding their business, products or service offerings, our business could be harmed.

Our financial results may be adversely affected by changes in accounting principles applicable to us.

Generally accepted accounting principles in the United States, or U.S. GAAP, are subject to interpretation by the Financial Accounting Standards Board, the FASB, the SEC, and other various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported results of operations and may even affect the reporting of transactions completed before the announcement or effectiveness of a change. For example, we recently adopted *Accounting Standards Codification*, *Revenue from Contracts with Customers (Topic 606)*, using the modified retrospective method. We applied the new revenue standard to all contracts that were not completed as of January 1, 2018. We recognized the cumulative effect of initially applying the new revenue standard as an adjustment to the opening balance of retained earnings. The comparative information has not been restated and continues to be reported under the accounting standards in effect for those prior periods. It is difficult to predict the impact of future changes to accounting principles or our accounting policies, any of which could harm our business.

If government regulations or laws relating to the internet, video or other areas of our business change, we may need to alter the manner in which we conduct our business or our business could be harmed.

We are subject to general business regulations and laws, as well as regulations and laws specific to the internet and online services, which may include laws and regulations related to data privacy and security, consumer protection, data localization, law enforcement access to data, encryption, telecommunications, social media, payment processing, taxation, intellectual property, competition, electronic contracts, internet access, net neutrality, advertising, calling and texting, content restrictions, and accessibility, among others. We cannot guarantee that we have been or will be fully compliant in every jurisdiction. Litigation and regulatory proceedings are inherently uncertain, and the laws and regulations governing issues such as data privacy and security, payment processing, taxation, net neutrality, video, telecommunications, e-commerce tariffs and consumer protection related to the internet continue to develop. For example, laws relating to the liability of providers of online services for activities of their users and other third parties have been tested by a number of claims, including actions based on invasion of privacy and other torts, unfair competition, copyright and trademark infringement, and other theories based on the nature and content of the materials searched, the advertisements posted, actions taken or not taken by providers in response to user activity or the content provided by users. Congress has also recently enacted legislation related to liability of providers of online services and may continue to legislate in this area. The recently enacted CCPA also applies to entities that do business in California and imposes a number of new requirements on internet and online services. Moreover, as internet commerce and advertising continues to evolve, increasing regulation by federal, state and foreign regulatory authorities becomes more likely.

As we develop new services and devices, and improve our TV streaming platform, we may also be subject to new laws and regulations specific to such technologies. For example, in developing our Roku TV reference design, we were required to understand, address and comply with an evolving regulatory framework for developing, manufacturing, marketing and selling TVs. If we fail to adequately address or comply with such regulations regarding the manufacture and sale of TVs, we may be subject to fines or sanctions, and our licensees may be unable to sell Roku TVs at all, which would harm our business and our ability to grow our user base.

Laws relating to data privacy and security, data localization, law enforcement access to data, encryption, and similar activities continue to proliferate, often with little harmonization between jurisdictions and little guidance. A number of existing bills are pending in the U.S. Congress and other government bodies that contain provisions that would regulate, for example, how companies can use cookies and other tracking technologies to collect, use and share user information. The CCPA also imposes requirements on certain tracking activity, and we are continuing to assess the impact of the CCPA and proposed amendments to the law on our business. The European Union has already enacted laws requiring advertisers or companies like ours to, for example, obtain informed, and in some cases affirmative or explicit, consent from users for the placement of cookies or other tracking technologies and the delivery of relevant advertisements. If we or the third parties that we work with, such as contract payment processing services, content publishers, vendors or developers violate or are alleged to violate applicable privacy or security laws, industry standards, our contractual obligations, or our policies, such violations and alleged violations may also put our users' information at risk and could in turn harm our business and reputation and subject us to potential liability. Any of these consequences could cause our users, advertisers or publishers to lose trust in us, which could harm our business. Furthermore, any failure on our part to comply with these laws may subject us to liability and reputational harm.

Our use of data to deliver relevant advertising and other services on our platform places us and our content publishers at risk for claims under various unsettled laws, including the Video Privacy Protection Act, or VPPA. Some of our content publishers have been engaged in litigation over alleged violations of the VPPA relating to activities on our platform in connection with advertising provided by unrelated third parties. The Federal Trade Commission has also revised its rules implementing the Children's Online Privacy Protection Act, or COPPA Rules, broadening the applicability of the COPPA Rules, including the types of information that are subject to these regulations, and could limit the information that we or our content publishers and advertisers may collect and use through certain content publishers, the content of advertisements and in relation to certain channel partner content. The CCPA also imposes certain opt in and opt out requirements for certain information about minors. We and our content publishers and advertisers could be at risk for violation or alleged violation of these and other privacy, advertising, or similar laws.

Our actual or perceived failure to adequately protect personal data and confidential information could harm our business.

A variety of state, national, foreign, and international laws and regulations apply to the collection, use, retention, protection, disclosure, security, transfer and other processing of personal data. These privacy and data protection-related laws and regulations are evolving, with new or modified laws and regulations proposed and implemented frequently and existing laws and regulations subject to new or different interpretations. In addition, each state and the District of Columbia, as well as some foreign nations, have passed laws requiring notification to regulatory authorities and/or to affected users within a specific timeframe when there has been a security breach involving personal data as well as impose additional obligations for companies. For example, the CCPA was signed into law on June 28, 2018 and largely takes effect on January 1, 2020 (and enforcement of some of the provisions will not be immediately active). It imposes additional obligations on companies that process certain information about California residents. Compliance with these laws and regulations can be costly and could delay or impede the development of new products.

As part of our data protection compliance program, we ensure that we have approved data transfer mechanisms in place to provide adequacy for the transfer of personal data from the European Economic Area to the United States.

We will continue to review our business practices and may find it necessary or desirable to make changes to our personal data handling to cause our transfer and receipt of EEA residents' personal data to be legitimized under applicable European law. The regulation of data privacy in the EU continues to evolve, and it is not possible to predict the ultimate effect of evolving data protection regulation and implementation over time. Member states also have some flexibility to supplement the GDPR with their own laws and regulations and may apply stricter requirements for certain data processing activities.

While we have implemented administrative, physical and electronic security measures to protect against reasonably foreseeable loss, misuse and alteration of Gopersonal data and confidential information (e.g., protected content or intellectual property), cyberattacks on companies have increased in frequency and potential impact in recent years and, if successful against us, may harm our reputation and business and subject us to potential liability despite reasonable precautions. As discussed above, we cannot be certain that our chosen security measures will be deemed adequate or reasonable by regulators in all instances.

If we are not able to comply with these laws or regulations or if we become liable under new laws or regulations, we could be directly harmed, and we may be forced to implement new measures to reduce our exposure to this liability. This may require us to expend substantial resources or to suspend or discontinue certain products or services, which may harm our business. In addition, the increased attention focused upon liability issues as a result of lawsuits and legislative proposals could harm our business. Any actual or perceived inability to adequately protect our users' privacy may render our products or services less desirable and could harm our reputation and business. Any costs incurred as a result of this potential liability could harm our business.

If we are found liable for content that we distribute through our platform, our business could be harmed.

As a distributor of content, we face potential liability for negligence, copyright, patent or trademark infringement, public performance royalties or other claims based on the nature and content of materials that we distribute. The Digital Millennium Copyright Act, or the DMCA, is intended, in part, to limit the liability of eligible service providers for caching, hosting or linking to, user content that includes materials that infringe copyrights or other rights. We rely on the protections provided by the DMCA in conducting our business. However, the DMCA and similar statutes and doctrines that we may rely on in the future is subject to uncertain judicial interpretation and regulatory and legislative amendments. Moreover, the DMCA only provides protection primarily in the United States. If the rules around these statutes and doctrines change, if international jurisdictions refuse to apply similar protections or if a court were to disagree with our application of those rules to our business, we could incur liability and our business could be harmed. If we become liable for these types of claims as a result of the content that is streamed over our platform, then our business may suffer. Litigation to defend these claims could be costly and the expenses and damages arising from any liability could harm our business. Our insurance may not be adequate to cover these types of claims or any liability that may be imposed on us.

In addition, we may be adversely impacted if copyright holders assert claims, or commence litigation, alleging copyright infringement against the developers of channels that are distributed on our platform. While our platform policies prohibit streaming content on our platform without distribution rights from the copyright holder, and we maintain processes and systems for the reporting and removal of infringing content, in certain instances our platform has been misused by unaffiliated third parties to unlawfully distribute copyrighted content. For example, we are involved in litigation in Mexico that was commenced in May 2017 by a large Mexican pay TV and internet access provider. We were not named as a defendant in this case, as the case principally targeted entities that are alleged to sell unlicensed content to consumers using our platform, among other means. Involvement in these legal proceedings has been complicated and has drawn management time and company resources. At the commencement of this case, however, a court issued a temporary ban on the importation and sale of Roku devices in Mexico. In October 2018, the ban on sales was lifted by a Federal Court in Mexico; however, the underlying litigation may continue. Our involvement in this litigation caused us to incur legal expenses and other costs and has drawn management time and other company resources away from other matters. Our continuing involvement in this litigation, or similar legal matters in the future, could be disruptive to our business. If content partners or distributors in Latin America or in any other country are influenced by these proceedings and are deterred from working with us to sell players or other products or to maintain their channels or sell advertising on our platform, this could impair our ability to implement our international expansion plans.

Our involvement in any such legal matters now or in the future, could cause us to incur significant legal expenses and other costs, and be disruptive to our business.

Our devices are highly technical and may contain undetected hardware errors or software bugs, which could manifest themselves in ways that could harm our reputation and our business.

Our devices and those of our licensees are highly technical and have contained and may in the future contain undetected software bugs or hardware errors. These bugs and errors can manifest themselves in any number of ways in our devices or our platform, including through diminished performance, security vulnerabilities, data quality in logs or interpretation of data, malfunctions or even permanently disabled devices. Some errors in our devices may only be discovered after a device has been shipped and used by users and may in some cases only be detected under certain circumstances or after extended use. We update our software on a regular basis and, despite our quality assurance processes, we could introduce bugs in the process of updating our software. The introduction of a serious software bug could result in devices becoming permanently disabled. We offer a limited one year warranty in the United States and any such defects discovered in our players after commercial release could result in loss of revenue or delay in revenue recognition, loss of customer goodwill and users and increased service costs, any of which could harm our business, operating results and financial condition. We could also face claims for product or information liability, tort or breach of warranty, or other violations of laws or regulations. In addition, our player contracts with users contain provisions relating to warranty disclaimers and liability limitations, which may not be upheld. Defending a lawsuit, regardless of its merit, is costly and may divert management's attention and adversely affect the market's perception of Roku and our devices. In addition, if our business liability insurance coverage proves inadequate or future coverage is unavailable on acceptable terms or at all, our business could be harmed.

Components used in our devices may fail as a result of manufacturing, design or other defects over which we have no control and render our devices permanently inoperable.

We rely on third-party component suppliers to provide certain functionalities needed for the operation and use of our devices. Any errors or defects in such third-party technology could result in errors in our devices that could harm our business. If these components have a manufacturing, design or other defect, they can cause our devices to fail and render them permanently inoperable. For example, the typical means by which our users connect their home networks to our devices is by way of a Wi-Fi access point in the home network router. If the Wi-Fi receiver in our device fails, then our device cannot detect a home network's Wi-Fi access point, and our device will not be able to display or deliver any content to the TV screen. As a result, we may have to replace these devices at our sole cost and expense. Should we have a widespread problem of this kind, our reputation in the market could be adversely affected and our replacement of these devices would harm our business.

If we are unable to obtain necessary or desirable third-party technology licenses, our ability to develop new devices or platform enhancements may be impaired.

We utilize commercially available off-the-shelf technology in the development of our devices and platform. As we continue to introduce new features or improvements to our devices and the Roku platform, we may be required to license additional technologies from third parties. These third-party licenses may be unavailable to us on commercially reasonable terms, if at all. If we are unable to obtain necessary third-party licenses, we may be required to obtain substitute technologies with lower quality or performance standards, or at a greater cost, any of which could harm the competitiveness of our devices, platform and our business.

Our use of open source software could impose limitations on our ability to commercialize our devices and our TV streaming platform.

We incorporate open source software in our TV streaming platform. From time to time, companies that incorporate open source software into their products have faced claims challenging the ownership of open source software and/or compliance with open source license terms. Therefore, we could be subject to suits by parties claiming ownership of what we believe to be open source software or noncompliance with open source licensing terms. Although we monitor our use of open source software, the terms of many open source software licenses have not been interpreted by U.S. courts, and there is a risk that such licenses could be construed in a manner that could impose unanticipated conditions or restrictions on the sale of our devices. In such event, we could be required to make our proprietary software generally available to third parties, including competitors, at no cost, to seek licenses from third parties in order to continue offering our devices, to re-engineer our devices or to discontinue the sale of our devices in the event re-engineering cannot be accomplished on a timely basis or at all, any of which could harm our business.

The quality of our customer support is important to our users and licensees, and if we fail to provide adequate levels of customer support we could lose users and licensees, which would harm our business.

Our users and licensees depend on our customer support organization to resolve any issues relating to devices. A high level of support is critical for the successful marketing and sale of devices. We currently outsource our customer support operation to a third-party customer support organization. If we do not effectively train, update and manage our third-party customer support organization to assist our users, and if that support organization does not succeed in helping them quickly resolve issues or provide effective ongoing support, it could adversely affect our ability to sell our devices to users and harm our reputation with potential new users and our licensees.

We will need to improve our operational and financial systems to support our expected growth, increasingly complex business arrangements, and rules governing revenue and expense recognition and any inability to do so could adversely affect our billing services and financial reporting.

We have increasingly complex business arrangements with our content publishers and licensees, and the rules that govern revenue and expense recognition in our business are increasingly complex. To manage the expected growth of our operations and increasing complexity, we will need to improve our operational and financial systems, procedures and controls and continue to increase systems automation to reduce reliance on manual operations. An inability to do so will negatively affect our billing services and financial reporting. Our current and planned systems, procedures and controls may not be adequate to support our complex arrangements and the rules governing revenue and expense recognition for our future operations and expected growth. Delays or problems associated with any improvement or expansion of our operational and financial systems and controls could adversely affect our relationships with our users, content publishers or licensees; cause harm to our reputation and brand; and could also result in errors in our financial and other reporting.

If we are unable to implement and maintain effective internal control over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our Class A common stock may be adversely affected.

We are required to maintain internal control over financial reporting and to report any material weaknesses in such internal control. Section 404 of the Sarbanes-Oxley Act of 2002, or Section 404, requires that we furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting beginning with the year ending December 31, 2018. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. Our independent registered public accounting firm also needs to attest to the effectiveness of our internal control over financial reporting. If we have a material weakness in our internal control over financial reporting, we may not detect errors on a timely basis and our financial statements may be materially misstated. We are in the process of designing and implementing the internal control over financial reporting required to comply with this obligation, which process will be time-consuming, costly and complicated. If we identify material weaknesses in our internal control over financial reporting, are unable to comply with the requirements of Section 404 in a timely manner, are unable to assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal control over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports, and the market price of our Class A common stock could be adversely affected. In addition, we could become subject to investigations by the stock exchange on which our Class A common stock is listed, the Securities and Exchange Commission, or SEC, or other regulatory authorities, which could require additional financial and management resources.

We may pursue acquisitions, which involve a number of risks, and if we are unable to address and resolve these risks successfully, such acquisitions could harm our business.

We may in the future acquire businesses, products or technologies to expand our offerings and capabilities, user base and business. We have evaluated, and expect to continue to evaluate, a wide array of potential strategic transactions; however, we have limited experience completing or integrating acquisitions. Any acquisition could be material to our financial condition and results of operations and could require us to raise capital in the equity markets or issue additional equity and any anticipated benefits from an acquisition may never materialize. In addition, the process of integrating acquired businesses, products or technologies may create unforeseen operating difficulties and expenditures. Acquisitions in international markets would involve additional risks, including those related to integration of operations across different cultures and languages, currency risks and the particular economic, political and regulatory risks associated with specific countries. We may not be able to address these risks successfully, or at all, without incurring significant costs, delays or other operational problems and if we were unable to address such risks successfully our business could be harmed.

We have a credit facility that provides our lender with a first-priority lien against substantially all of our assets and contains financial covenants and other restrictions on our actions that may limit our operational flexibility or otherwise adversely affect our financial condition.

We entered into a credit agreement among us, as borrower, the lenders and issuing banks from time to time party thereto, and Morgan Stanley Senior Funding, Inc., or the Agent providing for a (i) a four-year revolving credit facility in the aggregate principal amount of up to $75.0 million, or the Revolving Credit Facility, (ii) a four-year delayed draw term loan A facility in the aggregate principal amount of up to $75.0 million, the Term Loan A Facility and (iii) an uncommitted incremental facility subject to certain conditions, collectively, the Credit Agreement. On the Closing Date of the Credit Agreement, we terminated our loan and security agreement with Silicon Valley Bank, except for certain letters of credit, which were cash collateralized by approximately $26.3 million. The Credit Agreement contains a number of affirmative and negative covenants, which may restrict our current and future operations, particularly our ability to respond to certain changes in our business or industry or take future actions. The Credit Agreement also contains a financial covenant requiring us to maintain a minimum adjusted quick ratio of 1.00 to 1.00, tested as of the last day of any fiscal quarter on the basis of the prior period of our four consecutive fiscal quarters. Pursuant to the Credit Agreement, we granted the Agent a security interest in substantially all of our assets. See the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Silicon Valley Bank Loan and Security Agreement.”

If we fail to comply with the covenants, make payments as specified in the Credit Agreement, or undergo any other event of default contained in the Credit Agreement, the Agent could declare an event of default, which would give it the right to terminate the commitments to provide additional loans and declare any borrowings outstanding, together with accrued and unpaid interest and fees, to be immediately due and payable. In addition, the Agent would have the right to proceed against the assets we provided as collateral pursuant to the Credit Agreement. If the debt under this credit facility was accelerated, we may not have sufficient cash or be able to sell sufficient assets to repay this debt, which would harm our business and financial condition.

If we fail to comply with the laws and regulations relating to the collection of sales tax and payment of income taxes in the various states in which we do business, we could be exposed to unexpected costs, expenses, penalties and fees as a result of our noncompliance, which could harm our business.

By engaging in business activities in the United States, we become subject to various state laws and regulations, including requirements to collect sales tax from our sales within those states, and the payment of income taxes on revenue generated from activities in those states. The laws and regulations governing the collection of sales tax for sales on our website and payment of income taxes are numerous, complex, and vary from state to state. A successful assertion by one or more states that we were required to collect sales or other taxes or to pay income taxes where we did not could result in substantial tax liabilities, fees and expenses, including substantial interest and penalty charges, which could harm our business.

New legislation that would change U.S. or foreign taxation of international business activities or other tax-reform policies could harm our business.

Reforming the taxation of international businesses has been a priority for U.S. politicians, and key members of the legislative and executive branches have proposed a wide variety of potential changes. Certain changes to U.S. tax laws could affect the tax treatment of our foreign earnings, as well as cash and cash equivalent balances we maintain outside the United States. Additionally, any changes in the U.S. or foreign taxation of such activities may increase our worldwide effective tax rate and the amount of taxes we pay and harm our business.

For example, the Tax Cut and Jobs Act, or TCJA, was enacted on December 22, 2017 and significantly reforms the Internal Revenue Code of 1986. The TCJA, among other things, includes changes to U.S. federal tax rates, imposes additional limitations on the deductibility of interest, has both positive and negative changes to the utilization of future net operating loss carryforwards, allows for the expensing of certain capital expenditures, and puts into effect the migration from a “worldwide” system of taxation to a territorial system. The U.S. Department of Treasury has broad authority to issue regulations and interpretative guidance that may significantly impact how we will apply the law, which could affect our financial position and result of operations.

We may require additional capital to meet our financial obligations and support planned business growth, and this capital might not be available on acceptable terms or at all.

We intend to continue to make significant investments to support planned business growth and may require additional funds to respond to business challenges, including the need to develop new devices and enhance the Roku platform, maintain adequate levels of inventory to support our retail partners’ demand requirements, improve our operating infrastructure or acquire complementary businesses, personnel and technologies. Our primary uses of cash include operating costs such as personnel-related expenses and capital spending. Our future capital requirements may vary materially from those currently planned and will depend on many factors including our growth rate and the continuing market acceptance of our advertising platform, operating system and technology and players along with the timing and effort related to the introduction of new platform features, players, hiring of experienced personnel, the expansion of sales and marketing activities, as well as overall economic conditions. We recently entered into lease agreements for a corporate headquarters, and we will start to incur material expenses in future years, beginning in 2019.

We may need to engage in equity or debt financings to secure additional funds. If we raise additional funds through future issuances of equity or convertible debt securities, our then existing stockholders could suffer

significant dilution, and any new equity securities we issue could have rights, preferences and privileges superior to those of holders of our Class A common stock. Any debt financing we secure could involve additional restrictive covenants relating to our capital raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities, including potential acquisitions. If we were to violate such restrictive covenants, we could incur penalties, increased expenses and an acceleration of the payment terms of our outstanding debt, which could in turn harm our business.

We may not be able to obtain additional financing on terms favorable to us, if at all. If we are unable to obtain adequate financing or financing on terms satisfactory to us when we require it, our ability to continue to support our business growth and to respond to business challenges could be significantly impaired, and our business may be harmed.

Our facilities are located near known earthquake fault zones, and the occurrence of an earthquake or other natural disaster could cause damage to our facilities and computer systems, which could require us to curtail or cease operations.

Our principal offices and a network operations center are located in the San Francisco Bay Area, an area known for earthquakes, and are thus vulnerable to damage. We are also vulnerable to damage from other types of disasters, including power loss, fire, floods, communications failures and similar events. If any disaster were to occur, our ability to operate our business at our facilities could be impaired.

Risks Related to Ownership of Our Class A Common Stock

The dual class structure of our common stock as contained in our amended and restated certificate of incorporation has the effect of concentrating voting control with those stockholders who held our stock prior to our IPO, including our executive officers, employees and directors and their affiliates, and limiting your ability to influence corporate matters.

Our Class B common stock has 10 votes per share, and our Class A common stock has one vote per share. Our President and Chief Executive Officer, Anthony Wood, holds and controls the vote of a significant number of shares of our outstanding common stock, and therefore will have significant influence over our management and affairs and over all matters requiring stockholder approval, including election of directors and significant corporate transactions, such as a merger or other sale of Roku or our assets, for the foreseeable future. If Mr. Wood's employment with us is terminated, he will continue to have the same influence over matters requiring stockholder approval.

In addition, the holders of Class B common stock collectively will continue to be able to control all matters submitted to our stockholders for approval even if their stock holdings represent less than 50% of the outstanding shares of our common stock. Because of the 10-to-1 voting ratio between our Class B and Class A common stock, the holders of our Class B common stock collectively will continue to control a majority of the combined voting power of our common stock even when the shares of Class B common stock represent as little as 10% of the combined voting power of all outstanding shares of our Class A and Class B common stock. This concentrated control will limit your ability to influence corporate matters for the foreseeable future, and, as a result, the market price of our Class A common stock could be adversely affected.

Future transfers by holders of Class B common stock will generally result in those shares converting to Class A common stock, which will have the effect, over time, of increasing the relative voting power of those holders of Class B common stock who retain their shares in the long term. If, for example, Mr. Wood retains a significant portion of his holdings of Class B common stock for an extended period of time, he could, in the future, control a majority of the combined voting power of our Class A and Class B common stock. As a board member, Mr. Wood owes a fiduciary duty to our stockholders and must act in good faith in a manner he reasonably believes to be in the best interests of our stockholders. As a stockholder, even a controlling stockholder, Mr. Wood is entitled to vote his shares in his own interests, which may not always be in the interests of our stockholders generally.

The trading price of our Class A common stock has been, and may continue to be, volatile, and the value of our Class A common stock may decline.

The market price of our Class A common stock has been and may continue to be subject to wide fluctuations in response to various factors, including many risk factors listed in this section, and others. Since shares of our Class A common stock were sold in our initial public offering in September 2017 at a price of $14.00 per share, the reported high and low intraday prices of our Class A common stock have ranged from $77.57 to $15.75 through February 15, 2019. The market price of our Class A common stock may fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- actual or anticipated fluctuations in our financial condition and operating results;
- changes in projected operational and financial results;
- loss by us of key content publishers;
- changes in laws or regulations applicable to our devices or platform;
- the commencement or conclusion of legal proceedings that involve us;
- actual or anticipated changes in our growth rate relative to our competitors;
- announcements of new products or services by us or our competitors;
- announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures or
- capital-raising activities or commitments;
- additions or departures of key personnel;
- issuance of new or updated research or reports by securities analysts;
- the use by investors or analysts of third-party data regarding our business that may not reflect our financial performance;
- fluctuations in the valuation of companies perceived by investors to be comparable to us;
- sales of our Class A common stock;
- share price and volume fluctuations attributable to inconsistent trading volume levels of our shares; and
- general economic and market conditions.

Furthermore, the stock markets frequently experience extreme price and volume fluctuations that affect the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market and industry fluctuations, as well as general economic, political and market conditions such as recessions, elections, interest rate changes or international currency fluctuations, may negatively impact the market price of our Class A common stock. As a result of such fluctuations, you may not realize any return on your investment in us and may lose some or all of your investment. In the past, companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. We may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could harm our business.

Future sales and issuances of our capital stock or rights to purchase capital stock could result in additional dilution of the percentage ownership of our stockholders and could cause our stock price to decline.

We may issue additional securities in the future and from time to time. Future sales and issuances of our capital stock or rights to purchase our capital stock could result in substantial dilution to our existing stockholders. We may sell Class A common stock, convertible securities and other equity securities in one or more transactions at prices and in a manner as we may determine from time to time. If we sell any such securities in subsequent transactions, investors may be materially diluted. New investors in such subsequent transactions could gain rights, preferences and privileges senior to those of holders of our Class A common stock.

Future sales of shares by existing stockholders could cause our stock price to decline.

If our existing stockholders sell, or indicate an intention to sell, substantial amounts of our Class A common stock in the public market, the trading price of our Class A common stock could decline. All of our outstanding shares are eligible for sale in the public market, other than shares and options exercisable held by directors, executive officers and other affiliates that are subject to volume limitations under Rule 144 of the Securities Act. In addition, we have reserved shares for future issuance under our equity incentive plan. Our employees, other service providers, and directors are subject to our quarterly trading window, which generally opens at the start of the second full trading day after the public dissemination of our annual or quarterly financial results and closes (i) with respect to the first, second and third quarter of each fiscal year, at the end of the fifteenth day of the last month of the such quarter and (ii) with respect to the fourth quarter of each fiscal year, at the end of the trading day on the Wednesday before Thanksgiving. These employees, service providers and directors may also sell shares during a closed window periods pursuant to trading plans that comply with the requirements of Rule 10b5-1(c)(1) under the Exchange Act. When these shares are issued and subsequently sold, it would be dilutive to existing stockholders and the trading price of our Class A common stock could decline.

If securities or industry analysts do not publish research or publish unfavorable research about our business, our stock price and trading volume could decline.

A limited number of equity research analysts provide research coverage of our Class A common stock, and we cannot assure you that such equity research analysts will adequately provide research coverage of our Class A common stock. A lack of adequate research coverage may adversely affect the liquidity and market price of our Class A common stock. To the extent we obtain equity research analyst coverage, we will not have any control of the analysts or the content and opinions included in their reports. The price of our Class A common stock could decline if one or more equity research analysts downgrade our stock or issue other unfavorable commentary or research. If one or more equity research analysts cease coverage of our company, or fail to publish reports on us regularly, demand for our stock could decrease, which in turn could cause our stock price or trading volume to decline.

We incur costs and demands upon management as a result of complying with the laws and regulations affecting public companies in the United States, which may harm our business.

As a public company listed in the United States, we incur significant additional legal, accounting and other expenses. In addition, changing laws, regulations and standards relating to corporate governance and public disclosure, including regulations implemented by the SEC and the Nasdaq Global Select Market, may increase legal and financial compliance costs and make some activities more time consuming. These laws, regulations and standards are subject to varying interpretations and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If, notwithstanding our efforts, we fail to comply with new laws, regulations and standards, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

Failure to comply with these rules might also make it more difficult for us to obtain certain types of insurance, including director and officer liability insurance, and we might be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. The impact of these events could also make it more difficult for us to attract and retain qualified persons to serve on our Board of Directors, on committees of our Board of Directors or as members of senior management.

We do not intend to pay dividends in the foreseeable future.

We have never declared or paid any cash dividends on our Class A or Class B common stock and do not intend to pay any cash dividends in the foreseeable future. We anticipate that we will retain all of our future earnings to grow our business and for general corporate purposes. Moreover, our outstanding loan and security agreements contain prohibitions on the payment of cash dividends on our capital stock. Any determination to pay dividends in the future will be at the discretion of our Board of Directors. Accordingly, investors must rely on sales of their Class A common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investments.

Provisions in our corporate charter documents and under Delaware law may prevent or frustrate attempts by our stockholders to change our management or hinder efforts to acquire a controlling interest in us, and the market price of our Class A common stock may be lower as a result.

There are provisions in our certificate of incorporation and bylaws that may make it difficult for a third-party to acquire, or attempt to acquire, control of Roku, even if a change in control was considered favorable by our stockholders.

Our charter documents also contain other provisions that could have an anti-takeover effect, such as:

- establishing a classified Board of Directors so that not all members of our Board of Directors are elected at one time;
- permitting the Board of Directors to establish the number of directors and fill any vacancies and newly created directorships;
- providing that directors may only be removed for cause;
- prohibiting cumulative voting for directors;
- requiring super-majority voting to amend some provisions in our certificate of incorporation and bylaws;
- authorizing the issuance of "blank check" preferred stock that our Board of Directors could use to implement a stockholder rights plan;
- eliminating the ability of stockholders to call special meetings of stockholders;
- prohibiting stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders; and
- reflecting our two classes of common stock as described above.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which prohibit a person who owns 15% or more of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner. Any provision in our certificate of incorporation or our bylaws or Delaware law that has the effect of delaying or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our Class A common stock and could also affect the price that some investors are willing to pay for our Class A common stock.

Our amended and restated certificate of incorporation provides that the Court of Chancery of the State of Delaware and the federal district courts of the United States of America will be the exclusive forums for substantially all disputes between us and our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.

Our amended and restated certificate of incorporation provides that the Court of Chancery of the State of Delaware is the exclusive forum for any derivative action or proceeding brought on our behalf; any action asserting a breach of fiduciary duty; any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, our amended and restated certificate of incorporation or our bylaws; or any action asserting a claim against us that is governed by the internal affairs doctrine. This exclusive-forum provision, if permitted by applicable law, may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for certain disputes with us or our directors, officers or other employees, which may discourage lawsuits against us and our directors, officers and other employees. If a court were to find this exclusive-forum provision in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business.

Our amended and restated certificate of incorporation further provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. Recently, the Delaware Chancery Court issued an opinion invalidating such provision, which is currently on appeal. In light of that recent decision, we will not attempt to enforce this provision of our certificate of incorporation to the extent it is not permitted by applicable law. As a result, we may incur additional costs associated with resolving disputes that would otherwise be restricted by that provision in other jurisdictions, which could harm our business.

Item 1B. Unresolved Staff Comments

None

Item 2. Properties

Our corporate headquarters are currently located in Los Gatos, California under a lease that expires in 2020. We use this space for sales, research and development and administrative purposes. In July 2018 and November 2018, we entered into lease agreements to acquire office space in San Jose, California to house our new headquarters. The lease includes multiple buildings and has a term of 140 months from the date we commence occupancy in the first building which is expected to be in 2019. In addition, we maintain offices in Austin, Texas; Cambridge, United Kingdom; Santa Monica, California; Chicago, Illinois; Shanghai, China; Tilst, Denmark and New York, New York. We believe that our facilities are suitable to meet our current needs.

We also lease commercial office space in Saratoga, California through 2020. We have sublet a portion of this space and we are working to sublet the remainder prior to lease expiration.

Item 3. Legal Proceedings

Information with respect to this item may be found in Note 10 to the Consolidated Financial Statements in Item 8, which is incorporated herein by reference.

Item 4. Mine Safety Disclosures

None

PART II

Item 5. Market for Our Common Stock, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Information

Our Class A common stock is listed on The Nasdaq Global Select Market under the ticker symbol "ROKU." Our Class B common stock is not listed or traded on any exchange.

Holders of Record

As of January 31, 2019, there were 48 stockholders of record of our Class A common stock. This figure does not include a substantially greater number of beneficial holders of our common stock whose shares are held of record by banks, brokers and other financial institutions. As of January 31, 2019, there were approximately 48 stockholders of record of our Class B common stock.

Dividend Policy

We have never declared or paid dividends on our common stock. We intend to retain any future earnings for use in our business and therefore we do not anticipate declaring or paying any cash dividends in the foreseeable future.

Sale of Unregistered Securities and Use of Proceeds

(a) Unregistered Sale of Equity Securities

None.

(b) Use of Proceeds

On September 27, 2017, our registration statement on Form S-1 (No. 333-220318) was declared effective by the SEC for our IPO of Class A common stock. On October 2, 2017, we closed our IPO, in which we issued and sold 10.4 million shares of our Class A common stock at a public offering price of $14.00 per share, for net proceeds of approximately $134.8 million, after deducting underwriting discounts and commissions of $10.1 million. We incurred offering cost of $3.1 million. No payments for such expenses were made directly or indirectly to (i) any of our officers or directors or their associates, (ii) any persons owning 10% or more of any class of our equity securities, or (iii) any of our affiliates. The offer and sale of all of the shares in the IPO were registered under the Securities Act pursuant to a registration statement on Form S-1 (No. 333-220318), which was declared effective by the SEC on September 27, 2018. Following the sale of the shares in connection with the closings of the IPO, the offering terminated.

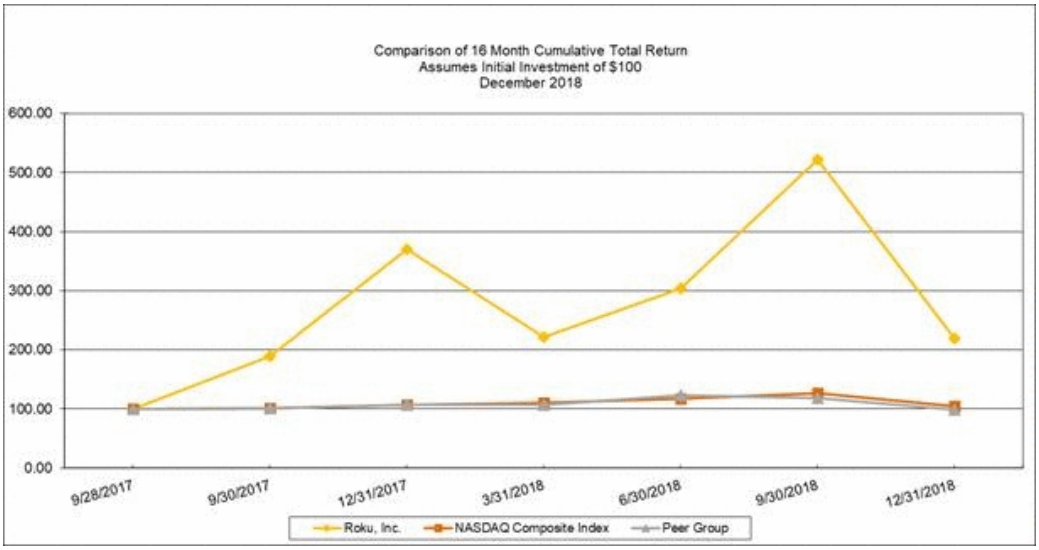
There has been no material change in the planned use of proceeds from our IPO from that described in our prospectus dated September 28, 2018, filed with the SEC pursuant to Rule 424(b) under the Securities Act.

Stock Performance Graphs and Cumulative Total Return

This performance graph shall not be deemed "filed" with the SEC for purposes of Section 18 of the Exchange Act, or incorporated by reference into any filing of Roku, Inc., under the Securities Act.

The following graph shows the cumulative total stockholder return of an investment of $100 in cash from September 29, 2017 (the date our Class A common stock commenced trading on the Nasdaq) through December 31, 2018, for (i) our Class A common stock, (ii) the Nasdaq Composite Index and (iii) the Peer Group of companies. Because no published index of comparable player and platform companies is currently available, we have used Peer Group of companies for the purposes of this graph in accordance with the requirements of the SEC. The Peer Group is made up of Facebook, Inc., Alphabet, Inc., Logitech International S.A., Netflix, Inc., Snap, Inc., Twitter, Inc., Yelp, Inc. and Zillow Group, Inc. Not all of the companies included in Peer Group participate in all the lines of business in which we are engaged, and some of the companies are engaged in business in which we do not participate. Additionally, the market capitalization of some of the companies included in the Peer Group are different from ours.

Pursuant to applicable SEC rules, all values assume reinvestment of the full amount of all dividends, however no dividends have been declared on our common stock to date. The stockholder return shown on the graph below is not necessarily indicative of future performance, and we do not make or endorse any predictions as to future stockholder returns.



Company name / Index	9/28/2017	9/30/2017	12/31/2017	3/31/2018	6/30/2018	9/30/2018	12/31/2018
Roku, Inc.	$100.00	$189.57	$369.86	$222.15	$304.42	$521.64	$218.84
Nasdaq Composite Index	$100.00	$100.66	$107.25	$110.03	$117.30	$126.00	$104.21
Peer Group	$100.00	$101.01	$107.39	$106.80	$123.54	$118.94	$98.33

Equity Compensation Plan Information

The following table summarizes information about our equity compensation plans as of December 31, 2018. All outstanding awards relate to our Class A common stock.

Plan Category	Number of Securities to be Issued upon Exercise of Outstanding Options, Warrants and Rights	Weighted Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Remaining Available for Future Issuances under Equity Compensation Plans (excluding securities in column (a))
	(a)	(b)	(c)
	(in thousands, except per share amount)		
Equity compensation plans approved by security holders (1)	20,057	$ 8.59	13,239
Equity compensation plans not approved by security holders	—	—	—
Total	**20,057**	**$ 8.59**	**13,239**

(1) The number of securities remaining available for future issuance in column (c) includes 13,239 shares of Class A common stock authorized and available for issuance under our 2017 Equity Incentive Plan, or 2017 Plan. The number of shares authorized for issuance under the 2017 Plan are subject to an annual increase. Restricted stock units have been excluded for purposes of computing weighted average exercise prices in column (b).

Item 6. Selected Consolidated Financial Data

The selected consolidated financial data below should be read in conjunction with the Item 7, "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements and related notes included in Item 8, "Financial Statements and Supplementary Data," of this Annual Report on Form 10-K.

The consolidated statements of operations data for the years ended December 31, 2018, 2017 and 2016, and the consolidated balance sheet data as of December 31, 2018 and 2017 are derived from our audited financial statements appearing in Item 8, "Financial Statements and Supplementary Data," of this Annual Report on Form 10-K. The consolidated statement of operations data for the year ended December 26, 2015 and the consolidated balance sheet data as of December 31, 2016 and December 26, 2015 are derived from audited financial statements not included in this Annual Report on Form 10-K. Our historical results are not necessarily indicative of the results that may be expected in any future period.

In 2017, the Company changed the fiscal year-end to match the calendar year-end. Prior to 2017, the Company's fiscal year was the 52- or 53-week period that ended on the last Saturday of December. Fiscal year 2016 ended on December 31, 2016 and spanned 53 weeks.

	Years Ended December 31,			Year Ended December 26,
	2018	2017	2016	2015
	(in thousands, except per share data)			
Consolidated Statements of Operations Data:				
Net revenue:				
Platform	$ 416,863	$ 225,356	$ 104,720	$ 49,880
Player	325,643	287,407	293,929	269,977
Total net revenue	742,506	512,763	398,649	319,857
Cost of revenue:				
Platform (1)	120,543	54,826	27,783	8,663
Player (1)	289,815	258,104	249,821	221,416
Total cost of revenue	410,358	312,930	277,604	230,079
Gross profit:				
Platform	296,320	170,530	76,937	41,217
Player	35,828	29,303	44,108	48,561
Total gross profit	332,148	199,833	121,045	89,778
Operating expenses:				
Research and development (1)	170,692	107,945	76,177	50,469
Sales and marketing (1)	102,780	64,069	52,888	45,153
General and administrative (1)	71,972	47,435	35,341	31,708
Total operating expenses	345,444	219,449	164,406	127,330
Loss from operations	(13,296)	(19,616)	(43,361)	(37,552)
Other income (expense), net:				
Interest expense	(346)	(1,612)	146	(696)
Loss on extinguishment of debt	—	(2,338)	—	—
Change in fair value of preferred stock warrant liability	—	(40,333)	888	(1,768)
Other income (expense), net	4,309	705	(220)	(448)
Loss before income taxes	(9,333)	(63,194)	(42,547)	(40,464)
Income tax (benefit) expense	(476)	315	211	147
Net loss attributable to common stockholders	$ (8,857)	$ (63,509)	$ (42,758)	$ (40,611)
Net loss per share attributable to common stockholders— basic and diluted (2)	$ (0.08)	$ (2.24)	$ (9.01)	$ (10.08)
Weighted-average shares used in computing net loss per share attributable to common stockholders—basic and diluted	104,618	28,308	4,746	4,030

(1) Stock-based compensation was allocated as follows:

	Years Ended December 31,			Year Ended December 26,
	2018	2017	2016	2015
	(in thousands)			
Cost of platform revenue	$ 97	$ 81	$ 224	$ 54
Cost of player revenue	469	145	136	90
Research and development	18,538	4,714	2,766	1,685
Sales and marketing	10,459	2,817	2,292	1,678
General and administrative	8,111	3,196	2,788	1,777
Total stock-based compensation	$ 37,674	$ 10,953	$ 8,206	$ 5,284

(2) See Note 14 to the Consolidated Financial Statements in Item 8 for an explanation of the calculations of basic and diluted net loss per common share.

	As of December 31,			As of December 26,
	2018	2017	2016	2015
	(in thousands)			
Consolidated Balance Sheet Data:				
Cash and cash equivalents	$ 155,564	$ 177,250	$ 34,562	$ 75,748
Total assets	464,997	371,897	179,078	176,511
Preferred stock warrant liability	—	—	9,990	10,878
Long-term debt, including current portion	—	—	15,000	15,000
Total liabilities	220,346	219,618	159,722	123,067
Convertible preferred stock	—	—	213,180	213,180
Total stockholders' equity (deficit)	244,651	152,279	(193,824)	(159,736)

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the consolidated financial statements and related notes included elsewhere in this document. This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those discussed below. Factors that could cause or contribute to such differences include, but are not limited to, those identified below, and those discussed above in the section entitled "Risk Factors."

Prior to 2017, our fiscal year was the 52- or 53-week period that ended on the last Saturday of December. Our fiscal year 2016 ended on December 31, 2016. Fiscal year 2016 spanned 53 weeks. In 2017, we changed our fiscal year-end to match the calendar year-end.

Overview

Roku pioneered streaming to the TV and we are capitalizing on this economic opportunity as a leading TV streaming platform for users, content publishers and advertisers. Roku connects users to the streaming content they love, enables content publishers to build and monetize large audiences, and provides advertisers with unique capabilities to engage consumers. As of December 31, 2018, we had 27.1 million active accounts, an increase of 40% from the prior year. During the year ended December 31, 2018, our users streamed 24.0 billion hours, an increase of 62% over hours streamed during the year ended December 31, 2017.

Our business model is to grow gross profit by increasing the number of active accounts and increasing our platform monetization by growing hours streamed and our monetization capabilities. We measure our platform monetization progress through average revenue per user, or ARPU, which we believe represents the inherent value of our business. We grow new accounts through three primary ways: we sell streaming players, we partner with TV brands through our Roku TV licensing program, and we have licensing relationships with service operators. The fastest growing source of new accounts comes from our licensing partner relationships and service operators which accounted for 50% of new accounts in 2018, up from 48% in 2017. We believe we have a significant opportunity to continue to grow platform revenue and as we further monetize streaming hours we will increase ARPU. ARPU was $17.95 for the year ended December 31, 2018 as compared to $13.78, an increase of 30% for the year ended December 31, 2017.

We generate platform revenue from advertising, content distribution, audience development, billing services and licensing activities on our platform and player revenue from the sale of streaming players. We generated revenue of $742.5 million during the year ended December 31, 2018, up by 45% as compared to the year ended December 31, 2017. During the year ended December 31, 2018, we generated a gross profit of $332.1 million, which is up 66% from the year ended December 31, 2017. During the year ended December 31, 2018, our cost of player revenue was lower by $8.9 million due to the release of accruals of IP licensing obligations that we now believe will not materialize. Excluding this benefit, the gross profit was up 62% for the year ended December 31, 2018 as compared to the year ended December 31, 2017.

We continue to manage the average selling prices, or ASP, of our streaming players to expand our active accounts. As a result, player revenue and gross profit may not increase as rapidly as they have historically or at all. We expect that tradeoffs from player gross profit to grow active accounts will result in increased platform monetization and gross profit.

Key Performance Metrics

We use the following key performance metrics to evaluate our business, measure our performance, develop financial forecasts and make strategic decisions. Our key performance metrics are gross profit, active accounts, hours streamed, and ARPU.

Gross Profit

We measure the performance of our business using gross profit, and we are focused on increasing gross profit. The majority of our gross profit is generated from platform revenue. We believe gross profit is the primary metric to measure the performance of our business, because we have two revenue segments with different margin profiles, and we aim to maximize our high margin platform revenue from our active accounts as they stream content on our platform.

Our gross profit was $332.1 million, $199.8 million and $121.0 million for the years ended December 31, 2018, 2017 and 2016, respectively.

Active Accounts

We define active accounts as the number of distinct user accounts that have streamed content on our platform within the last 30 days of the period. Users that streamed content from The Roku Channel only on non-Roku platforms are not included in this metric. The number of active accounts also does not correspond to the number of unique individuals who actively utilize our platform, or the number of devices associated with an account. For example, a single account may be used by more than one individual, such as a family, and one account may use multiple devices. We believe that the number of active accounts is a relevant measure to gauge the size of our user base and the opportunity to increase our platform revenue and gross profit.

We had 27.1 million, 19.3 million and 13.4 million active accounts at the end of December 31, 2018, 2017 and 2016, respectively.

Hours Streamed

We define hours streamed as the aggregate amount of time our streaming devices stream content on our platform in a given period. Streaming hours on non-Roku platforms are not included in this metric. We report hours streamed on a calendar basis. We believe the number of streaming hours on our platform is an effective measure of user engagement and that the growth in the number of hours of content streamed across our platform reflects our success in addressing the growing user demand for TV streaming. Additionally, we believe increasing user engagement on our streaming platform increases our gross profit because we earn platform revenue from advertising as well as from revenue shares from subscription and transactional video on-demand. However, our revenues from content providers are not tied to the hours streamed on their streaming channels, and the number of hours streamed does not correlate to revenue earned from such content providers or ARPU on a period-by-period basis. Moreover, streaming hours on our platform are measured whenever a Roku player or a Roku TV is streaming content, whether a viewer is actively watching or not. For example, if a Roku player is connected to a TV, and the viewer turns off the TV, steps away or falls asleep and does not stop or pause the player then the particular streaming channel may auto-play subsequent content for a period of time determined by the streaming channel. We believe that this also occurs across a wide variety of non-Roku streaming devices and other set-top boxes.

We streamed 24.0 billion, 14.8 billion and 9.4 billion hours during the years ended December 31, 2018, 2017 and 2016, respectively.

Average Revenue per User

We measure platform monetization progress with average revenue per user, or ARPU. We define ARPU, as our platform revenue during the preceding four quarters divided by the average of the number of active accounts at the end of the current period and the end of the prior four quarters. We measure progress in our platform business using ARPU because it helps us understand the rate at which we are monetizing our active account base.

Our average revenue per user was $17.95, $13.78 and $9.28 at the end of December 31, 2018, 2017 and 2016, respectively.

Factors Affecting Our Performance

Rate of TV streaming and advertising shift to OTT

Consumers have significantly shifted their TV viewing behavior, and we believe all TV content will be available through streaming. Therefore, we also believe this presents a large market opportunity for streaming TV advertising. This is a critical component of our business model because our platform and player revenue, as well as our overall expense structure, is dependent on this shift. In addition, the number of hours streamed on our platform is a critical element of our business because hours determine our advertising inventory and sell through.

User acquisition strategy

We acquire users through three primary ways: we sell streaming players, we partner with TV brands through our Roku TV licensing program, and we have licensing relationships with service operators. We monetize our user base through platform revenue. Player revenue and player gross profit may decrease over time as we strategically aim to acquire new users through the sale of lower priced streaming players.

Ability to monetize users and streaming hours

Our business model is to grow gross profit by increasing the number of active accounts and related streaming hours, and growing revenue through the monetization of our streaming platform. We believe we have a significant opportunity to grow platform revenue as we further monetize users' engagement Our platform enables content publishers to distribute streaming content through three primary business models, transaction video on demand, or TVOD, that includes channels that offer a la carte movie purchases or rentals, subscription video on demand, or SVOD, that includes subscriptions to individual video on demand channels and so-called virtual multichannel video programming distribution services, and advertising supported video on demand, AVOD, that includes channels that do not charge a subscription fee to users. We generate revenue from TVOD and SVOD channels from various forms of revenue sharing arrangements. Our revenue sharing arrangements generally apply to new subscriptions for accounts that sign up for new services and at the time of a movie rental or purchase for TVOD.

Revenue from the distribution of AVOD channels is generated through the sale of advertising within the channel. AVOD is our fastest growing segment, and we are increasing the monetization of these hours by expanding our advertising capabilities both on and off the Roku platform. We intend to continue to leverage our data and analytics to deliver relevant advertising and improve the ability of our advertisers to optimize their campaigns and measure their results. We also plan to continue to expand our direct sales teams to increase the number of advertisers who use our services.

In late 2017, we launched The Roku Channel, which offers ad-supported free access for users to a collection of films, television series and other content, and at the same time we began a fundamental transition to increase video advertising inventory under our control and to create another way of connecting content publishers with users. The Roku Channel has grown from providing customers with free access to 1,000 movies and TV episodes to roughly 10,000 today and is rapidly becoming one of our leading sources of advertising inventory. In January 2019, we launched Premium Subscriptions within The Roku Channel, through which we resell ad-free premium content subscription services from providers such as Showtime, Starz and Epix directly to our users.

Continued investment in growth

We believe that our future performance will depend on the success of the investments we have made, and will continue to make, to improve the value for users, content publishers and advertisers on our platform. We must regularly update and enrich the Roku platform to meet evolving consumer behavior and deliver a superior user experience. Further, it is important that we remain a frictionless platform for content delivery and invest to provide content publishers with best-in-class publishing tools and actionable audience insights. We must continue to innovate and invest in our advertising capabilities and technology so that we attract and encourage incremental advertising spend on our platform.

Seasonality

We generate significantly higher levels of revenue and gross profit, for both player and platform revenue, in the fourth quarter of the year. Fourth quarter revenue comprised 37% of our total net revenue for the years ended December 31, 2018 and 2017, and fourth quarter gross profit comprised 34% and 37% of our total gross profit for the years ended December 31, 2018 and 2017, respectively.

Components of Results of Operations

Revenue

Platform Revenue

We generate platform revenue from advertising sales, subscription and transaction revenue share, sales of branded channel buttons on remote controls and licensing arrangements with TV brands and service operators. We generate most of our platform revenue in the United States. Our first-party video ad inventory includes native display ads on our home screen and screen saver, as well as ad inventory we obtain through our content publisher agreements. To satisfy existing demand, we can sell video advertising that we purchase from content publishers to supplement our first-party video ad inventory, and to a lesser extent, third-party video advertising on a revenue share basis from content publishers in our Roku Direct Publisher program. Revenue generated from non-Roku platforms is included in platform revenue.

Player Revenue

We generate player revenue from the sale of streaming players through consumer retail distribution channels, including major brick and mortar retailers, such as Best Buy and Walmart, and online retailers, primarily Amazon. We generate most of our player revenue in the United States. In our international markets, we sell our players through wholesale distributors which, in turn, sell to retailers. We currently distribute our players in Canada, the United Kingdom, France, the Republic of Ireland, Mexico and several other Latin American countries.

Cost of Revenue

Cost of Platform Revenue

Cost of platform revenue consists of advertising inventory acquisition costs, payment processing fees, third-party cloud service fees, content licensing fees and allocated personnel-related costs, including salaries, benefits and stock-based compensation for Roku personnel who support platform services, such as advertising and billing operations, customer service, and teams supporting our TV brands and service operator licensees. We anticipate that the cost of platform revenue will increase in absolute dollars.

Cost of Player Revenue

Cost of player revenue is comprised of player manufacturing costs payable to our third-party contract manufacturers, technology licenses or royalty fees, inbound and outbound freight, duty and logistics costs, third-party packaging and assembly costs, provision for excess or obsolete inventory, allocated overhead costs related to facilities and customer support, and salary, benefit and stock-based compensation costs for operations personnel.

Operating and Other Expenses

Research and Development

Research and development expenses consist primarily of personnel-related costs, including employee salaries, benefits and stock-based compensation for our engineers and other employees engaged in the development of our products including new technologies, features and functionality. In addition, research and development expenses include allocated facilities and overhead costs. We believe continued investment is important to attaining our strategic objectives and expect research and development expenses to increase in absolute dollars for the foreseeable future.

Sales and Marketing

Sales and marketing expenses consist primarily of personnel-related costs, including salaries, benefits, commissions and stock-based compensation expense for our employees engaged in sales and sales support, data science and analytics, business development, product management, marketing, communications, and partner and customer support functions. Sales and marketing expenses also include costs for marketing and public relations, channel merchandising, including point of purchase and in-store displays, trade shows and other events, professional services, and allocated facilities and other overhead. We expect our sales and marketing expenses to increase as we continue to grow our business.

General and Administrative

General and administrative expenses consist primarily of personnel-related costs, including salaries, benefits and stock-based compensation for our executive, finance, legal, information technology, human resources and other administrative personnel. We expect our general and administrative expenses to increase due to the anticipated growth of our business and related infrastructure, compliance with global laws and regulations, as well as accounting, legal, insurance, investor relations and other costs associated with being a public company.

Other Income (Expense), Net

Our other income (expense), net, for the year ended December 31, 2018, consists of interest income on short-term investments and foreign currency re-measurement and transaction gains and losses. Other income (expense), net, for the years ended December 31, 2017 and 2016 consisted of changes in the fair value of our convertible preferred stock warrant liability, interest expense on our debt, and foreign currency re-measurement and transaction gains and losses. Prior to our IPO, the underlying shares of our convertible preferred stock warrants were contingently redeemable, and we accounted for these warrants as a liability at fair value and re-measured the fair value at each balance sheet date. Pursuant to our IPO, the convertible preferred stock warrant liability was reclassified to stockholders' equity and re-measurement was no longer required.

Income Tax Expense

Our income tax expense consists primarily of income taxes in certain foreign jurisdictions where we conduct business and state minimum income taxes in the United States. We have a valuation allowance for deferred tax assets, including net operating loss carryforwards and tax credits related primarily to research and development. We expect to maintain this valuation allowance for the foreseeable future.

Results of Operations

The following table sets forth selected consolidated statements of operations data as a percentage of total revenue for each of the periods indicated.

	Years Ended December 31,		
	2018	2017	2016
Net Revenue:			
Platform	56%	44%	26%
Player	44%	56%	74%
Total net revenue	100%	100%	100%
Cost of Revenue:			
Platform	16%	11%	7%
Player	39%	50%	63%
Total cost of revenue	55%	61%	70%
Gross Profit:			
Platform	40%	33%	19%
Player	5%	6%	11%
Total gross profit	45%	39%	30%
Operating Expenses:			
Research and development	23%	21%	19%
Sales and marketing	14%	13%	13%
General and administrative	10%	9%	9%
Total operating expenses	47%	43%	41%
Loss from Operations	(2)%	(4)%	(11)%
Other Income (Expense), Net:			
Interest expense	—%	—%	—%
Loss on extinguishment of debt	—%	(1)%	—%
Change in fair value of preferred stock warrant liability	—%	(8)%	—%
Other income (expense), net	1%	—%	—%
Total other income (expense), net	1%	(9)%	—%
Loss before income taxes	(1)%	(13)%	(11)%
Income tax (benefit) expense	—%	—%	—%
Net loss attributable to common stockholders	(1)%	(13)%	(11)%

Comparison of Years Ended December 31, 2018 and 2017

Net Revenue

(in thousands, except percentages)	Years Ended December 31, 2018	2017	Change $	Change %
Platform	$ 416,863	$ 225,356	$ 191,507	85%
Player	325,643	287,407	38,236	13%
Total Net Revenue	$ 742,506	$ 512,763	$ 229,743	45%

Platform

Platform revenue increased by $191.5 million or 85% for the year ended December 31, 2018 as compared to the year ended December 31, 2017 and is inclusive of $25.2 million recognized as a result of the adoption of the new revenue standard. The increase includes $170.6 million from increases in advertising, subscription and transaction revenue share and the number of paid subscriptions. The revenues from licensing arrangements with service operators and TV brands increased by $21.2 million mainly driven by the delivery of intellectual property to a licensing partner during the first quarter of 2018.

Player

Player revenue increased by $38.2 million or 13% for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The increase in player revenue was mainly a result of an increase in the volume of players sold mitigated by a reduction in the average selling price of the players. An increase of 19% in the volume of players sold, consisting mainly of our lower priced players, resulted in a 6% decrease in the average selling price of the players. Audio products launched towards the end of the year are included in player revenues and contributed insignificant revenues.

Cost of Revenue

(in thousands, except percentages)	Years Ended December 31, 2018	2017	Change $	Change %
Cost of revenue:				
Platform	$ 120,543	$ 54,826	$ 65,717	120%
Player	289,815	258,104	31,711	12%
Total Cost of Revenue	$ 410,358	$ 312,930	$ 97,428	31%
Gross profit:				
Platform	$ 296,320	$ 170,530	$ 125,790	74%
Player	35,828	29,303	6,525	22%
Total Gross Profit	$ 332,148	$ 199,833	$ 132,315	66%

Platform

The cost of platform revenue increased by $65.7 million or 120% for the year ended December 31, 2018 as compared to the year ended December 31, 2017. Advertising inventory acquisition costs, ad serving costs, content acquisition fees and credit card processing fees increased by $55.2 million and allocated overhead increased by $9.4 million during the year ended December 31, 2018. The increase is driven by the growth of our platform business which attracts additional advertisements and monetization opportunities.

Gross profit for platform revenue increased by $125.8 million or 74% for the year ended December 31, 2018 as compared to the year ended December 31, 2017, primarily driven by growth in our platform revenues. The increase includes $10.1 million recognized as a result of the adoption of the new revenue standard.

Player

The cost of player revenue increased by $31.7 million or 12% for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The increase in cost of player revenue was primarily the result of approximately $44.0 million in increased manufacturing and related costs to support the increased volume of players sold, offset by the release of accruals related to IP licensing obligations that did not materialize and management now believes will not materialize in the amount of approximately $8.9 million and a reduction in freight costs of $4.6 million. The reduction in freight cost is due to higher costs incurred in the year ended December 31, 2017 to expedite inbound supply to minimize the effect of supply disruption, which did not reoccur in the year ended December 31, 2018.

Gross profit for player revenue increased by $6.5 million or 22% for the year ended December 31, 2018 as compared to the year ended December 31, 2017 primarily due to the release of accruals related to unrealized IP licensing obligations during the second quarter of 2018 and reduced freight costs.

Operating Expenses

	Years Ended December 31,			
	2018	2017	Change $	Change %
(in thousands, except percentages)				
Research and development	$ 170,692	$ 107,945	$ 62,747	58%
Sales and marketing	102,780	64,069	38,711	60%
General and administrative	71,972	47,435	24,537	52%
Total Operating Expenses	$ 345,444	$ 219,449	$ 125,995	57%

Research and development

Research and development expenses increased by $62.7 million or 58% for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The increase was primarily due to higher personnel-related costs of $51.1 million as a result of increased engineering headcount of 36%, higher facilities costs of $4.1 million and higher platform and product development costs of $7.6 million that includes expenses such as consulting and outside services, travel and equipment, offset by allocation of overheads.

Sales and marketing

Sales and marketing expenses increased by $38.7 million or 60% for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The increase was primarily due to higher personnel-related costs of $29.8 million related to increased headcount of 43%, higher facilities costs of $3.3 million, increases in consulting expenses of $2.2 million and higher travel and entertainment expenses of $1.3 million.

General and administrative

General and administrative expenses increased by $24.5 million or 52% for the year ended December 31, 2018 as compared to the year ended December 31, 2017. The increase was primarily due to higher personnel-related costs of $14.6 million as a result of increased headcount in general and administrative functions of 26%, an increase in consulting and professional service fees of $9.7 million related to increased accounting and legal services and an increase of $2.1 million in facilities costs.

Other Income (Expenses), Net

(in thousands, except percentages)	Years Ended December 31, 2018	2017	Change $	Change %
Interest expense	$ (346)	$ (1,612)	$ 1,266	(79)%
Loss on extinguishment of debt	—	(2,338)	2,338	(100)%
Change in fair value of convertible preferred stock warrants	—	(40,333)	40,333	(100)%
Other income (expense), net	4,309	705	3,604	511%
Total Other Income (Expense), Net	$ 3,963	$ (43,578)	$ 47,541	(109)%

Other income (expenses), net

Other income (expense), net, changed by $47.5 million during the year ended December 31, 2018 as compared to the year ended December 31, 2017 primarily due to a charge of $40.3 million that was recorded during the year ended December 31, 2017 related to the change in the fair value of warrants to purchase convertible preferred stock. No such charge was required during the year ended December 31, 2018 as warrants to purchase convertible preferred stock were converted into warrants to purchase common stock upon our IPO. Other income (expense), net, increased by $3.6 million during the year ended December 31, 2018 as compared to the year ended December 31, 2017 due to an increase in interest income from a higher cash balance, short-term investments earned in the second half of the year and a one-time cancellation and restocking fee of $1.4 million from a customer. Interest expense for the year ended December 31, 2017 was higher by $1.3 million due to outstanding debt during that period. No such debt was outstanding in 2018.

Income Tax (Benefit) Expense

(in thousands, except percentages)	Years Ended December 31, 2018	2017	Change $	Change %
Income Tax (Benefit) Expense	$ (476)	$ 315	$ (791)	(251)%

Income tax (benefit) expense

Income tax (benefit) expense is comprised of foreign income tax and state minimum income taxes in the United States.

Comparison of years ended December 31, 2017 and 2016

Net Revenue

(in thousands, except percentages)	Years Ended December 31, 2017	2016	Change $	Change %
Platform	$ 225,356	$ 104,720	$ 120,636	115%
Player	287,407	293,929	(6,522)	(2)%
Total Net Revenue	$ 512,763	$ 398,649	$ 114,114	29%

Platform

Platform revenue increased by $120.6 million or 115% for the year ended December 31, 2017 as compared to the year ended December 31, 2016. The majority of the increase was driven by our advertising and content and distribution services including subscription and transaction revenue totaling $119.3 million. This was achieved through expansion of our advertising inventory and an increase in number of paid subscriptions. In addition, there was a $1.3 million increase in revenues from licensing arrangements.

Player

Player revenue decreased by $6.5 million or 2% for the year ended December 31, 2017 as compared to the year ended December 31, 2016. The decrease was a result of a 22% decrease in the average selling prices while the volume of players sold increased by 25%. The increase in the volume of players and the reduction of average selling prices was mainly driven by the sale of our lower priced Roku Express which was introduced in the fall of 2016 and saw a full year of market share in 2017. An increase in various sales incentives also contributed to the lower average selling prices in the year ended December 31, 2017.

Cost of Revenue

	Years Ended December 31,			
	2017	2016	Change $	Change %
(in thousands, except percentages)				
Cost of revenue:				
Platform	$ 54,826	$ 27,783	$ 27,043	97%
Player	258,104	249,821	8,283	3%
Total Cost of Revenue	$ 312,930	$ 277,604	$ 35,326	13%
Gross profit:				
Platform	$ 170,530	$ 76,937	$ 93,593	122%
Player	29,303	44,108	(14,805)	(34)%
Total Gross Profit	$ 199,833	$ 121,045	$ 78,788	65%

Platform

The cost of platform revenue increased by $27.0 million or 97% for the year ended December 31, 2017 as compared to the year ended December 31, 2016. The increase was due to higher inventory acquisition costs, advertisement serving costs and credit card processing fees totaling $18.5 million, an increase in allocated overhead of $3.5 million and an increase in licensing costs of $0.4 million due to growth in installed base.

Gross profit for platform revenue increased by $93.6 million or 122% for the year ended December 31, 2017 as compared to the year ended December 31, 2016 due to significant growth in advertising demand and lower associated costs.

Player

The cost of player revenue increased by $8.3 million or 3% for the year ended December 31, 2017 as compared to the year ended December 31, 2016. The increase was mainly due to an increase of 25% in the volume of players sold partially offset by a reduction in direct manufacturing costs and an increase of $7.9 million in mostly air freight costs incurred to expedite inbound supply to minimize the effect of component supply disruptions.

Gross profit for player revenue decreased by $14.8 million or 34% for the year ended December 31, 2017 as compared to the year ended December 31, 2016. The decrease is due to lower average selling prices resulting from a combination of the increase in the sales mix of lower priced Roku Express and increases in sales incentives during the year. Gross profit also decreased due to the increase of inbound air freight incurred to expedite inventory supply.

Operating Expenses

(in thousands, except percentages)	Years Ended December 31, 2017	2016	Change $	Change %
Research and development	$ 107,945	$ 76,177	$ 31,768	42%
Sales and marketing	64,069	52,888	11,181	21%
General and administrative	47,435	35,341	12,094	34%
Total Operating Expenses	$ 219,449	$ 164,406	$ 55,043	33%

Research and development

Research and development expenses increased by $31.8 million or 42% for the year ended December 31, 2017 as compared to the year ended December 31, 2016. We incurred higher personnel costs of $28.0 million as a result of a 42% increase in headcount, higher cost of consulting and outside services of $3.2 million offset by a decrease in facilities expenses of $0.5 million.

Sales and marketing

Sales and marketing expenses increased by $11.2 million or 21% for the year ended December 31, 2017 as compared to the year ended December 31, 2016. The increase is due to higher personnel cost of $11.6 million as a result of a 54% increase in headcount, higher travel and entertainment expenses of $0.9 million offset by decrease in allocated overhead by $2.1 million.

General and administrative

General and administrative expenses increased by $12.1 million or 34% for the year ended December 31, 2017 as compared to the year ended December 31, 2016. The increase is due to higher personnel cost of $5.3 million as a result of a 33% increase in headcount, higher cost of consulting and outside services of $4.0 million and higher travel and entertainment expenses of $2.9 million.

Other Income (Expenses), Net

(in thousands, except percentages)	Years Ended December 31, 2017	2016	Change $
Interest expense	$ (1,612)	$ 146	$ (1,758)
Loss on extinguishment of debt	(2,338)	—	(2,338)
Change in fair value of convertible preferred stock warrants	(40,333)	888	(41,221)
Other income, net	705	(220)	925
Total Other Income (Expense), Net	$ (43,578)	$ 814	$ (44,392)

Other income (expenses), net changed for the year ended December 31, 2017 as compared to the year ended December 31, 2016 mainly due to the increase in the fair value of preferred stock warrants of $41.2 million. During the year ended December 31, 2017, interest expense increased by $1.8 million due to a higher amount of debt that was outstanding during the year and $2.3 million of loss on extinguishment and early payment of debt.

Income Tax Expense

(in thousands, except percentages)	Years Ended December 31, 2017	2016	Change $	Change %
Income Tax Expense	$ 315	$ 211	$ 104	49%

Income tax expense is comprised of foreign income tax and state minimum income taxes in the United States.

Liquidity and Capital Resources

As of December 31, 2018, we had cash, cash equivalents and short-term investments of $197.7 million. In October 2017, as a result of our IPO, we received cash proceeds of $134.8 million net of underwriting discounts and commissions but before deducting other offering expenses. Our primary source of liquidity is cash generated through operating and financing activities. Our primary uses of cash include operating costs such as personnel-related expenses and capital spending. Our future capital requirements may vary materially from those currently planned and will depend on many factors including our growth rate and the continuing market acceptance of our advertising platform, operating system and technology and players along with the timing and effort related to the introduction of new platform features, players, hiring of experienced personnel, the expansion of sales and marketing activities, as well as overall economic conditions. We recently entered into lease agreements for a corporate headquarters, and we will start to incur material expenses in future years, beginning in 2019. We may also contemplate and engage in additional merger and acquisition activity that could materially impact our liquidity and capital resource position. However, we believe that our existing cash balance and short-term investments together with amounts available under our credit facility will be sufficient to fund our working capital and meet our anticipated cash needs for the next twelve months.

As of December 31, 2018, approximately 2% of our cash was held outside the United States. These amounts were primarily held in Europe and are utilized to fund our foreign subsidiaries. The amount of unremitted earnings related to our foreign subsidiaries is not material.

Senior Secured Term Loan A and Revolving Credit Facilities

On February 19, 2019 (the "Closing Date"), we entered into a credit agreement, by and among us, as borrower, the lenders, or Lenders, and issuing banks from time to time party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent (the "Administrative Agent") and collateral agent (the "Credit Agreement"). The Credit Agreement provides for (i) a four-year revolving credit facility in the aggregate principal amount of up to $75,000,000 (the "Revolving Credit Facility"), (ii) a four-year delayed draw term loan A facility in the aggregate principal amount of up to $75,000,000 (the "Term Loan A Facility") and (iii) an uncommitted incremental facility, subject to the satisfaction of certain financial and other conditions, in the amount of up to (v) $50,000,000, plus (w) 1.0x of our consolidated EBITDA for the most recently completed four fiscal quarter period, plus (x) an additional amount at our discretion, so long as, on a pro forma basis at the time of incurrence, our secured leverage ratio does not exceed 1.50 to 1.00, plus (y) voluntary prepayments of the Revolving Credit Facility and Term Loan A Facility to the extent accompanied by concurrent reductions to the applicable Credit Facility, plus (z) for up to 90 days after the Closing Date, $75,000,000 (together with the Revolving Credit Facility and the Term Loan A Facility, collectively, the "Credit Facility"). Borrowings under the Term Loan A Facility may be made by us up to 9 months immediately following the Closing Date (the "Term Loan A Availability Period"). We did not make any borrowings under the Credit Agreement on the Closing Date. Each Lender's obligation to fund future loans or issue future letters of credit under the Credit Facility is subject to the satisfaction of certain conditions set forth in the Credit Agreement.

On or around the Closing Date, except for certain letters of credit, which were cash collateralized by approximately $26.3 million, we also repaid all outstanding obligations under our Amended and Restated Loan and Security Agreement, entered into with Silicon Valley Bank on November 18, 2014 (as amended prior to the date hereof, the "SVB Loan Agreement"), and the SVB Loan Agreement was terminated.

Loans under the Credit Facility bear interest at a rate equal to, at our election (i) an alternate base rate, based upon the highest of (x) the prime rate published by the Wall Street Journal, (y) the federal funds effective date plus ½ of 1% and (z) the one-month LIBO rate plus 1.00%, in each case plus an applicable margin of up to 1.00% per annum, with step-downs based on our secured leverage ratio or (ii) an adjusted one-, two-, three-, or six month LIBO rate, at our election, plus an applicable margin of up to 2.00% per annum, with step-downs based on our secured leverage ratio.

Loans under the Term Loan A Facility will amortize in equal quarterly installments beginning on the last day of the fiscal quarter ending after the date of the initial borrowing under the Term Loan A Facility, in an aggregate annual amount equal to (i) on or prior to December 31, 202 1, 1.25% of the drawn principal amount of the Term Loan Facility and (ii) thereafter, 2.50% of the drawn principal amount of the Term Loan Facility, with any remaining balance payable on the maturity date of the Term Loan A Facility.

Among other restrictive covenants, the Credit Agreement also contains a covenant requiring us to maintain a minimum adjusted quick ratio of 1.00 to 1.00, tested as of the last day of any fiscal quarter on the basis of the prior period of our four consecutive fiscal quarters.

In June 2017, we entered into a subordinated loan agreement, or 2017 Agreement, with Silicon Valley Bank. On October 31, 2017, we repaid the entire amount outstanding, and subsequently terminated the 2017 Agreement. In connection with the 2017 Agreement we issued warrants to purchase 0.4 million shares of Series H convertible preferred stock, with an exercise price of $9.17340. The warrants are exercisable up to ten years from the date of issuance. Upon the repayment of the amounts borrowed and the subsequent termination of the 2017 Agreement, we cancelled warrants to purchase 0.1 million shares of Class B common stock that were contingent on future borrowings. The remaining warrants were exercised during the year ended December 31, 2017 and during the three months ended March 31, 2018. There were no warrants outstanding as of December 31, 2018.

Cash Flows

The following table summarizes our cash flows for the periods presented (in thousands):

	Years Ended December 31,		
	2018	**2017**	**2016**
Consolidated Statements of Cash Flows Data:			
Cash flows provided by (used in) operating activities	$ 13,922	$ 37,292	$ (32,463)
Cash flows used in investing activities	(60,133)	(12,268)	(8,567)
Cash flows provided by (used in) financing activities	24,525	117,664	(156)

Cash Flows from Operating Activities

Our operating activities generated $13.9 million in cash for the year ended December 31, 2018. Our net loss of $8.9 million for the year ended December 31, 2018 was adjusted by non-cash charges of $48.4 million comprising mainly of $8.4 million of depreciation and amortization, $37.7 million of stock-based compensation, $1.1 million relating to loss incurred on exiting facilities and $0.9 million of provision related to doubtful accounts. The changes in our operating assets and liabilities used cash of $25.6 million comprising of outflows of $50.7 million from increase in accounts receivable due to increased seasonal revenues in the fourth quarter, $3.0 million from increasing inventory levels and $1.1 million from decrease in other long-term liabilities. These outflows were offset by cash inflows of $17.9 million from increase in accrued liabilities, $10.1 million from increase in deferred revenue and $2.3 million from decrease in deferred cost of revenue.

During the year ended December 31, 2017, operating activities generated $37.3 million in cash as a result of net loss of $63.5 million, adjusted by non-cash charges of $60.4 million and increase of $39.5 million in our net operating assets and liabilities. The non-cash charges comprise mainly of $40.3 million of change in fair value of preferred stock warrants, $11.0 million of stock-based compensation, $5.3 million of depreciation and amortization, $2.3 million of loss from extinguishment of debt and $0.5 million of loss relating to exit from our prior headquarter facilities. The increase in operating assets and liabilities was the result of increase in accounts payable and accrued liabilities of $48.4 million due to both the growth in business and the timing of payments, increase in deferred revenue balances of $30.0 million, decrease in inventories of $10.8 million, and increase in other long-term liabilities by $3.6 million. These increases were offset by increases in accounts receivable of $41.2 million as a result of growth in our business, an increase in prepaid and other current assets of $6.5 million and an increase in other non-current assets of $2.8 million.

During the year ended December 31, 2016, operating activities used $32.5 million in cash as a result of a net loss of $42.8 million, adjusted by non-cash charges of $17.8 million and a decrease of $7.5 million in our net operating assets and liabilities. The non-cash charges of $17.8 million were primarily comprised of $8.2 million of stock-based compensation expenses, $5.3 million of depreciation and amortization expense and a $3.8 million loss provision related to the exit from our prior headquarter facilities. The decrease from our net operating assets and liabilities was primarily the result of a $13.3 million increase in inventory for anticipated sales of players, a $26.4 million increase in accounts receivable as a result of increases in sales of our players and platform arrangements and a $2.9 million increase in deferred cost of revenue. The decrease in our net operating assets and liabilities was partially offset by a $15.0 million increase in accounts payable and accrued liabilities due to the timing of payments and a $19.8 million increase in deferred revenue as a result of the growth in our business.

Cash Flow from Investing Activities

Our investing activities for the year ended December 31, 2018 included cash outflow of $18.3 million spent on purchase of property and equipment including expenditure on leasehold improvements related to expanding our facilities and other capital investments and $53.8 million spent on the purchase of short-term investments, partially offset by $12.0 million received from sales/maturities of short-term investments.

During the year ended December 31, 2017, investing activities used $12.3 million in cash mainly on capital expenditures related to purchase of property, equipment and leasehold improvements of $9.2 million and acquisition of a business of $3.0 million.

During the year ended December 31, 2016, investing activities used $8.6 million primarily on capital expenditures to purchase property and equipment and leasehold improvements related to expanding our facilities.

Cash Flow from Financing Activities

Our financing activities provided cash of $24.5 million for the year ended December 31, 2018. The cash was generated mainly from the exercise of employee stock options amounting to $25.0 million partially offset by a payment of $0.5 million in connection with a previous business acquisition.

During the year ended December 31, 2017, financing activities provided $117.7 million in cash primarily from the sale of shares in our IPO net of issuance cost of $131.6 million, proceeds from exercise of stock options of $1.8 million offset by net repayment of debt of $15.8 million.

During the year ended December 31, 2016, financing activities used $0.2 million in cash from $0.4 million in proceeds from stock option exercises, less $0.6 million in IPO costs paid during the period.

Off-Balance Sheet Arrangements

We did not have any off-balance sheet arrangements during the years ended December 31, 2018, 2017 and 2016.

Contractual Obligations

Our future minimum payments under our non-cancelable contractual obligations were as follows as of December 31, 2018 (in thousands):

	Payments Due by Period				
	Total	Less Than 1 Year	1 – 3 Years	3 – 5 Years	More Than 5 Years
Purchase commitments (1)	$ 40,584	$ 40,584	$ —	$ —	$ —
Operating lease obligations (2)	367,705	16,817	61,158	66,258	223,472
Other obligations (3)	4,706	3,732	974		
Total	$ 412,995	$ 61,133	$ 62,132	$ 66,258	$ 223,472

(1) Represents commitments to purchase finished goods from our contract manufacturers and other inventory related items.
(2) Represents future minimum lease payments under non-cancelable operating leases.
(3) Represents commitments included in other non-cancelable arrangements such as ad buys and other platform services.

We currently rely on contract manufacturers to produce, assemble and test our products. Consistent with industry practices, we acquire product through a combination of purchase orders, supplier contracts, and open orders based on projected demand information. Contract manufacturers acquire components and build products based on projected demand forecasts. If there are unexpected changes to anticipated demand for our products or in the sales mix of our products, some of the firm, non-cancelable, and unconditional purchase commitments may result in our being committed to purchase excess inventory.

The contractual commitment amounts in the table above are associated with agreements that are enforceable and legally binding. Obligations under contracts that we can cancel without a significant penalty are not included in the table above.

As we are unable to reasonably predict the timing of settlement of liabilities related to unrecognized tax benefits, net, the table does not include $14.5 million of such non-current liabilities included in other liabilities on our consolidated balance sheet as of December 31, 2018.

Critical Accounting Policies and Estimates

Our financial statements are prepared in accordance with generally accepted accounting principles in the United States. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, expenses and related disclosures. We evaluate our estimates and assumptions on an ongoing basis. Our estimates are based on historical experience, current trends and other factors that we believe to be reasonable at the time our consolidated financial statements are prepared. Our actual results could differ from these estimates.

The critical accounting policies requiring estimates, assumptions and judgments that we believe have the most significant impact on our financial statements are described below.

Revenue Recognition

We derive revenue primarily from platform services and sales of our players. We adopted ASU 2014-09, *Revenue from Contracts with Customers* (Topic 606), (the "new revenue standard") on January 1, 2018, using the modified retrospective method. The new revenue standard was applied to all contracts that were not completed as of January 1, 2018. We recognized the cumulative effect of initially applying the new revenue standard as an adjustment to the opening balance of retained earnings. The comparative information is not restated and continues to be reported under the accounting standards in effect for those prior periods.

We enter into contracts that may include various combinations of products and services, which are generally capable of being distinct and are accounted for as separate performance obligations.

Revenue is recognized when control of promised products or services is transferred to customers, in an amount that reflects the consideration we expect to be entitled to in exchange for those products or services. We consider the following approach to recognize revenue.

- 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, performance obligations are satisfied.

Shipping charges billed to customers are included in revenue and the related shipping costs are included in cost of revenue. We record revenue net of taxes collected or accrued. Sales taxes are recorded as current liabilities until remitted to the relevant government authority. We do not have any capitalized costs associated with contract acquisition because most direct contract acquisition costs relate to contracts that are recognized over a period of one year or less.

Our contracts contain multiple distinct performance obligations. The computed transaction price of each contract is allocated to each performance obligation based on a relative stand-alone selling price, or SSP. For performance obligations routinely sold separately, the SSP is determined by evaluating such stand-alone sales. For those performance obligations that are not routinely sold separately, we determine SSP based on a market assessment approach, or on an expected cost-plus margin approach.

Our revenue is generated from the following two segments:

Platform segment:

Our platform segment generates revenue from advertising sales and content distribution and audience development activities like revenue shares from subscription and transaction based content, sale of branded channel buttons on remote controls and licensing arrangements with TV brands and service operators.

Our advertising revenue is mostly generated through video and display advertising delivered through advertising impressions. We enter into advertising arrangements directly with the advertiser or with their agency which purchases advertising on their behalf. Advertising is typically sold on a cost-per-thousand basis as evidenced by an Insertion Order, or IO, that specifies the terms of the arrangement including the type of ad product, pricing, insertion dates, and the number of impressions over a stated period. Revenue is recognized as the number of impressions are delivered. IOs may include multiple performance obligations as they contain distinct advertising products or services. For such arrangements, we allocate revenue to each performance obligation based on their relative SSPs. In addition, advertising revenue is also recognized from distinct performance obligations included in distribution arrangements with content publishers.

Within content distribution and audience development, we earn revenue shares from content publishers based on user subscriptions activated or billed through our platform and from purchases or rental of publishers' media. Our revenue share is generally equal to a fixed percentage of the price charged by the content publisher or a contractual flat fee.

We sell a branded channel buttons on player and TV remote controls that provide one-touch access to a publishers' content. The Company typically receives a fixed fee per button for each player or TV unit sold over a defined distribution period.

We license our technology and proprietary operating system to TV brands and service operators. Arrangements with TV brands commonly include a license to the Company's technology and proprietary operating system over a specified term including updates and upgrades. Licensing revenues from TV brands are generated on a flat fee basis or from per unit licensing fees. Arrangements may also include marketing development funds paid to TV brands. Marketing development funds are reflected as a reduction to the estimated transaction price.

To the extent, platform services are part of multiple element arrangement, revenue recognition of each performance obligation in the estimated transaction price of a contract is based on the expected value for which a significant reversal of revenue is not expected to occur. The estimate of the variable consideration is based on the assessment of historical, current, and forecasted performance noted and expected from the performance obligation.

Player segment:

We sell majority of our players through retail distribution channels, including brick and mortar and online retailers, and through our website. Our player revenue includes allowances for returns and sales incentives in the estimated transaction price. The estimates for returns and sales incentives are based on historical experience and anticipated performance.

Our player segment has two performance obligations. The hardware and embedded software are considered as one performance obligation and we recognize revenue at a point in time when control has transferred to the customer, which is based on the contractual terms. Our unspecified upgrades or enhancements are available to customers on a when-and-if available basis. We record the allocated value of the unspecified upgrades as deferred revenue and recognize it as player revenue ratably on a time elapsed basis, by day, over the estimated economic life of the associated players.

The adoption of the new revenue standard results in contract balances such as accounts receivable, contract assets and contract liabilities or deferred revenues. Contract assets are created when the timing of revenue recognition differs from the timing of invoicing to a customer. Contract assets primarily relate to our conditional right to consideration for work completed but not billed. Contract assets are transferred to accounts receivable when the rights become unconditional and the customer is invoiced. Our contract assets are current in nature and are included in "Prepaid expenses and other current assets". Contract liabilities are recorded as deferred revenue and primarily relate to the advance consideration received from customers.

Valuation of Inventory

We value inventory at the lower of cost or market with cost determined on a first-in, first-out basis. We base write-downs of inventories upon current facts and circumstances. We perform a detailed assessment of excess and obsolete inventory at each balance sheet date, which includes a review of, among other factors, demand requirements and market conditions. Based on this analysis, we record adjustments, when appropriate, to reflect inventory of finished products, materials on hand and purchase commitments at lower of cost or market which is based on net realizable value. We establish a reserve for players or materials which are not forecasted to be consumed. Although we try to ensure the accuracy of our forecasts of player demand and pricing assumptions, any significant unanticipated changes in demand, pricing or technological developments could significantly impact the value of our inventory and our reported operating results. If we find that our supply estimates exceed our inventory demands, our inventory is written-down and charged to cost of revenue at the time of such determination. Conversely, if assumptions or circumstances beyond our control change and we subsequently sell players that have previously been written-down, our gross margin in the period of sale will be favorably impacted. The inventory provisions recorded are net of the reversals of provisions for sales of previously written-down inventory for each period presented.

Allowances for Returns, Sales Incentives and Doubtful Accounts

Accounts receivable are stated at invoice value less estimated allowances for returns, customer incentives and doubtful accounts. To determine the allowances for returns, sales incentives and doubtful accounts, we perform an ongoing analysis of various factors including our historical experience, recent write-offs and specific analysis of significant receivables that are past due. If our estimates regarding accounts receivable allowances differ from the actual results, the losses or gains, could be material.

Stock-Based Compensation

Stock-based compensation cost is measured at the grant date based on the fair value of the award and is recognized as an expense on a straight-line basis over the requisite service period, which is generally the vesting period of the respective award. Determining the fair value of stock-based awards at the grant date requires judgment.

We use the Black-Scholes option-pricing model to determine the fair value of stock options. The determination of the grant date fair value of options using an option-pricing model is affected by our estimated common stock fair value as well as assumptions regarding a number of other complex and subjective variables. These variables include our expected stock price volatility over the expected term of the options, stock option exercise and cancellation behaviors, risk-free interest rates and expected dividends, which are estimated as follows:

- *Fair Value of Our Common Stock*. Prior to our IPO, the fair value of the common stock underlying our stock options was determined by our Board of Directors. The valuations of our common stock were determined in accordance with the guidelines outlined in the American Institute of Certified Public Accountants Practice Aid, Valuation of Privately-Held-Company Equity Securities Issued as Compensation. Our Board of Directors, with input from management, exercised significant judgment

and considered numerous objective and subjective factors to determine the fair value of our common stock at each grant date, including but not limited to the prices, rights, preferences and privileges of our preferred stock relative to the common stock, our operating and financial performance, current business conditions and projections, our stage of development, likelihood of achieving a liquidity event for the shares of common stock underlying these stock options, such as an IPO or sale of our company, given prevailing market conditions, any adjustment necessary to recognize a lack of marketability of the common stock underlying the granted options, the market performance of comparable publicly-traded companies, the U.S. and global capital market conditions.

Subsequent to our IPO, we use the market closing price for our Class A common stock as reported on The Nasdaq Global Select Market on the date of grant.

- *Expected Term.* The expected term of employee stock options represents the weighted-average period that the stock options are expected to remain outstanding. To determine the expected term, we generally apply the simplified approach in which the expected term of an award is presumed to be the mid-point between the vesting date and the expiration date of the award as we do not have sufficient historical exercise data to provide a reasonable basis for an estimate of expected term.
- *Volatility.* As we do not have sufficient trading history for our Class A common stock, the expected volatility for our Class A common stock is estimated by taking the average historic price volatility for industry peers based on daily price observations over a period equivalent to the expected term of the stock option awards. Industry peers consist of several public companies in our industry which are either similar in size, stage of life cycle or financial leverage. We intend to consistently apply this process until a sufficient amount of historical information regarding the volatility of our own Class A common stock share price becomes available or unless circumstances change such that the identified peer companies are no longer similar to us, in which case, more suitable companies whose share prices are available would be utilized in the calculation.
- *Risk-free Rate.* The risk-free interest rate is based on the yields of U.S. Treasury securities with maturities similar to the expected term for each of our option awards.
- *Dividend Yield.* We have never declared or paid any cash dividends and do not presently plan to pay cash dividends in the foreseeable future. Consequently, we use an expected dividend yield of zero.

In addition to the assumptions used in the Black-Scholes option pricing model, we also estimated a forfeiture rate to calculate the stock-based compensation expense for our awards prior to January 1, 2017. Beginning January 1, 2017, we recognize forfeitures as they occur.

If any of the assumptions used in the Black-Scholes model changes significantly, stock-based compensation for future awards may differ materially compared with the awards granted previously.

We account for the fair value of the restricted stock units using the closing market price of our Class A common stock on the date of the grant.

We will continue to use judgement in evaluating assumptions related to our stock-based compensation cost. As we continue to accumulate additional data related to our common stock and our business evolves, we may have refinements to our assumptions and estimates which could impact our future stock-based compensation cost.

Provision for Income Taxes

We account for income taxes in accordance with authoritative guidance, which requires the use of the asset and liability method. Under this method, deferred income tax assets and liabilities are determined based upon the difference between the consolidated financial statement carrying amounts and the tax basis of assets and liabilities and are measured using the enacted tax rate expected to apply to taxable income in the years in which the differences are expected to be reversed.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. A valuation

allowance is provided when it is more likely than not that the deferred tax assets will not be realized. We have established a full valuation allowance to offset domestic net deferred tax assets due to the uncertainty of realizing future tax benefits from our net operating loss carry-forwards and other deferred tax assets. Our valuation allowance is attributable to the uncertainty of realizing future tax benefits from U.S. net operating losses and other deferred tax assets.

Recent Accounting Pronouncements

On January 1, 2018, the Company adopted guidance in ASU 2014-09, *Revenue from Contracts with Customers (Topic 606)*, or new revenue standard, using the modified retrospective method. The Company applied the new revenue standard to all contracts that were not completed as of January 1, 2018. The Company recognized the cumulative effect of initially applying the new revenue standard as an adjustment to the opening balance of retained earnings. Comparative information for prior periods has not been restated and continues to be reported under the accounting standards in effect for those periods. Refer to Note 3 in Item 8 of this report for the detail on the impact of adoption.

On January 1, 2018, the Company adopted guidance in ASU 2016-16, *Income taxes: Intra-Entity Transfers of Assets Other Than Inventory (Topic 740)*, using the modified retrospective method. The new guidance allows a reporting entity to recognize the tax expense from the sale of the asset in the seller's tax jurisdiction when the transfer occurs, even though the pre-tax effects of that transaction are eliminated in consolidation. The adoption of this guidance resulted in a decrease in prepaid expense and other current assets and an increase to the accumulated deficit in amounts that were not material.

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*, related to new accounting and reporting guidelines for leasing arrangements. The guidance requires recognition of right-to-use lease assets and lease liabilities for all leases (with the exception of short-term leases) on the balance sheet of lessees. The guidance is effective for financial statements issued for fiscal years beginning after December 15, 2018, with early adoption permitted. The Company will adopt this guidance on January 1, 2019 using the optional transition method and will not restate comparative periods. The Company expects adoption of the standard will result in the recognition of lease liabilities for operating leases of approximately $40-$50 million and right-of-use assets of approximately $35-$45 million at January 1, 2019, with no material impact to its consolidated statements of operations.

In January 2017, the FASB issued ASU 2017-04, *Intangibles—Goodwill and Other (Topic 350), Simplifying the Test for Goodwill Impairment*, which eliminates Step 2 from the goodwill impairment test which measures a goodwill impairment loss by comparing the implied fair value of a reporting unit's goodwill with the carrying amount of that goodwill. Under this guidance, an entity should perform its annual or interim goodwill impairment test by comparing the fair value of the reporting unit with its carrying amount and should recognize an impairment loss for the amount by which the carrying amount exceeds the reporting unit's fair value, with the loss not exceeding the total amount of goodwill allocated to that reporting unit. The guidance is effective for financial statements issued for fiscal years beginning after December 15, 2019, with early adoption permitted. The guidance is to be applied prospectively. The Company does not believe the adoption of ASU 2018-15 will have a material impact on the consolidated financial statements.

In August 2018, the FASB issued ASU 2018-15, *Intangibles—Goodwill and Other—Internal-Use Software (Topic 350), Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*, which requires hosting arrangements that are service contracts to follow the guidance for internal-use software to determine which implementation costs can be capitalized. The guidance is effective either prospectively or retrospectively for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years, with early adoption permitted. The Company is evaluating the impact of this new guidance on the consolidated financial statements and the related disclosures.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurements (Topic 820), Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement*. This standard removes, modifies, and adds certain disclosure requirements for fair value measurements. This pronouncement is effective for fiscal years, and for interim periods within those fiscal years, beginning after December 15, 2019, with early adoption permitted. The Company is currently in the process of evaluating the effects of the new guidance but does not expect the impact from this standard to be material.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Fluctuation Risk

Our investment objective is to conserve capital and maintain liquidity to support our operations. Our short-term investments include commercial paper, U.S. government securities, and corporate bonds. Such instruments carry a certain degree of interest rate risk. However, due to the short-term nature of our investment portfolio, we do not believe an immediate 10% increase or decrease in interest rates would have a material effect on the fair market value of our portfolio. Therefore, we do not expect our operating results or cash flows to be materially affected by a sudden change in interest rates.

Foreign Currency Exchange Rate Risk

Most of our sales are currently within the United States and we have minimal foreign currency risk related to our revenue. In addition, most of our operating expenses are denominated in the U.S. dollar, resulting in minimal foreign currency risks. In the future, if our international sales increase or more of our expenses are denominated in currencies other than the U.S. dollar, our exposure to foreign currency risk will likely be more significant. For any of the periods presented, we did not enter into any foreign exchange contracts. However, in the future, we may enter into derivatives or other financial instruments in an attempt to hedge our foreign currency exchange risk.

Item 8. Financial Statements and Supplementary Data

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Roku, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Roku, Inc. and subsidiaries (the "Company") as of December 31, 2018 and 2017, the related consolidated statements of operations, comprehensive loss, convertible preferred stock and stockholders' equity (deficit), and cash flows for each of the three years in the period ended December 31, 2018, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2018 and 2017, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2018, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2018, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 1, 2019, expressed an unqualified opinion on the Company's internal control over financial reporting.

Change in Accounting Principle

As discussed in Note 3 to the financial statements, effective January 1, 2018, the Company has changed its method of accounting for revenue due to adoption of Accounting Standards Codification Topic 606 (ASU No. 2014-09), *Revenue from Contracts with Customers*, and all subsequent amendments (collectively, “ASC 606”). The Company adopted ASC 606 using the modified retrospective approach.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the 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 financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the 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 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 financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ DELOITTE & TOUCHE LLP

San Jose, California

March 1, 2019

We have served as the Company's auditor since 2008.

ROKU, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except par value)

	As of December 31,	
	2018	**2017**
Assets		
Current Assets:		
Cash and cash equivalents	$ 155,564	$ 177,250
Short-term investments	42,146	—
Accounts receivable, net of allowances of $21,897 and $17,739 as of December 31, 2018 and 2017, respectively	183,078	120,553
Inventories	35,585	32,740
Prepaid expenses and other current assets	15,374	11,367
Deferred cost of revenue, current portion	1,188	3,007
Total current assets	432,935	344,917
Property and equipment, net	25,264	14,736
Deferred cost of revenue, non-current portion	—	5,403
Intangible assets, net	1,477	2,030
Goodwill	1,382	1,382
Other non-current assets	3,939	3,429
Total Assets	$ 464,997	$ 371,897
Liabilities and Stockholders' Equity		
Current Liabilities:		
Accounts payable	$ 56,576	$ 56,413
Accrued liabilities	91,986	72,344
Deferred revenue, current portion	45,442	34,501
Total current liabilities	194,004	163,258
Deferred revenue, non-current portion	19,594	48,511
Other long-term liabilities	6,748	7,849
Total Liabilities	220,346	219,618
Commitments and contingencies (Note 10)		
Stockholders' Equity:		
Preferred stock, $0.0001 par value; 10,000 shares authorized as of December 31, 2018 and 2017; no shares issued and outstanding as of December 31, 2018 and 2017	—	—
Common stock, $0.0001 par value; 1,150,000 (Class A - 1,000,000 and Class B - 150,000) shares authorized as of December 31, 2018 and 2017; 109,770 (Class A - 77,820 and Class B - 31,950) shares and 99,157 (Class A - 19,325 and Class B - 79,832) shares issued and outstanding as of December 31, 2018 and 2017, respectively	11	10
Additional paid-in capital	498,553	435,607
Accumulated other comprehensive loss	(17)	—
Accumulated deficit	(253,896)	(283,338)
Total stockholders' equity	244,651	152,279
Total Liabilities and Stockholders' Equity	$ 464,997	$ 371,897

See accompanying Notes to Consolidated Financial Statements.

ROKU, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)

	Years Ended December 31,		
	2018	2017	2016
Net Revenue:			
Platform	$ 416,863	$ 225,356	$ 104,720
Player	325,643	287,407	293,929
Total net revenue (Note 3)	742,506	512,763	398,649
Cost of Revenue:			
Platform	120,543	54,826	27,783
Player	289,815	258,104	249,821
Total cost of revenue	410,358	312,930	277,604
Gross Profit:			
Platform	296,320	170,530	76,937
Player	35,828	29,303	44,108
Total gross profit	332,148	199,833	121,045
Operating Expenses:			
Research and development	170,692	107,945	76,177
Sales and marketing	102,780	64,069	52,888
General and administrative	71,972	47,435	35,341
Total operating expenses	345,444	219,449	164,406
Loss from Operations	(13,296)	(19,616)	(43,361)
Other Income (Expense), Net:			
Interest expense	(346)	(1,612)	146
Loss on extinguishment of debt	—	(2,338)	—
Change in fair value of preferred stock warrant liability	—	(40,333)	888
Other income (expense), net	4,309	705	(220)
Total other income (expense), net	3,963	(43,578)	814
Loss Before Income Taxes	(9,333)	(63,194)	(42,547)
Income tax (benefit) expense	(476)	315	211
Net Loss Attributable to Common Stockholders	$ (8,857)	$ (63,509)	$ (42,758)
Net loss per share attributable to common stockholders—basic and diluted	$ (0.08)	$ (2.24)	$ (9.01)
Weighted-average shares used in computing net loss per share attributable to common stockholders—basic and diluted	104,618	28,308	4,746

See accompanying Notes to Consolidated Financial Statements.

ROKU, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(in thousands)

	Years Ended December 31,		
	2018	2017	2016
Net Loss Attributable to Common Stockholders	$ (8,857)	$ (63,509)	$ (42,758)
Other comprehensive loss, net of tax:			
Unrealized loss on short-term investments, net of tax	(17)	—	—
Comprehensive Net Loss	$ (8,874)	$ (63,509)	$ (42,758)

See accompanying Notes to Consolidated Financial Statements

ROKU, INC.
CONSOLIDATED STATEMENTS OF CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY (DEFICIT)
(in thousands)

	Convertible Preferred Stock		Common Stock		Additional Paid-in	Treasury	Accumulated Other Comprehensive	Accumulated	Total Stockholders'
	Shares	Amount	Shares	Amount	Capital	Stock	Loss	Deficit	Equity (Deficit)
Balance—December 26, 2015	80,844	$ 213,180	4,531	$ —	$ 17,335	$ —	$ —	$ (177,071)	$ (159,736)
Issuance of common stock upon exercise of warrants	—	—	162	—	—	—	—	—	—
Issuance of common stock upon exercise of stock options	—	—	126	—	438	—	—	—	438
Vesting of early exercised stock options	—	—	—	—	26	—	—	—	26
Stock-based compensation expense	—	—	—	—	8,206	—	—	—	8,206
Net loss	—	—	—	—	—	—	—	(42,758)	(42,758)
Balance—December 31, 2016	80,844	213,180	4,819	—	26,005	—	—	(219,829)	(193,824)
Issuance of common stock upon exercise of stock options	—	—	963	1	2,086	—	—	—	2,087
Share repurchases	—	—	(92)	—	—	(671)	—	—	(671)
Vesting of early exercised stock options	—	—	—	—	62	—	—	—	62
Stock-based compensation expense	—	—	—	—	10,953	—	—	—	10,953
Issuance of common stock pursuant to an acquisition	—	—	108	—	—	—	—	—	—
Issuance of common stock upon exercise of common and preferred warrants	—	—	2,165	—	—	—	—	—	—
Issuance of common stock pursuant to an initial public offering, net of issuance costs of $3.1 million	—	—	10,350	1	131,645	—	—	—	131,646
Conversion of preferred stock into common stock pursuant to an initial public offering	(80,844)	(213,180)	80,844	8	213,172	—	—	—	213,180
Reclassification of preferred stock warrants liability to additional paid-in-capital upon conversion to common stock warrants	—	—	—	—	52,355	—	—	—	52,355
Net loss	—	—	—	—	—	—	—	(63,509)	(63,509)
Balance—December 31, 2017	—	—	99,157	10	436,278	(671)	—	(283,338)	152,279
Vesting of early exercised stock options					239	—	—		239
Issuance of common stock pursuant to equity incentive plans, net of taxes	—	—	10,481	1	25,033	—	—	—	25,034
Issuance of common stock pursuant to exercise of common stock warrants, net	—	—	141	—	—	—	—	—	—
Stock-based compensation expense	—	—	—	—	37,674	—	—	—	37,674
Share repurchases			(9)						
Adoption of ASU 2016-16 (Note 2)	—	—	—	—	—	—	—	(40)	(40)
Adoption of ASU 2014-09 (Note 3)	—	—	—	—	—	—	—	38,339	38,339
Unrealized loss on short-term investments	—	—	—	—	—	—	(17)		(17)
Net loss	—	—	—	—	—	—	—	(8,857)	(8,857)
Balance—December 31, 2018	—	$ —	109,770	$ 11	$ 499,224	$ (671)	$ (17)	$ (253,896)	$ 244,651

See accompanying Notes to Consolidated Financial Statements.

ROKU, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Years Ended December 31,		
	2018	**2017**	**2016**
Cash flows from operating activities:			
Net loss	$ (8,857)	$ (63,509)	$ (42,758)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:			
Depreciation and amortization	8,389	5,336	5,302
Stock-based compensation expense	37,674	10,953	8,206
Provision for doubtful accounts	876	104	336
Change in fair value of preferred stock warrant liability	—	40,333	(888)
Noncash interest expense	342	784	115
Loss from exit of facilities	1,120	525	3,804
Loss on disposals of property and equipment	8	54	29
Loss from extinguishment of debt	—	2,338	—
Write-off of deferred initial public offering costs	—	—	594
Impairment of long-lived assets	352	—	320
Amortization of premiums on short-term investments	(357)	—	—
Changes in operating assets and liabilities:			
Accounts receivable	(50,673)	(41,184)	(26,354)
Inventories	(2,953)	10,828	(13,256)
Prepaid expenses and other current assets	(306)	(6,514)	(544)
Deferred cost of revenue	2,261	(1,959)	(2,885)
Other noncurrent assets	(732)	(2,794)	448
Accounts payable	(98)	24,315	(2,808)
Accrued liabilities	17,914	24,127	17,796
Other long-term liabilities	(1,101)	3,579	294
Deferred revenue	10,063	29,976	19,786
Net cash provided by (used in) operating activities	13,922	37,292	(32,463)
Cash flows from investing activities:			
Purchase of property and equipment	(18,327)	(9,229)	(8,596)
Purchase of business, net of cash acquired	—	(2,959)	—
Purchases of short-term investments	(53,806)	—	—
Sales/maturities of short-term investments	12,000	—	—
Change in deposits	—	(80)	29
Net cash used in investing activities	(60,133)	(12,268)	(8,567)
Cash flows from financing activities:			
Payments of costs related to initial public offering	—	—	(594)
Proceeds from borrowings, net	—	24,691	15,000
Repayments of borrowings	—	(40,446)	(15,000)
Holdback payment for a prior business acquisition	(500)	—	—
Proceeds from equity issued under incentive plans, net of repurchases	25,025	1,773	438
Proceeds from issuance of common stock pursuant to an initial public offering, net of issuance costs of $3.1 million	—	131,646	—
Net cash provided by financing activities	24,525	117,664	(156)
Net (Decrease) Increase in Cash	(21,686)	142,688	(41,186)
Cash and cash equivalents—Beginning of period	177,250	34,562	75,748
Cash and cash equivalents—End of period	$ 155,564	$ 177,250	$ 34,562
Supplemental disclosures of cash flow information:			
Cash paid for interest	$ 493	$ 1,149	$ 236
Cash paid for income taxes	$ 564	$ 222	$ 121
Supplemental disclosures of noncash investing and financing activities:			
Unpaid portion of property and equipment purchases	$ 1,617	$ 1,250	$ 306
Fair value of preferred stock warrants reclassified to additional paid in capital	$ —	$ 52,355	$ —
Issuance of convertible preferred stock warrants in connection with debt	$ —	$ 2,032	$ —

See accompanying Notes to Consolidated Financial Statements.

1. THE COMPANY

Organization and Description of Business

Roku, Inc. (the "Company" or "Roku"), was formed in October 2002 as Roku LLC under the laws of the State of Delaware. On February 1, 2008, Roku LLC was converted into Roku, Inc., a Delaware corporation. The Company's TV streaming platform allows users to easily discover and access a wide variety of movies and TV episodes, as well as live sports, music, news and more. The Company operates in two reportable segments and generates revenue through the sale of streaming players, advertising, subscription and transaction revenue sharing, as well as through licensing arrangements with TV brands and cable, satellite, and telecommunication service operators, or service operators.

Initial Public Offering

On October 2, 2017, the Company completed its initial public offering, or IPO, of Class A common stock, in which it sold 10.4 million shares, including 1.4 million shares pursuant to the underwriters' over-allotment option. The shares were sold at an IPO price of $14.00 per share for net proceeds of $134.8 million, after deducting underwriting discounts and commissions of $10.1 million. Additionally, offering costs incurred by the Company were $3.1 million. Upon the closing of the Company's IPO, all outstanding shares of its convertible preferred stock automatically converted into 80.8 million shares of Class B common stock and all outstanding convertible preferred stock warrants automatically converted to Class B common stock warrants on a one-for-one basis. Following the IPO, we have two classes of authorized common stock – Class A common stock and Class B common stock. Class A common stock entitles holders to one vote per share, and Class B common stock entitles holders to 10 votes per share.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation and Principles of Consolidation

The consolidated financial statements, which include the accounts of Roku, Inc. and its wholly-owned subsidiaries, have been prepared in conformity with accounting principles generally accepted in the United States, or U.S. GAAP. All intercompany accounts and transactions have been eliminated in consolidation.

Fiscal Year

In 2017, the Company changed the fiscal year-end to match the calendar year-end. Prior to 2017, the Company's fiscal year was the 52- or 53-week period that ended on the last Saturday of December. Fiscal year 2016 ended on December 31, 2016 and spanned 53 weeks.

Use of Estimates

The preparation of the Company's consolidated financial statements in accordance with U.S. GAAP requires management to make certain estimates, judgments, and assumptions that affect the reported amounts of assets and liabilities and related disclosures at the date of the financial statements, as well as the reported amounts of revenue and expenses during the periods presented. Significant items subject to such estimates include revenue recognition for multiple element arrangements, determination of variable consideration, stand-alone selling prices, gross versus net revenue reporting, customer versus vendor relationship, sales return reserves, customer incentive programs, inventory valuation, the valuation of deferred income tax assets, the recognition and disclosure of contingent liabilities and stock-based compensation. The Company bases its estimates on historical experience and on various other assumptions that the Company believes to be reasonable under the circumstances. Actual results may differ from the Company's estimates.

Comprehensive Loss

Comprehensive loss includes unrealized losses on the Company's short-term investments for the year ended December 31, 2018. Income taxes on the unrealized loss are not material for the year ended December 31, 2018. The Company had no short-term investments during the years ended December 31, 2017 and 2016. As a result, comprehensive loss was equal to the net loss for the years ended December 31, 2017 and 2016.

Foreign Currency

The functional currency of the Company's foreign subsidiaries is the U.S. dollar. Monetary assets and liabilities of these subsidiaries are remeasured into U.S. dollars from the local currency at rates in effect at period-end and nonmonetary assets and liabilities are remeasured at historical rates. Revenues and expenses are remeasured at average exchange rates in effect during each period. Foreign currency gains or losses from re-measurement and transaction gains or losses are recorded as other income (expense), net in the consolidated statements of operations. During the year ended December 31, 2018, the Company recorded a foreign currency loss of $0.5 million. During the year ended December 31, 2017, the Company recorded a foreign currency gain of $0.1 million. During the year ended December 31, 2016, the Company recorded a foreign currency loss of $0.4 million.

Concentrations

Financial instruments, which potentially subject the Company to concentrations of credit risk, consist principally of cash, cash equivalents, short-term investments and accounts receivable. As of December 31, 2018 and 2017, 97% and 95% of the Company's cash, cash equivalents balances were managed by one financial institution. Accounts receivable are typically unsecured and are derived from revenue earned from customers. They are stated at invoice value less estimated allowances for returns, customer incentives and doubtful accounts. The Company performs ongoing credit evaluations of its customers and maintains allowances for potential credit losses.

Customers accounting for 10% or more of the Company's net revenue were as follows:

	Years Ended December 31,		
	2018	2017	2016
Customer A	*	*	13%
Customer B	*	10%	12%
Customer C	18%	20%	24%
Customer E	*	10%	*

Customers accounting for 10% or more of the Company's accounts receivable were as follows:

	As of December 31,	
	2018	2017
Customer D	11%	16%

Short-Term Investments

The Company considers investments in highly liquid instruments purchased with an original maturity of 90 days or less to be cash equivalents. The Company's short-term investments consist of corporate bonds, commercial paper and U.S. Government agency securities. These investments are held in the custody of one major financial institution. As of December 31, 2018, the short-term investments were classified as available-for-sale and were recorded in the consolidated balance sheet at fair value with net unrealized gains or losses reported as a separate component of accumulated other comprehensive income (loss), net of tax.

The Company recognizes an impairment charge if a decline in the fair value of its investments is considered to be other-than-temporary. The Company has determined that gross unrealized losses on short-term investments at December 31, 2018 were temporary in nature because each investment meets the Company's credit quality requirements and the Company has the ability and intent to hold these investments until they recover their unrealized losses.

Goodwill, Purchased Intangible Assets and Impairment Assessment

Goodwill represents the excess of the purchase price over the fair value of the assets acquired and liabilities assumed, if any, in a business combination. The Company reviews its goodwill for impairment annually, as of the beginning of the fourth quarter, and whenever events or changes in circumstances indicate that impairment may exist. The Company did not recognize any impairment of goodwill in the years ended December 31, 2018 and 2017.

Purchased intangible assets consist primarily of developed technology. Purchased intangible assets are recorded at fair value on the date of acquisition and amortized over their estimated useful lives following the pattern in which the economic benefits of the assets will be consumed, generally straight-line. The carrying amounts of our purchased intangible assets are periodically reviewed for impairment whenever events or changes in circumstances indicate that the carrying value of these assets may not be recoverable or that the useful life is shorter than originally estimated.

Impairment of Long-Lived Assets

The Company's long-lived assets include property and equipment and other noncurrent assets and are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recovered. Recoverability of assets is measured first by comparing their carrying amounts to their future undiscounted net cash flows. If such assets are considered to be impaired, the impairment to be recognized equals the amount by which the carrying value of the asset exceeds its fair market value. The Company recorded $0.4 million in impairment during the year ended December 31, 2018 relating to assets that are no longer in use. No impairment was recorded during the year ended December 31, 2017.

Fair Value of Financial Instruments

The Company defines fair value as the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The Company applies fair value accounting for all assets and liabilities that are recognized or disclosed at fair value in the consolidated financial statements on a recurring basis. The carrying amounts reported in the consolidated financial statements for cash and cash equivalents, short-term investments, accounts receivable, accounts payable and accrued liabilities approximate their fair values due to their short-term nature.

Inventories

The Company's inventories consist primarily of finished goods and are stated at the lower of cost or market with cost determined on a first-in, first-out basis and market based on net realizable value. If the cost of the inventories exceeds their net realizable value, provisions are made currently for the difference between the cost and the market value. The Company evaluates inventory levels and purchase commitments for excess and obsolete products, based on management's assessment of future demand and market conditions.

Property and Equipment

Property and equipment are recorded at cost and depreciated using the straight-line method over their estimated useful lives of the assets, generally ranging between eighteen months and five years. Leasehold improvements are amortized over the shorter of the lease term or their estimated useful lives, which is generally five years.

Website and Internal-Use Software

The Company capitalizes costs to develop its website and internal-use software. The Company expenses all costs that relate to the planning and post-implementation phases of development as incurred. The Company capitalizes subsequent costs when preliminary efforts are successfully completed, management has authorized and committed project funding, and it is probable that the project will be completed and will be used as intended. Costs incurred for enhancements that are expected to result in additional material functionality are capitalized. During the

years ended December 31, 2018, 2017 and 2016, the Company capitalized website and internal-use software development costs of $1.0 million, $2.6 million and $1.8 million, respectively.

Capitalized costs are amortized using the straight-line method over an estimated useful life of the asset, which is generally two years, beginning when the asset is ready for its intended use. During the years ended December 31, 2018, 2017 and 2016, the Company amortized expenses of $2.0 million, $1.1 million and $0.7 million, respectively.

Content Licensing Fees

The Company licenses content for viewing on The Roku Channel. The licensing arrangements can be for a fixed fee and/or advertising revenue share with specific windows of content availability. The Company capitalizes the content fees and records a corresponding liability at the gross amount of the liability when the license period begins, the cost of the content is known, and the content is accepted and available for streaming. The Company amortizes licensed content assets into "Cost of Revenue, Platform" over the contractual window of availability.

As of December 31, 2018 and 2017, content related expenses that met these requirements were not material.

Deferred Revenue and Deferred Cost of Revenue

The Company's deferred revenue reflect fees received from licensing and service arrangements, including advertising, that will be recognized as revenue over time or as services are rendered. Deferred revenue balances consist of the amount of player sales allocated to unspecified upgrades or enhancements on a when-and-if available basis, licensing and services fees from service operators and TV brands, and payments from advertisers and content publishers.

Deferred cost of revenue consists mainly of personnel related costs associated with related deferred revenues and is recognized as cost of revenue in the same manner as its respective deferred revenue.

Deferred revenue and the associated deferred cost of revenue expected to be realized within one year are classified as current liabilities and current assets, respectively, and the remaining are recorded as noncurrent liabilities and noncurrent assets, respectively.

Advertising Costs

Advertising costs are expensed when incurred and are included in sales and marketing expense in the consolidated statements of operations. The Company incurred advertising costs of $3.0 million, $3.4 million and $3.9 million for the years December 31, 2018, 2017 and 2016, respectively.

Stock-Based Compensation

The Company measures compensation expense for all stock-based awards, including stock options and restricted stock units granted to employees, based on the estimated fair value on the date of grant. The fair value of each stock option granted is estimated using Black-Scholes option-pricing model. Stock-based compensation is recognized on a straight-line basis over the requisite vesting period. For the year ended December 31, 2016, stock-based compensation was recorded net of estimated forfeitures using a forfeiture rate based on an analysis of the Company's actual historical forfeitures. The Company adopted new guidance effective January 1, 2017 to recognize forfeitures as they occur.

The Company accounts for restricted stock units issued to employees based on the grant date fair value which is determined based on the closing market price of the Class A common stock on the date of grant. The expense is recognized in the Company's consolidated statement of operations on a straight-line basis over the requisite vesting period.

Income Taxes

The Company accounts for income taxes using an asset and liability approach. Deferred tax assets and liabilities are determined based on the difference between the consolidated financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amounts that are more likely than not to be realized.

Net Loss per Share

Since the Company was in a loss position for all periods presented, basic net loss per share is the same as diluted net loss per share for all periods as the inclusion of all potential common shares outstanding and potentially dilutive securities would have been anti-dilutive.

Adoption of New Accounting Standards

On January 1, 2018, the Company adopted guidance in ASU 2014-09, *Revenue from Contracts with Customers (Topic 606)*, or new revenue standard, using the modified retrospective method. The Company applied the new revenue standard to all contracts that were not completed as of January 1, 2018. The Company recognized the cumulative effect of initially applying the new revenue standard as an adjustment to the opening balance of retained earnings. Comparative information for prior periods has not been restated and continues to be reported under the accounting standards in effect for those periods. Refer to Note 3 for the detail on the impact of adoption.

On January 1, 2018, the Company adopted guidance in ASU 2016-16, *Income taxes: Intra-Entity Transfers of Assets Other Than Inventory (Topic 740)*, using the modified retrospective method. The new guidance allows a reporting entity to recognize the tax expense from the sale of the asset in the seller's tax jurisdiction when the transfer occurs, even though the pre-tax effects of that transaction are eliminated in consolidation. The adoption of this guidance resulted in a decrease in prepaid expense and other current assets and an increase to the accumulated deficit in amounts that were not material.

Recently Issued Accounting Pronouncements Not Yet Adopted

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*, related to new accounting and reporting guidelines for leasing arrangements. The guidance requires recognition of right-to-use lease assets and lease liabilities for all leases (with the exception of short-term leases) on the balance sheet of lessees. The guidance is effective for financial statements issued for fiscal years beginning after December 15, 2018, with early adoption permitted. The Company will adopt this guidance on January 1, 2019 using the optional transition method and will not restate comparative periods. The Company expects adoption of the standard will result in the recognition of lease liabilities for operating leases of approximately $40-$50 million and right-of-use assets of approximately $35-$45 million at January 1, 2019, with no material impacts to its consolidated statements of operations.

In August 2018, the FASB issued ASU 2018-15, *Intangibles—Goodwill and Other—Internal-Use Software (Topic 350), Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*, which requires hosting arrangements that are service contracts to follow the guidance for internal-use software to determine which implementation costs can be capitalized. The guidance is effective either prospectively or retrospectively for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years, with early adoption permitted. The Company is evaluating the impact of this new guidance on the consolidated financial statements and the related disclosures.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurements (Topic 820), Disclosure Framework—Changes to the Disclosure Requirements for Fair Value Measurement*. This standard removes, modifies, and adds certain disclosure requirements for fair value measurements. This pronouncement is effective for fiscal years, and for interim periods within those fiscal years, beginning after December 15, 2019, with early adoption permitted. The Company is currently in the process of evaluating the effects of the new guidance but does not expect the impact from this standard to be material.

3. REVENUE

On January 1, 2018, the Company adopted ASU 2014-09, Revenue from Contracts with Customers (Topic 606), (the "new revenue standard") using the modified retrospective method. The Company applied the new revenue standard to all contracts that were not completed as of January 1, 2018. The Company recognized the cumulative effect of initially applying the new revenue standard as an adjustment to the opening balance of retained earnings. The comparative information has not been restated and continues to be reported under the accounting standards in effect for those prior periods.

Application of practical expedients and exemptions

The Company reflected the aggregate effect of all modifications that occurred prior to the date of adoption.

The Company expensed commissions related to advertising and player sales when incurred because the amortization period is less than one year. Sales commissions are included in "Sales and marketing" expenses in the condensed consolidated statements of operations.

Impact on beginning balances

The cumulative effect of the changes made to the consolidated January 1, 2018 balance sheet for the adoption of the new revenue standard were as follows (in thousands):

Balance Sheet line items impacted	As of December 31, 2017	Adjustment on adoption of new revenue standard	As of January 1, 2018
Assets:			
Accounts receivables, net	$ 120,553	$ 12,728	$ 133,281
Inventories	32,740	(108)	32,632
Prepaid expenses and other current assets	11,367	4,113	15,480
Deferred cost of revenue, current portion	3,007	(1,076)	1,931
Deferred cost of revenue, non-current portion	5,403	(3,885)	1,518
Other non-current assets	3,429	(222)	3,207
Liabilities:			
Accounts payable and accrued liabilities	128,757	1,250	130,007
Deferred revenue, current portion	34,501	8,449	42,950
Deferred revenue, non-current portion	48,511	(36,488)	12,023
Equity:			
Accumulated deficit	$ (283,338)	$ 38,339	$ (244,999)

Revenue recognition

The Company enters into contracts that may include various combinations of products and services, which are generally both capable of being distinct and distinct in the context of each contract and therefore are accounted for as separate performance obligations.

Revenue is recognized when control of promised products or services is transferred to customers, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those products or services. This is achieved by applying the following five-step approach:

- 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, performance obligations are satisfied.

Shipping charges billed to customers are included in revenue and the related shipping costs are included in cost of revenue. Revenue is recorded net of taxes collected or accrued. Sales taxes are recorded as current liabilities until remitted to the relevant government authority.

The Company does not have any capitalized costs associated with contract acquisition because most direct contract acquisition costs relate to contracts that are recognized over a period of one year or less.

Arrangements with multiple performance obligations

The Company's contracts may contain multiple distinct performance obligations. The computed transaction price of each contract is allocated to each performance obligation based on a relative stand-alone selling price, or SSP. For performance obligations routinely sold separately, the SSP is determined by evaluating such stand-alone sales. For those performance obligations that are not routinely sold separately, the Company maximizes the use of observable inputs and determines SSP based on a market assessment approach, or on an expected cost-plus margin approach.

Nature of products and services

Platform segment:

The Company's platform segment generates revenue from advertising sales, and content distribution and audience development activities like subscription and transaction based revenue shares, sale of branded channel buttons on remote controls and licensing arrangements with TV brands and service operators.

The Company's advertising revenue is mostly generated through video and display advertising delivered through advertising impressions. The Company enters into advertising arrangements directly with the advertiser or with their agency which purchases advertising on their behalf. Advertising is typically sold on a cost-per-thousand basis as evidenced by an Insertion Order, or IO, that specifies the terms of the arrangement including the type of ad product, pricing, insertion dates, and the number of impressions over a stated period. Revenue is recognized as the number of impressions are delivered. IOs may include multiple performance obligations as they contain distinct advertising products or services. For such arrangements, the Company allocates revenue to each performance obligation based on their relative SSPs. In addition, advertising revenue is also recognized from distinct performance obligations included in distribution arrangements with content publishers.

The Company earns revenue shares from content publishers based on user subscriptions activated or billed through the Company's platform and from purchases or rental of publishers' media. The Company's revenue share is generally equal to a fixed percentage of the price charged by the content publisher or a contractual flat fee.

The Company sells branded channel buttons on player and TV remote controls that provide one-touch access to a publishers' content. The Company typically receives a fixed fee per button for each player or TV unit sold over a defined distribution period.

The Company licenses its technology and proprietary operating system to TV brands and service operators. Arrangements with TV brands commonly include a license to the Company's technology and proprietary operating system over a specified term including updates and upgrades. Licensing revenues from TV brands are generated on a flat fee basis or from per unit licensing fees. Arrangements may also include marketing development funds paid to TV brands. Marketing development funds are reflected as a reduction to the estimated transaction price.

Arrangements with service operators generally include performance obligations comprised of a license to the technology and proprietary operating system, unspecified upgrades or enhancements, hosting of a branded channel store, and engineering and support services. The Company has determined that the license for the technology and the operating system is one performance obligation. Licensing fees from service operators are mostly generated from unit activations or flat fees and from ongoing maintenance.

Nature of performance obligations	**Revenue recognition**
Digital advertising	Digital advertising is comprised of performance obligations that are recognized either at a point in time or over time depending on the nature of the advertising product.
Content distribution services	The revenue share from the content publishers included in the estimated transaction price is based on the expected value for which a significant reversal of revenue is not expected to occur. The estimate of the variable consideration is based on the assessment of historical, current, and forecasted performance of the publishers' content applications. Revenue is recognized on a time elapsed basis, by day, as they are delivered over the contractual distribution term.
Branded channel buttons	The button fees included in the estimated transaction price are based on the expected value for which a significant reversal of revenue is not expected to occur. The estimate of the variable consideration is based on the Company's assessment of historical, current, and forecasted player and Roku TV volumes. Revenue is recognized on a time elapsed basis, by day, over the distribution term.
License of technology and operating system	The revenue for licensing of technology and operating system is recognized at a point in time, when the control has transferred to the customer, which usually occurs when the Company makes the IP available to the customer.
Unspecified upgrades to the IP	The revenue allocated to unspecified upgrades is recognized on a time elapsed basis, by day, over the service period.
Hosting services	Hosting fees are recognized on a time elapsed basis, by day, over the service period.
Professional services	Professional services revenue is recognized as services are provided or accepted.

Player segment:

The Company sells the majority of its players through retail distribution channels, including brick and mortar and online retailers, and through the Company's website. The Company's player revenue includes allowances for returns and sales incentives in the estimated transaction price. These estimates are based on historical experience and anticipated performance.

The Company's player revenue includes two performance obligations:

- hardware, which includes embedded software, and
- unspecified upgrades or enhancements on a when-and-if available basis.

The Company has determined that its hardware and embedded software be considered as one performance obligation because the customer cannot benefit from the hardware or the embedded software either on its own or together with other resources that are readily available to the customer.

Nature of performance obligations	Revenue recognition
Players	Revenue recognition occurs at a point in time when control has transferred to the customer, which is based on the contractual terms.
Unspecified upgrades to the software embedded in the hardware	The Company initially records the allocated value of the unspecified upgrades as deferred revenue and recognizes it into player revenue ratably on a time elapsed basis, by day, over the estimated economic life of the associated players.

Revenue disaggregation

The Company's disaggregated revenues are represented by the two reportable segments discussed in Note 15. The disaggregation is based on the evaluations that are regularly performed by the chief operating decision maker, or CODM, for purposes of allocating resources and evaluating financial performance. The Company's CODM is its Chief Executive Officer.

Transaction price allocated to future performance obligations

As of December 31, 2018, the Company had $117.0 million of estimated future revenue related to outstanding performance obligations. The Company expects to recognize approximately 76% of this future revenue over the next twelve months and the remainder thereafter through 2024. This estimated future revenue excludes contracts with original durations of one year or less, amounts relating to invoicing practical expedient and variable consideration amounts attributable to royalties related to sales and usage-based revenues. The amount of revenue recognized for the three months ended December 31, 2018 from performance obligations satisfied, or partially satisfied in previous periods is $7.2 million, which mainly relates to platform revenues.

Contract balances

Contract balances include accounts receivable, contract assets and contract liabilities or deferred revenues. Accounts receivable are recorded at the amount invoiced, net of an allowance for doubtful accounts. The payment terms with customers vary by contract. Contract assets are created when the timing of revenue recognition differs from the timing of invoicing to a customer. Contract asset is created when billing occurs subsequent to revenue recognition. Contract assets are transferred to accounts receivable when the rights to bill becomes unconditional. The Company's contract assets are current in nature and are included in "Prepaid expenses and other current assets". The Company did not have any impairments relating to contract assets.

Contract liabilities are recorded as deferred revenue and primarily relate to the advance consideration received from customers. Revenue is recognized when the performance obligation is completed and delivered or transfer of control occurs.

The table below reflects the contract balances of the Company (in thousands):

	As of December 31, 2018	As of adoption January 1, 2018
Accounts receivable, net	$ 183,078	$ 133,281
Contract assets, current portion	753	4,113
Deferred revenue, current portion	45,442	42,950
Deferred revenue, non-current portion	19,594	12,023

Revenue recognized during the year ended December 31, 2018 from amounts included in deferred revenue at January 1, 2018 was $38.5 million. For the year ended December 31, 2018, $12.4 million related to the delivery of intellectual property that occurred during the quarter ended March 31, 2018 and also resulted in a decrease to contract assets of $2.8 million as of December 31, 2018.

Impact of adoption for the year ended December 31, 2018

The most significant aspects of adopting the new revenue standard related to the Company's platform revenues. The removal of vendor-specific objective evidence requirement and the application of variable consideration in the content publisher arrangements resulted in earlier recognition of revenues as compared to periods before adoption.

The impact of adoption of the new revenue standard on the condensed consolidated balance sheet as of December 31, 2018 and statements of operations for the year ended December 31, 2018 is reflected in the table below (in thousands):

	As of December 31, 2018		
Impact on balance sheet line items	**As Reported**	**Balances without adoption of the new revenue standard**	**Impact of adoption Higher / (Lower)**
Assets:			
Accounts receivable, net	$ 183,078	$ 162,712	$ 20,366
Prepaid expenses and other current assets	15,374	14,728	646
Deferred cost of revenue, current portion	1,188	3,615	(2,427)
Deferred cost of revenue, non-current portion	—	5,260	(5,260)
Liabilities:			
Accrued liabilities	91,986	89,646	2,340
Deferred revenue, current portion	45,442	51,352	(5,910)
Deferred revenue, non-current portion	19,594	49,559	(29,965)
Equity:			
Accumulated Deficit	$ (253,896)	$ (300,756)	$ 46,860

Impact on statements of operations line items	Year Ended December 31, 2018		
	As Reported	Balances without adoption of the new revenue standard	Impact of adoption Higher / (Lower)
Net Revenue:			
Platform	$ 416,863	$ 391,677	$ 25,186
Player	325,643	325,417	226
Total net revenue	742,506	717,094	25,412
Cost of Revenue:			
Platform	120,543	105,423	15,120
Player	289,815	289,891	(76)
Total cost of revenue	410,358	395,314	15,044
Gross Profit:			
Platform	296,320	286,254	10,066
Player	35,828	35,526	302
Total gross profit	332,148	321,780	10,368
Operating Expenses:			
Research and development	170,692	170,692	—
Sales and marketing	102,780	100,933	1,847
General and administrative	71,972	71,972	—
Total operating expenses	345,444	343,597	1,847
Loss from Operations	(13,296)	(21,817)	8,521
Net loss	$ (8,857)	$ (17,378)	$ 8,521

4. BUSINESS COMBINATION

On September 6, 2017, the Company acquired all of the outstanding shares of a privately held technology company located in Denmark to enhance the Company's player product offering, for an aggregate purchase price of $3.5 million. The Company paid $3.0 million of the aggregate purchase price at the time of acquisition and $0.5 million during the year ended December 31, 2018. In addition, the Company issued 0.1 million shares of its Class B common stock to two of the founders as part of a continuing services arrangement. The shares are subject to a right of repurchase which lapses over a three year period at varying prices per share. In addition, the Company incurred approximately $0.4 million of costs related to the acquisition which is included in the general and administrative expenses for the year ended December 31, 2017.

The purchase price allocation includes $1.4 million of goodwill and $2.2 million of identifiable intangible assets, which primarily consist of developed technology, with an expected useful life of approximately four years. Goodwill represents the excess of the purchase price over the fair value of the net tangible and intangible assets acquired and is not expected to be deductible for income tax purposes. The goodwill in this transaction is primarily attributable to the acquired workforce and expected operating synergies.

The Company recorded an expense of $0.6 million and $0.2 million for amortization of intangible asset during the years ended December 31, 2018 and 2017, respectively. The estimated future amortization expenses for intangible asset is $0.6 million, $0.5 million and $0.3 million for the years ending in December 31, 2019, 2020 and 2021, respectively.

5. BALANCE SHEET COMPONENTS

Balance sheet components consisted of the following:

Accounts Receivable, net: Accounts receivable, net consisted of the following (in thousands):

	As of December 31,	
	2018	2017
Gross accounts receivable	$ 204,975	$ 138,292
Allowance for sales returns	(7,335)	(6,907)
Allowance for sales incentives	(13,750)	(10,442)
Other allowances	(812)	(390)
Total allowances	(21,897)	(17,739)
Total Accounts Receivable—net of allowances	$ 183,078	$ 120,553

Allowance for Sales Returns: Allowance for sales returns consist of the following activities (in thousands):

	As of December 31,	
	2018	2017
Beginning balance	$ (6,907)	$ (6,916)
Charged to revenue	(17,396)	(19,089)
Utilization of sales return reserve	16,968	19,098
Ending balance	$ (7,335)	$ (6,907)

Allowance for Sales Incentive: Allowance for sales incentive consisted of the following activities (in thousands):

	As of December 31,	
	2018	2017
Beginning balance	$ (10,442)	$ (8,503)
Charged to revenue	(50,958)	(44,264)
Utilization of sales incentive reserve	47,650	42,325
Ending balance	$ (13,750)	$ (10,442)

Property and Equipment, net: Property and equipment, net consisted of the following (in thousands):

	As of December 31,	
	2018	2017
Computers and equipment	$ 16,056	$ 11,631
Leasehold improvements	18,396	8,437
Website and internal-use software	6,423	5,461
Office equipment and furniture	4,069	1,987
Total property and equipment	44,944	27,516
Accumulated depreciation and amortization	(19,680)	(12,780)
Property and Equipment, net	$ 25,264	$ 14,736

Depreciation and amortization expense for the years ended December 31, 2018, 2017 and 2016 and was $7.8 million, $5.2 million and $5.3 million, respectively.

Accrued Liabilities: Accrued liabilities consisted of the following (in thousands):

	As of December 31,	
	2018	2017
Accrued royalty expense	$ 7,939	$ 17,165
Accrued inventory	6,008	2,382
Accrued payroll and related expenses	12,217	8,699
Accrued cost of revenue	22,830	12,210
Accrued payments to content publishers	32,463	24,037
Taxes and related liabilities	1,314	1,463
Customer prepayments	3,124	545
Other accrued expenses	6,091	5,843
Total Accrued Liabilities	$ 91,986	$ 72,344

Deferred Revenue: Deferred revenue consisted of the following (in thousands):

	As of December 31,	
	2018	2017
Platform, current	$ 28,569	$ 19,022
Player, current	16,873	15,479
Total deferred revenue, current	45,442	34,501
Platform, non-current	12,783	42,674
Player, non-current	6,811	5,837
Total deferred revenue, non-current	19,594	48,511
Total Deferred Revenue (See Note 3)	$ 65,036	$ 83,012

6. SHORT-TERM INVESTMENTS

The following is a summary of the Company's short-term investments (in thousands):

	As of December 31, 2018			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Loss	Fair Value
Corporate bonds and commercial paper	$ 37,168	$ —	$ (17)	$ 37,151
U.S. government securities	4,995	—		4,995
Total Short-Term Investments	$ 42,163	$ —	$ (17)	$ 42,146

Tax amounts related to unrealized losses are not material for all periods presented.

The following table summarizes the maturities of the Company's short-term investments by contractual maturity (in thousands):

	As of December 31, 2018	
	Amortized Cost	Fair Value
Less than 1 year	$ 42,163	$ 42,146
Due in 1-3 years	—	—
Total Short-Term Investments	$ 42,163	$ 42,146

The Company did not have any short-term investments at December 31, 2017.

7. FAIR VALUE DISCLOSURE

The Company's financial assets measured at fair value are as follows (in thousands):

	As of December 31, 2018			
	Fair Value	Level 1	Level 2	Level 3
Assets:				
Cash and cash equivalents:				
Cash	$ 147,221	$ 147,221	$ —	$ —
Money market funds	8,343	8,343	—	—
Short-term investments:				
Corporate bonds and commercial paper	37,151	—	37,151	—
U.S. government securities	4,995	—	4,995	—
Total assets measured and recorded at fair value	$ 197,710	$ 155,564	$ 42,146	$ —

The Company did not have any cash equivalents or short-term investments at December 31, 2017.

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in the principal market (or most advantageous market, in the absence of a principal market) for the asset or liability in an orderly transaction between market participants at the measurement date. Further, the Company maximizes the use of observable inputs and minimize the use of unobservable inputs in measuring fair value, and to utilize a three-level fair value hierarchy that prioritizes the inputs used to measure fair value. The three levels of inputs used to measure fair value are as follows:

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

Financial assets and liabilities measured using Level 1 inputs include cash equivalents, accounts receivable, prepaid expenses, accounts payable and accrued liabilities.

The Company considers all highly liquid investments purchased with an original or remaining maturity of 90 days or less at the date of purchase to be cash equivalents. The Company measured money market funds of $8.3 million as cash equivalents as of December 31, 2018 using Level 1 inputs. The Company did not have any cash equivalents as of December 31, 2017.

Level 2—Observable inputs other than quoted prices included within Level 1, including quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in markets that are not active; and inputs other than quoted prices that are observable or are derived principally from, or corroborated by, observable market data by correlation or other means.

The Company measured its short-term investments using Level 2 inputs.

Level 3—Unobservable inputs that are supported by little or no market activity, are significant to the fair value of the assets or liabilities and reflect the Company's own assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

The Company did not have Level 3 instruments at December 31, 2018 and 2017. During the years ended December 31, 2017 and 2016, Level 3 instruments consisted of the Company's convertible preferred stock warrant liability. Pursuant to the Company's IPO in October 2017, all convertible preferred stock warrants were converted into Class B common stock warrants, which did not require further re-measurements as they were deemed permanent equity. For periods prior to the IPO, the Company's convertible preferred stock warrant liability was measured at fair value upon issuance and at each reporting date prior to the IPO. The inputs that were used to determine the estimated fair value of the convertible preferred stock warrant liability included the remaining contractual term of the warrants, the risk-free interest rate, the volatility of comparable public companies over the

remaining term, and the fair value of underlying shares. The significant unobservable inputs used in the fair value measurement of the convertible preferred stock warrant liability were the fair value of the underlying stock at the valuation date and the estimated term of the warrants.

The following table represents the activity of Level 3 instruments (in thousands):

	Years Ended December 31, 2017
Convertible preferred stock warrant liability — beginning balance	$ 9,990
Fair value of new warrants issued	2,032
Change in fair value of preferred stock warrant liability*	40,333
Reclassification to additional paid in capital upon conversion to common warrants	(52,355)
Convertible preferred stock warrant liability — ending balance	$ —

* Recognized in the consolidated statements of operations within other income (expense), net.

Assets and liabilities that are measured at fair value on a non-recurring basis

Non-financial assets such as goodwill, intangible assets, and property, plant, and equipment are evaluated for impairment and adjusted to fair value using Level 3 inputs, only when impairment is recognized. There were no indicators of impairment that required a fair value analysis during the years ended December 31, 2017. The Company recorded an impairment of $0.4 million for long-lived assets that were no longer in use during the year ended December 31, 2018.

8. DEBT

The Company did not have any outstanding debt as of December 31, 2018 and 2017. The Company entered into a new Credit Facility in February 2019. Refer to Note 15, Subsequent Event for the details of the new Credit Facility.

Line of credit

The Company first entered into a loan and security agreement (the "LSA") with Silicon Valley Bank, or Bank, in July 2011. The LSA was amended and restated in subsequent periods. The amended and restated loan and security agreement (the "Restated 2014 LSA") entered into in November 2014 provides advances under a revolving line of credit up to $30.0 million and provides for letters of credit to be issued up to $5.0 million.

In June 2017, the Company entered into a second amendment to the Restated 2014 LSA. Advances under the second amendment carry a floating per annum interest rate equal to, at the Company's option, (1) the prime rate or (2) LIBOR plus 2.75%, or the prime rate plus 1% depending on certain ratios. The amendment further changed the financial covenant to maintain a current ratio (calculated as current assets, divided by current liabilities less deferred revenue) greater than or equal to 1.25. The revolving line of credit terminates on June 30, 2019 at which time all outstanding advances becomes due and payable. As of December 31, 2018 and 2017, the Company was in compliance with all of the covenants in the amended Restated 2014 LSA.

On July 18, 2018, the Company entered into a third amendment to the Restated 2014 LSA. The amendment increased the amount by which the Company can utilize its line of credit to support the issuances of letters of credits from $5.0 million to $30.0 million.

The Company did not have any borrowings outstanding on the revolving line of credit as of December 31, 2018 and 2017. The Company had $26.4 million and $1.5 million outstanding in letters of credit as of December 31, 2018 and 2017, respectively. The interest rate on the line of credit was 5.25% and 4.31% as of December 31, 2018 and 2017, respectively.

Term loan

In June 2017, the Company entered into a subordinated loan agreement, or 2017 Agreement, with the Bank. The 2017 Agreement provided for a term loan borrowing of $40.0 million, with a minimum of $25.0 million to be initially drawn at the close of the agreement with the remaining amount available for a 24 month period, to be drawn in no less than $5.0 million increments. Advances under the term loan incur a facility fee equal to 1% of the drawn borrowings, in addition to interest payments at an interest rate equal to, at the Company's option, (1) the prime rate plus 3.5% or (2) LIBOR plus 6.5%, subject to a 1% LIBOR floor. Additionally, the borrowings incur payment in kind interest fees equal to 2.5%, accruing to the unpaid borrowings balance, compounded monthly. Payment in kind interest may be settled in cash, at the Company's election, during the term or at maturity. The Company is also obligated to pay final payment fees ranging from 1% to 4% depending on the timing of the payment. On October 31, 2017 the Company repaid the entire amount outstanding, and subsequently terminated the 2017 Agreement. In connection with the repayment, the Company recorded a loss of $2.3 million on extinguishment of debt in the year ended December 31, 2017.

In connection with the 2017 Agreement the Company issued 0.4 million warrants to purchase shares of Series H convertible preferred stock, with an exercise price of $9.17340. The warrants were exercisable up to ten years from the date of issuance. Upon repayment of the amounts borrowed and the subsequent termination of the 2017 Agreement, the Company cancelled 0.1 million warrants that were contingent on future borrowings. The warrant holders exercised 0.1 million warrants during the year ended December 31, 2017 and the remaining 0.2 million warrants during the three months ended March 31, 2018. There were no outstanding warrants as of December 31, 2018.

9. STOCKHOLDERS' EQUITY (DEFICIT)

Convertible Preferred Stock

Upon the closing of the Company's IPO in 2017, all outstanding shares of its convertible preferred stock automatically converted into 80.8 million shares of Class B common stock on a one-to-one basis.

On October 2, 2017, the Company filed an Amended and Restated Certificate of Incorporation, which authorized the issuance 10 million shares of undesignated preferred stock with rights and preferences determined by the Company's Board of Directors at the time of issuance of such shares. As of December 31, 2018 and 2017, there were no shares of preferred stock issued and outstanding.

Common Stock

The Company's Amended and Restated Certificate of Incorporation filed on October 2, 2017, established two classes of authorized common stock, Class A common stock and Class B common stock. All shares of common stock outstanding immediately prior to the IPO, including shares of common stock issued upon the conversion of the convertible preferred stock, were converted into an equivalent number of shares of Class B common stock.

Holders of Class A common stock are entitled to one vote for each share of Class A common stock held on all matters submitted to a vote of stockholders and holders of Class B common stock are entitled to ten votes for each share of Class B common stock held on all matters submitted to a vote of stockholders. Except with respect to voting, the rights of the holders of Class A and Class B common stock are identical. Shares of Class B common stock are voluntarily convertible into shares of Class A common stock at the option of the holder and are generally automatically converted into shares of the Company's Class A common stock upon sale or transfer. Shares issued in connection with exercises of stock options, vesting of res tricted stock units, or shares purchased under the employee stock purchase plan are generally automatically converted into shares of the Company's Class A common stock. Shares issued in connection with an exercise of the common stock warrants are converted into shares of the Company's Class B common stock.

Common Stock Reserved For Issuance

At December 31, 2018, the Company had reserved shares of common stock for issuance as follows (in thousands):

	As of December 31, 2018
Common stock awards granted under equity incentive plans	20,057
Common stock awards available for grant under equity incentive plan	13,239
Total reserved shares of common stock	33,296

Equity Incentive Plans

The 2008 Equity Incentive Plan (the "2008 Plan") became effective in February 2008. The 2008 Plan allowed for the grant of incentive stock options to our employees and any of our subsidiary corporations' employees and for the grant of non-statutory stock options and restricted stock awards to our employees, officers, directors and consultants. Options granted under the 2008 Plan were granted at a price per share equivalent to the fair market value on the date of grant. Recipients of option grants under the 2008 Plan who possess more than 10% of the combined voting power of the Company (a "10% Shareholder") are subject to certain limitations, and incentive stock options granted to such recipients were at a price no less than 110% of the fair market value at the date of grant. Options under the 2008 Plan generally vest over four years and have a term of 10 years.

Upon the closing of the Company's IPO, the Company's Board of Directors adopted the 2017 Equity Incentive Plan (the "2017 Plan"). No further shares would be issued under the 2008 Plan at the time the 2017 Plan became effective. The 2017 Plan became effective in September 2017. The 2017 Plan provides for the grant of incentive stock options to our employees and for the grant of non-statutory stock options, stock appreciation rights, restricted stock awards, restricted stock unit awards, performance stock awards, performance cash awards, and other forms of equity compensation to our employees, directors and consultants. Options under the 2017 Plan generally vest over four years and have a term of 10 years.

The following table summarizes the Company's stock option activities under the 2008 Plan and 2017 Plan (in thousands, except per share data):

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Weighted Average Grant Date Fair Value Per Share	Aggregate Intrinsic Value
Balance, December 31, 2017	26,336	$ 4.59	6.4	—	
Granted	1,040	52.32	—	$ 22.96	
Exercised	(10,315)	2.90	—	—	
Forfeited and expired	(690)	6.79	—	—	
Balance, December 31, 2018 - outstanding	16,371	$ 8.59	6.8	—	$ 384,383
Options exercisable at December 31, 2018	8,849	$ 4.72	5.6	—	$ 230,254

The weighted average grant-date fair value of options granted during the years ended December 31, 2018, 2017 and 2016 was $22.96, $3.73 and $2.71, respectively.

The total intrinsic value of options exercised in the years ended December 31, 2018, 2017 and 2016 was $445.9 million, $20.4 million and $0.4 million, respectively, and represents the difference between the fair value of the Company's common stock at the dates of exercise and the exercise price of the options.

Early Exercise of Stock Options

The 2008 Plan allows employees to exercise options granted prior to vesting, if approved by the Company's Board of Directors. The unvested shares are subject to the Company's repurchase right at the original purchase price. The proceeds from the early exercise of stock options are initially recorded as an accrued liability and reclassified to stockholders' equity as the Company's repurchase right lapses. The number of unvested shares subject to repurchase that were outstanding as of December 31, 2018 and 2017 were not material.

Stock-based Compensation

The Company measures the cost of employee services received in exchange for an award of equity instruments based on the grant date fair value of the award. Generally, stock options granted to employees vest 25% after one year and then 1/48th monthly thereafter, and restricted stock units issued generally vest 25% after one year and then 1/16th quarterly thereafter, and have a term of ten years.

The following table shows total stock-based compensation expense included in the accompanying Consolidated Statements of Operations for the years ended December 31, 2018, 2017 and 2016 (in thousands):

	Years Ended December 31,		
	2018	2017	2016
Cost of platform revenue	$ 97	$ 81	$ 224
Cost of player revenue	469	145	136
Research and development	18,538	4,714	2,766
Sales and marketing	10,459	2,817	2,292
General and administrative	8,111	3,196	2,788
Total stock-based compensation	$ 37,674	$ 10,953	$ 8,206

The fair value of options granted under the 2008 Plan and 2017 Plan is estimated on the grant date using the Black-Scholes option-valuation model. This valuation model for stock-based compensation expense requires the Company to make certain assumptions and judgments about the variables used in the calculation, including the expected term, the expected volatility of the Company's common stock, an assumed risk-free interest rate, and expected dividends. In addition to these assumptions, the Company also estimated a forfeiture rate of unvested stock

options to calculate the stock-based compensation expense prior to January 1, 2017. Beginning January 1, 2017, the Company began recognizing forfeitures as they occur with the adoption of the new guidance related to accounting for stock-based payment award transactions. The impact of the change was not material to the financial statements.

Fair Value of Common Stock

Prior to our IPO, the fair value of the common stock underlying our stock options was determined by our Board of Directors. The valuations of our common stock were determined in accordance with the guidelines outlined in the American Institute of Certified Public Accountants Practice Aid, Valuation of Privately-Held-Company Equity Securities Issued as Compensation. Our Board of Directors, with input from management, exercised significant judgment and considered numerous objective and subjective factors to determine the fair value of our common stock at each grant date, including but not limited to the prices, rights, preferences and privileges of our preferred stock relative to the common stock, our operating and financial performance, current business conditions and projections, our stage of development, likelihood of achieving a liquidity event for the shares of common stock underlying these stock options, such as an IPO or sale of our company, given prevailing market conditions, any adjustment necessary to recognize a lack of marketability of the common stock underlying the granted options, the market performance of comparable publicly-traded companies, the U.S. and global capital market conditions.

Subsequent to our IPO, we use the market closing price for our Class A common stock as reported on The Nasdaq Global Select Market on the date of grant. The Company uses the straight-line method for expense recognition.

Expected Term

The Company's expected term represents the period that the Company's stock-based awards are expected to be outstanding and is determined based on the simplified method as described in ASC Topic 718-10-S99-1, *SEC Materials SAB Topic 14, Share-Based Payment*.

Expected Volatility

The Company's volatility factor is estimated using several comparable public company volatilities for similar option terms.

Expected Dividends

The Company has never paid cash dividends and has no present intention to pay cash dividends in the future, and as a result, the expected dividends are $0.

Risk-Free Interest Rate

The Company bases the risk-free interest rate on the implied yield currently available on U.S. Treasury zero coupon issues with a remaining term equivalent to the estimated life of the stock-based awards. Where the expected term of the Company's stock-based awards does not correspond with the term for which an interest rate is quoted, the Company performs a straight-line interpolation to determine the rate from the available term maturities.

The assumptions used to value stock-based awards granted during the years ended December 31, 2018, 2017 and 2016 are as follows:

	Years Ended December 31,		
	2018	**2017**	**2016**
Dividend rate	—	—	—
Expected term (in years)	5.3 - 6.8	5.3 - 6.5	5.3 - 6.5
Risk-free interest rate	2.32 - 2.88%	1.87 - 2.25%	1.33 - 1.95%
Expected volatility	38 - 40%	39 - 44%	44 - 46%
Fair value of common stock	—	$2.56 - $18.46	$5.64 - $6.60

As of December 31, 2018, the Company had $38.5 million of unrecognized stock compensation expense related to unvested stock options that is expected to be recognized over a weighted-average period of approximately 2.11 years.

Stock Option Repricing

In November 2016, the Company's Board of Directors approved a common stock option repricing program whereby previously granted and unexercised options held by current employees with exercise prices above $5.64 per share were repriced on a one-for-one basis to $5.64 per share which represented the fair value of the Company's common stock as of the date of the repricing. There was no other modification to the vesting schedule of the previously issued option. As a result, 5.1 million unexercised options originally granted to purchase common stock at prices ranging from $5.70 to $7.02 per share were repriced under this program.

We treated the repricing as a modification of the original awards and calculated additional compensation costs for the difference between the fair value of the modified award and the fair value of the original award on the modification date. The repricing resulted in incremental stock-based compensation of $1.0 million. Expense related to vested shares of $0.1 million was expensed on the repricing date and the remaining $0.9 million related to unvested shares is being amortized over the remaining vesting period of such options.

Restricted Stock Units

Pursuant to the 2017 Plan, the Company issued restricted stock units to employees. Restricted stock unit activity for the year ended December 31, 2018 is as follows (in thousands, except per share data):

	Number of Shares	Weighted Average Grant Date Fair Value Per Share
Balance, December 31, 2017	272	$ 43.55
Awarded	3,827	48.26
Released	(267)	42.95
Forfeited	(146)	43.14
Balance, December 31, 2018 - outstanding	3,686	$ 48.50

The grant-date fair value of restricted stock units granted during the year ended December 31, 2018 was $184.7 million. Total unrecognized compensation cost related to restricted stock units awarded to employees was $167.5 million, which the Company expects to recognize over 3.29 years.

Common Stock Warrants

In July 2017 the Company issued 0.4 million shares of Class B common stock upon exercise of 0.4 million Class B common stock warrants issued in 2009.

Convertible Preferred Stock Warrants

Immediately prior to the Company's IPO, warrants to purchase 2.2 million shares of convertible preferred stock were outstanding. The warrants were automatically converted into warrants to purchase 2.2 million shares of Class B common stock upon the closing of the IPO.

Prior to the IPO, the fair value of the convertible preferred stock warrants was recorded as a liability and was remeasured at the end of each balance sheet date using the Black-Scholes option pricing model. The Company revalued the convertible preferred stock warrants as of the completion of the IPO and reclassified the outstanding preferred stock warrant liability balance to additional paid-in capital with no further re-measurement required as

Class B common stock warrants are considered permanent equity. Changes in the fair value of the convertible preferred stock warrants were recognized in the consolidated statements of operations. The Company valued the convertible preferred stock warrants using the following assumptions:

	Years Ended December 31,	
	2017	2016
Dividend rate	—	—
Expected term (in years)	3.0 - 9.7	3.2 - 3.9
Risk-free interest rate	1.5 - 2.3%	0.7 - 1.6%
Expected volatility	44 - 51%	46 - 48%

After conversion into warrants to purchase shares of Class B common stock, 1.9 million warrants were exercised and 0.1 million shares were cancelled during the year ended December 31, 2017. The warrant agreements allowed for net settlement for Class B common stock. As a result, the Company issued 1.8 million shares of Class B common stock upon exercise.

As of December 31, 2017, warrants to purchase 0.2 million shares of Class B common stock were outstanding, which were exercised during the year ended December 31, 2018. As of December 31, 2018, no warrants to purchase shares of Class B common stock remained outstanding.

10. COMMITMENTS AND CONTINGENCIES

Commitments

The Company has operating lease arrangements for office, research and development and sales and marketing space in the United States, the United Kingdom, or U.K., Denmark, and China, with various expiration dates up to 2030. In the second half of 2018, the Company entered into lease arrangements to acquire office space to house the Company's new headquarters in San Jose, California. The lease commitments for the new headquarters are a significant portion of the future minimum lease payments as of December 31, 2018.

Future minimum lease payments under all operating leases as of December 31, 2018, are as follows (in thousands):

Year Ending December 31,	Operating Leases
2019	$ 16,817
2020	29,124
2021	32,034
2022	32,844
2023	33,414
Thereafter	223,472
Less: Sublease rental income	(3,711)
Total	$ 363,994

In connection with its leased facilities the Company recognized a liability for asset retirement obligations in 2015 representing the present value of estimated costs to be incurred at lease expiration. The liability for asset retirement obligations was $0.6 million and $0.5 million as of December 31, 2018 and 2017, respectively.

Rent expense for the years ended December 31, 2018, 2017 and 2016 was $9.7 million, $6.9 million and $4.6 million, respectively.

Manufacturing Purchase Commitments

The Company has various manufacturing contracts with vendors in the conduct of the normal course of its business. In order to manage future demand for our products and to ensure adequate component supply, the

Company enters into agreements with manufacturers and suppliers to procure inventory based upon certain criteria and timing. Some of these commitments are con-cancellable. As of December 31, 2018 and 2017, the Company had $40.6 million and $75.2 million purchase commitments for inventory, respectively.

The Company records a liability for noncancelable purchase commitments in excess of its future demand forecasts. The Company recorded $0.1 million and $0.6 million for these purchase commitments in "Accrued liabilities" at December 31, 2018 and 2017, respectively.

Content License Purchase Commitments

The Company licenses certain content for users to access through The Roku Channel. An obligation for licensing of content is incurred at the time the Company enters into an agreement to obtain future titles and the cost of the content is known. Certain agreements include the obligation to license rights for unknown future titles, the ultimate quantity and/or fees for which are not yet determinable as of the reporting date. At December 31, 2018, the amount recorded as obligations in "Accrued liabilities" for license purchase commitments were not material. As of December 31, 2018, the Company did not have any remaining performance obligations that are not reflected on the financial statements as they do not yet meet the criteria for asset and liability recognition.

Loss from Exit of Facilities

In January 2016, the Company moved its headquarters facilities to Los Gatos, California from Saratoga, California. The Company has entered into subleases for a portion of the former headquarters and expects to sublease the remaining portion for the remainder of the lease period. In connection with the move, the Company recognized a facility exit charge for the estimated loss on the sublease in its "Operating Expenses". The estimated loss is comprised of the remaining fair value of lease obligations and related expenses for exited locations, as determined at the cease-use dates of those facilities, net of estimated sublease income that could be reasonably obtained in the future and will be paid out over the remaining lease terms, which end in the year ending December 31, 2020. Projected sublease income is based on management's estimates, which are subject to change.

A summary of the Company's exit liability activity for the years ended December 31, 2018, 2017 and 2016, is as follows (in thousands):

	Years Ended December 31,		
	2018	2017	2016
Beginning balance	$ 779	$ 2,085	$ —
Change in estimated loss from exit	1,120	525	3,804
Non-cash adjustment	—	—	1,120
Amortization of liability	(1,052)	(1,831)	(2,839)
Ending balance	$ 847	$ 779	$ 2,085

The Company recorded $0.6 million and $0.7 million of the above lease liability in "Accrued liabilities" and the remaining $0.2 million and $0.1 million in "Other long-term liabilities" at December 31, 2018 and 2017, respectively.

Letters of Credit

As of December 31, 2018 the Company had irrevocable letters of credit outstanding in the amount of $26.4 million for the benefit of landlords related to noncancelable facilities leases. The letters of credit expire on various dates in 2019.

Contingencies

The Company accrues for loss contingencies, including liabilities for intellectual property licensing, when it believes such losses are probable and reasonably estimable. During the three months ended June 30, 2018, the Company changed its estimate of certain liabilities previously recorded for intellectual property licensing and

released $8.9 million as a result of its assessment that the likelihood of payment is now remote. The reversal of $8.9 million is recorded within cost of player revenue during the year ended December 31, 2018, in the consolidated statements of operations.

The Company is currently involved in, and may in the future be involved in, legal proceedings, claims, and investigations in the ordinary course of business, including claims for infringing patents, copyrights or other intellectual property rights related to its platform and products, or the content distributed through its platform by the Company or third-party channel developers. Although the results of these proceedings, claims, and investigations cannot be predicted with certainty, the Company does not believe that the final outcome of any matters that it is currently involved in are reasonably likely to have a material adverse effect on its business, financial condition, or results of operations.

Indemnification

Many of the Company's agreements include certain provisions for indemnifying content publishers, licensees, contract manufacturer and suppliers if the Company's products or services infringe a third party's intellectual property rights. It is not possible to determine the maximum potential amount under these indemnification obligations due to the limited history of prior indemnification claims and the unique facts and circumstances involved in each agreement. To date, the Company has not incurred any material costs as a result of such obligations and have not accrued any liabilities related to such obligations in the consolidated financial statements.

11. INCOME TAXES

The components of loss before income taxes consist of the following (in thousands):

	Years Ended December 31,		
	2018	2017	2016
United States	$ (11,128)	$ (63,831)	$ (42,977)
Foreign	1,795	637	430
Net loss before income taxes	$ (9,333)	$ (63,194)	$ (42,547)

The income tax expense consisted of the following (in thousands):

	Years Ended December 31,		
	2018	2017	2016
Current:			
State	$ 114	$ 89	$ 50
Foreign	184	674	160
	298	763	210
Deferred:			
Foreign	(774)	(448)	1
Total	$ (476)	$ 315	$ 211

The following is a reconciliation of the statutory federal income tax rate to the Company's effective tax rate:

	Years Ended December 31,		
	2018	2017	2016
U.S. federal income tax at statutory rate	21.0%	34.0%	34.0%
U.S. state and local income taxes	(1.3)	(0.2)	(0.1)
Change in valuation allowance	(1,039.4)	19.0	(36.9)
Federal research and development tax credit	166.2	5.2	4.8
Convertible preferred stock warrants	-	(21.7)	0.7
Stock-based compensation	859.4	1.2	(2.5)
Meals and Entertainment	(6.6)	(1.1)	(0.2)
Permanent items	(1.1)	—	—
Foreign rate differential	(1.5)	0.2	—
Tax rate change	2.4	(36.4)	—
Provision to return trueup	5.9	—	—
Other	0.1	(0.7)	(0.2)
Effective tax rate	5.1%	(0.5)%	(0.4)%

Significant components of the Company's deferred income tax assets and liabilities consist of the following (in thousands):

	As of December 31,	
	2018	2017
Deferred tax assets:		
Net operating loss carryforwards	$ 128,829	$ 34,843
Reserves and accruals	7,840	13,577
Research and development credits	39,344	15,475
Depreciation and amortization	—	288
Stock-based compensation	7,529	4,098
Total deferred tax assets	183,542	68,281
Deferred tax liabilities:		
Depreciation and amortization	(343)	—
Total deferred tax liabilities	(343)	—
Valuation allowance	(182,360)	(68,219)
Net deferred tax assets	$ 839	$ 62

A valuation allowance is provided when it is more likely than not that some portion of the deferred tax assets will not be realized through future operations. As a result of the Company's analysis of all available objective evidence, both positive and negative, as of December 31, 2018, management believes it is more likely than not that the deferred tax assets will not be fully realizable. Accordingly, the Company has provided a full valuation allowance against its deferred tax assets with the exception of deferred tax assets related to foreign entities in the U.K., China and Denmark.

For federal and state income tax reporting purposes, respective net operating loss carryforwards of $495.9 million and $408.3 million are available to reduce future taxable income, if any. These net operating loss carryforwards will begin to expire in 2028 for federal and state income tax purposes. The federal net operating loss generated in the current year can be carried forward indefinitely.

For U.K. income tax reporting purposes, the net operating loss carryforward of $3.0 million is available to reduce the future taxable income, if any. This net operating loss can be carried forward indefinitely. The Company also has U.K. research and development tax credit carryforwards of $0.1 million. The credit can be carried forward indefinitely.

As of December 31, 2018, the Company has research and development tax credit carryforwards of $33.9 million and $23.2 million for federal and state income tax purposes, respectively. If not utilized, the federal carryforwards will begin to expire in 2028. The state tax credits can be carried forward indefinitely.

The Internal Revenue Code of 1986, as amended (the "Code"), contains provisions that may limit the net operating loss and credit carryforwards available for use in any given period upon the occurrence of certain events, including a statutorily defined significant change in ownership. Utilization of the net operating loss and tax credit carryforwards is subject to an annual limitation due to an ownership change, as defined by section 382 of the Code. The Company completed a recent study to assess whether any section 382 ownership change has occurred since the Company's formation. Based on the study, the Company had a section 382 ownership change on December 18, 2009 and tax attributes generated by the Company through the ownership change date are subject to the limitation. The Company has determined that there were no additional ownership changes after December 18, 2009.

The total amount of unrecognized tax benefits as of December 31, 2018 is $14.5 million which is fully composed of research and development credits. A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows (in thousands):

	As of December 31,	
	2018	2017
Unrecognized tax benefits at beginning of year	$ 5,843	$ 4,368
Gross increase for tax positions of current years	7,053	1,475
Gross increase for tax positions of prior year	1,645	—
Unrecognized tax benefits balance at end of year	$ 14,541	$ 5,843

The Company recognizes interest and penalties related to unrecognized tax benefits as a component of its income tax expense. As of December 31, 2018, there were no accrued interest and penalties related to uncertain tax positions.

None of the Company's unrecognized tax benefit, if recognized, would affect its effective tax rate. The Company does not believe that the amount of unrecognized tax benefits will change significantly in the next 12 months.

The Company files income tax returns in the U.S. federal jurisdiction and various state jurisdictions. In the normal course of business, the Company is subject to examination by taxing authorities. These audits include questioning the timing and amount of deductions; the nexus of income among various tax jurisdictions; and compliance with federal, state, and local tax laws. The Company is not currently under audit by the Internal Revenue Service or other similar state and local authorities. All tax years remain open to examination by major taxing jurisdictions to which the Company is subject.

On December 22, 2017, the U.S. government enacted comprehensive tax legislation commonly referred to as the Tax Cuts and Jobs Act (the "Tax Act"). The Tax Act reduces the US federal corporate tax rate from 35% to 21%, imposes a one-time repatriation tax, and numerous other provisions transitioning to a territorial system, including Global Intangible Low Taxed Income, or GILTI, tax and the base erosion anti-abuse tax, or BEAT. Under U.S. GAAP, the Company is allowed to make an accounting policy choice of either (i) treating taxes due on future U.S. inclusions in taxable income related to GILTI as a current-period expense when incurred (the "period cost method") or (ii) factoring such amounts into a company's measurement of its deferred taxes (the "deferred method").

In December 2018, we completed our accounting for the effect of the 2017 Tax Act within the measurement period under the SEC guidance, and this resulted in no material change to the provisional amount recorded. The Company has adopted the approach of recording the consequences of the GILTI provision of the 2017 Tax act as a period cost when incurred. Based on the Company's analysis, since Roku's average annual gross receipts is less than $500 million for the three tax-year periods ending with the preceding tax year, the Company is not subject to BEAT.

The Tax Act enacted on December 22, 2017 modifies Section 162(m) by (1) expanding which employees are considered covered employees by including the chief financial officer, (2) providing that if an individual is a

covered employee for a taxable year beginning after December 31, 2016, the individual remains a covered employee for all future years, and (3) removing the exceptions for commissions and performance-based compensation. The IRC Section 162(m) limits the Company's ability to deduct compensation for the CEO, CFO and the three highest paid officers over $1 million. Roku will reevaluate its 162(m) limitation calculation upon release of additional IRS guidance on the 2017 Tax Act's transition rule.

The Company will continue to indefinitely reinvest earnings from the rest of our foreign subsidiaries, which are not significant. While federal income tax expense has been recognized as a result of the Tax Act, the Company has not provided any additional deferred taxes with respect to items such as foreign withholding taxes, state income tax or foreign exchange gain or loss. It is not practicable for the Company to determine the amount of unrecognized tax expense on these reinvested international earnings.

12. RELATED-PARTY TRANSACTIONS

The Company has agreements with one of the Company's strategic investors. In the years ended December 31, 2018, 2017 and 2016, the Company recorded $4.1 million, $0.6 million and $0.7 million of revenue, respectively, related to this investor. The Company had an accounts receivable balance of $2.4 million and $0.5 million as of December 31, 2018 and 2017, respectively, related to sales to this investor. The Company incurred expenses of $1.3 million with this investor for the year ended December 31, 2018. The Company had an accounts payable balance of $1.5 million payable to this investor as of December 31, 2018.

In May 2018, a member of the executive staff for one of the Company's business partners joined the Company's Board of Directors. The Company recorded revenues of $5.6 million for the year ended December 31, 2018 with this business partner. The Company had an accounts receivable balance of $1.0 million with this business partner as of December 31, 2018.

13. RETIREMENT PLANS

The Company maintains a 401(k) tax deferred saving plan (the "Savings Plan") for the benefit of qualified employees. Qualified employees may elect to make contributions to the Savings Plan on a biweekly basis, subject to certain limitations. The Company may make contributions to the Savings Plan at the discretion of the Board of Directors. No contributions were made for the years ended December 31, 2018, 2017 and 2016.

In 2014, the Company established a defined contribution plan in the U.K. for its U.K.-based employees. The Company contributed $0.4 million, $0.3 million and $0.2 million to the plan for the years ended December 31, 2018, 2017 and 2016, respectively.

14. NET LOSS PER SHARE

The Company's basic net loss per share is calculated by dividing the net loss by the weighted-average number of shares of common stock outstanding for the period. For purposes of the calculation of diluted net loss per share options to purchase common stock, restricted stock units, unvested shares of common stock issued upon the early exercise of stock options, convertible preferred stock and warrants to purchase common stock and convertible preferred stock are considered common stock equivalents but have been excluded from the calculation of diluted net loss per share as their effect is antidilutive. Because the Company has reported a net loss for the years ended December 31, 2018, 2017 and 2016, diluted net loss per common share is the same as the basic net loss per share for those years.

The table presents the calculation of basic and diluted net loss per share as follows (in thousands, except per share data):

	Years Ended December 31,		
	2018	2017	2016
Numerator:			
Net loss allocable to common stockholders	$ (8,857)	$ (63,509)	$ (42,758)
Denominator:			
Weighted-average shares used in computing net loss per share, basic and diluted	104,618	28,308	4,746
Net loss per share, basic and diluted	$ (0.08)	$ (2.24)	$ (9.01)

The potential common shares that were excluded from the calculation of diluted net loss per share because their effect would have been antidilutive for the periods presented are as follows (in thousands):

	Years Ended December 31,		
	2018	2017	2016
Equity awards to purchase common stock	20,057	26,608	22,335
Unvested shares of common stock issued upon early exercise of stock options and business acquisition	70	57	3
Warrants to purchase common stock	—	184	375
Warrants to purchase convertible preferred stock	—	—	1,817
Convertible preferred stock	—	—	80,844
Total	20,127	26,849	105,374

15. SEGMENT INFORMATION

An operating segment is defined as a component of an entity for which discrete financial information is available that is evaluated regularly by the chief operating decision maker, or CODM, for purposes of allocating resources and evaluating financial performance. The Company uses the management approach to determine the segment financial information that should be disaggregated and presented separately in the Company's notes to its consolidated financial statements. The management approach is based on the manner by which management has organized the segments within the Company for making operating decisions, allocating resources, and assessing performance.

The Company reports its financial results consistent with the manner in which financial information is viewed by management for decision-making purposes. The Company does not manage operating expenses such as research and development, sales and marketing and general and administrative expenses at the segment level.

The Company's CODM is its Chief Executive Officer, and the CODM evaluates performance and makes decisions about allocating resources to its operating segments based on financial information presented on a consolidated basis and on revenue and gross profit for each operating segment. In the second quarter of 2017 the Company changed the operating segments to combine one of the previous operating segments with two existing segments to reflect how the CODM evaluates performance and allocates resources. This change did not result in a change to the reportable segments.

The Company is organized into two reportable segments as follows:

Platform

Consists primarily of fees received from advertisers and content publishers, and from licensing the Company's technology and proprietary operating system with TV brands and service operators. Platform revenue primarily

includes fees earned from the sale of digital advertising and revenue share from new or recurring user subscriptions activated through the Company's platform and revenue share from user purchases of content publishers' media through its platform. The Company also earns revenue from the sale of branded channel buttons on player and TV remote controls.

Player

Consists primarily of net sales of streaming media players and accessories through retailers and distributors, as well as directly to customers through the Company's website.

The Company does not allocate property and equipment or any other assets or capital expenditures to reportable segments. Operating expenses are not managed at the segment level.

The Company evaluates the performance of its reportable segments based on the financial measures, including segment gross profit, which are regularly reviewed by the CODM and provide insight into the individual segments and their ability to contribute to Company's operating results.

Customers accounting for 10% or more of segment revenue, net, were as follows:

	Years Ended December 31,		
	2018	2017	2016
Platform segment revenue			
Customer B	*	*	15%
Customer E	*	13%	10%
Player segment revenue			
Customer A	15%	15%	18%
Customer B	15%	12%	11%
Customer C	38%	34%	32%

Revenue in international markets was less than 10% in each of the periods presented. Substantially all Company assets were held in the United States and were attributable to the operations in the United States as of December 31, 2018 and 2017.

16. QUARTERLY FINANCIAL DATA (Unaudited)

The following table summarizes the Company's information on total revenue, gross profit, net income (loss) and earnings per share by quarter for the years ended December 31, 2018 and 2017. This data was derived from the Company's unaudited consolidated financial statements (in thousands, except per share data):

	Three Months Ended			
	Dec 31, 2018	Sep 30, 2018	Jun 30, 2018	Mar 31, 2018
Total Revenue	$ 275,739	$ 173,381	$ 156,810	$ 136,576
Gross Profit	112,291	78,993	77,752	63,112
Net income (loss) attributable to common stockholders	6,778	(9,527)	526	(6,634)
Basic net income (loss) per share attributable to common stockholders	0.06	(0.09)	0.01	(0.07)
Diluted net income (loss) per share attributable to common stockholders	0.05	(0.09)	0.00	(0.07)

	Three Months Ended			
	Dec 31, 2017	Sep 30, 2017	Jun 30, 2017	Mar 31, 2017
Total Revenue	$ 188,261	$ 124,782	$ 99,627	$ 100,093
Gross Profit	73,461	49,895	37,637	38,840
Net income (loss) attributable to common stockholders	6,941	(46,235)	(15,513)	(8,702)
Basic net income (loss) per share attributable to common stockholders	0.07	(8.79)	(3.18)	(1.79)
Diluted net income (loss) per share attributable to common stockholders	0.06	(8.79)	(3.18)	(1.79)

17. SUBSEQUENT EVENT

On February 19, 2019 (the "Closing Date"), the Company entered into a Credit Agreement (the "Credit Agreement") with Morgan Stanley Senior Funding, Inc. The Credit Agreement provides for (i) a four-year revolving credit facility in the aggregate principal amount of up to $75.0 million (the "Revolving Credit Facility"), (ii) a four-year delayed draw term loan A facility in the aggregate principal amount of up to $75.0 million (the "Term Loan A Facility") and (iii) an uncommitted incremental facility, subject to the satisfaction of certain financial and other conditions, in the amount of up to (v) $50.0 million, plus (w) 1.0x of our consolidated EBITDA for the most recently completed four fiscal quarter period, plus (x) an additional amount at our discretion, so long as, on a pro forma basis at the time of incurrence, our secured leverage ratio does not exceed 1.50 to 1.00, plus (y) voluntary prepayments of the Revolving Credit Facility and Term Loan A Facility to the extent accompanied by concurrent reductions to the applicable Credit Facility, plus (z) for up to 90 days after the Closing Date, $75.0 million (together with the Revolving Credit Facility and the Term Loan A Facility, collectively, the "Credit Facility"). Borrowings under the Term Loan A Facility may be made by the Company up to 9 months immediately following the Closing Date. The Company did not make any borrowings under the Credit Agreement on the Closing Date. On or around the Closing Date, except for certain letters of credit, which were cash collateralized by approximately $26.3 million, the Company also repaid all outstanding obligations under its Amended and Restated Loan and Security Agreement, entered into with Silicon Valley Bank on November 18, 2014 (as amended prior to the date hereof, the "SVB Loan Agreement"), and the SVB Loan Agreement was terminated.

Loans under the Credit Facility bear interest at a rate equal to, at the Company's election (i) an alternate base rate, based upon the highest of (x) the prime rate, (y) the federal funds effective date plus ½ of 1% and (z) the one-month LIBOR plus 1%, in each case plus an applicable margin of up to 1% per annum, with step-downs based on its secured leverage ratio or (2) an adjusted one-, two-, three-, or six month LIBOR, at its election, plus an applicable margin of up to 2% per annum, with step-downs based on its secured leverage ratio.

The Company's obligations under the Credit Agreement are secured by substantially all of its assets. In the future, certain of its direct and indirect subsidiaries may be required to guarantee the Credit Agreement. The Company may prepay, and in circumstances are required to prepay, loans under the Credit Agreement without payment of a premium. The Credit Agreement contains customary representations and warranties, customary affirmative and negative covenants, a financial covenant that is tested quarterly and requires the Company to maintain a certain adjusted quick ratio, and customary events of default.

Loans under the Term Loan A Facility will amortize in equal quarterly installments beginning on the last day of the fiscal quarter ending after the date of the initial borrowing under the Term Loan A Facility, in an aggregate annual amount equal to (i) on or prior to December 31, 2021, 1.25% of the drawn principal amount of the Term Loan Facility and (ii) thereafter, 2.50% of the drawn principal amount of the Term Loan Facility, with any remaining balance payable on the maturity date of the Term Loan A Facility.

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

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities and Exchange Act of 1934, as amended, or the Exchange Act) prior to the filing of this Annual Report on Form 10-K. Based on such evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, as of the end of the period covered by this Annual Report on Form 10-K, our disclosure controls and procedures were, in design and operation, effective at the reasonable assurance level.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the quarter ended December 31, 2018 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Management's Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act). Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles.

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework set forth in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on our evaluation under the framework set forth in *Internal Control — Integrated Framework (2013)*, our management concluded that our internal control over financial reporting was effective as of December 31, 2018.

The effectiveness of our internal control over financial reporting as of December 31, 2018 has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in its report which is included below.

Inherent Limitations on Effectiveness of Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures or our internal controls will prevent all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Our disclosure controls and procedures and our internal controls over financial reporting have been designed to provide reasonable assurance of achieving their objectives. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Roku, Inc.

Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Roku, Inc. and subsidiaries (the "Company") as of December 31, 2018, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2018, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2018, of the Company and our report dated March 1, 2019, expressed an unqualified opinion on those financial statements and included an explanatory paragraph related to the Company's change in method of accounting for revenue in fiscal year 2018 due to the adoption of ASC 606.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the 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 audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

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

/s/ *DELOITTE & TOUCHE LLP*

San Jose, California

March 1, 2019

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this item is incorporated by reference to our definitive Proxy Statement for the 2019 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our year ended December 31, 2018.

Item 11. Executive Compensation

The information required by this item is incorporated by reference to our definitive Proxy Statement for the 2019 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our year ended December 31, 2018.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this item is incorporated by reference to our definitive Proxy Statement for the 2019 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our year ended December 31, 2018.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required by this item is incorporated by reference to our definitive Proxy Statement for the 2019 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our year ended December 31, 2018.

Item 14. Principal Accounting Fees and Services

The information required by this item is incorporated by reference to our definitive Proxy Statement for the 2019 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of our year ended December 31, 2018.

PART IV

Item 15. Exhibits, Financial Statement Schedules

(a)(1) Financial Statements

See Index to Financial Statements in Item 8 of this Report.

(a)(2) Financial Statement Schedule

All financial statement schedules have been omitted as the information is not required under the related instructions or is not applicable or because the information required is already included in the financial statements or the notes to those financial statements.

(a)(3) Exhibits

The documents set forth below are filed herewith or incorporated herein by reference to the location indicated.

Number	Exhibit Title	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit	Filing Date	
3.1	Amended and Restated Certificate of Incorporation	8-K	001-38211	3.1	10/3/2017	
3.2	Amended and Restated Bylaws	S-1/A	333-220318	3.4	9/18/2017	
4.1	Amended and Restated Investor Rights Agreement, by and among Roku, Inc. and the investors listed on Exhibit A thereto, dated November 9, 2015.	S-1	333-220318	10.1	9/1/2017	
4.2	Amendment to the Amended and Restated Investor Rights Agreement, dated March 6, 2017.	S-1	333-220318	10.2	9/1/2017	
10.1 +	Roku, Inc. 2008 Equity Incentive Plan.	S-1	333-220318	10.3	9/1/2017	
10.2 +	Forms of Option Agreement and Option Grant Notice under 2008 Equity Incentive Plan.	S-1	333-220318	10.4	9/1/2017	
10.3 +	Roku, Inc. 2017 Equity Incentive Plan.	S-1/A	333-220318	10.5	9/18/2017	
10.4 +	Forms of Option Agreement and Option Grant Notice under 2017 Equity Incentive Plan.	S-1/A	333-220318	10.6	9/18/2017	
10.5 +	Forms of Restricted Stock Unit Grant Notice and Award Agreement under 2017 Equity Incentive Plan.	S-1/A	333-220318	10.7	9/18/2017	
10.6 +	Roku, Inc. 2017 Employee Stock Purchase Plan.	S-1/A	333-220318	10.8	9/18/2017	
10.7 +	Warrant to Purchase Stock, by and between Roku, Inc. and Pearl Street Technology Finance I Onshore LP, dated June 9, 2017.	S-1	333-220318	10.22	9/1/2017	
10.8 +	Warrant to Purchase Stock, by and between Roku, Inc. and Westriver Mezzanine Loans—Loan Pool V, LLC, dated June 9, 2017.	S-1	333-220318	10.24	9/1/2017	
10.9 +	Form of Indemnification Agreement, by and between Roku, Inc. and each of its directors and executive officers.	S-1A	333-220318	10.9	9/18/2017	
10.10 +	Employment Terms Agreement, by and between Roku, Inc. and Stephen Kay, dated November 15, 2013.	S-1	333-220318	10.9	9/1/2017	
10.11 +	Employment Terms Agreement, by and between Roku, Inc. and Stephen Shannon, dated August 29, 2012.	S-1	333-220318	10.10	9/1/2017	
10.12 +	Employment Terms Agreement, by and between Roku, Inc. and Steve Louden, dated June 11, 2015.	S-1	333-220318	10.11	9/1/2017	
10.13 +	Employment Terms Agreement, by and between Roku, Inc. and Charles Smith, dated August 27, 2012.	S-1	333-220318	10.12	9/1/2017	
10.14 +	Employment Terms Agreement, by and between Roku, Inc. and Scott Rosenberg, dated October 30, 2012.	S-1	333-220318	10.13	9/1/2017	
10.15 +	Roku, Inc. Severance Benefit Plan.	S-1	333-220318	10.25	9/1/2017	
10.16	Sublease for 170/180 Knowles Drive, by and between Roku, Inc. and Netflix, Inc., dated August 18, 2015.	S-1	333-220318	10.26	9/1/2017	
10.17	Sublease for 100 Winchester Circle, by and between Roku, Inc. and Netflix, Inc., dated August 18, 2015.	S-1	333-220318	10.27	9/1/2017	

10.18	Sublease for 150 Winchester Circle, by and between Roku, Inc. and Netflix, Inc., dated August 18, 2015.	S-1	333-220318	10.28	9/1/2017	
10.19 +	Independent Contractor Services Agreement by and between Roku, Inc. and Neil Hunt, dated September 10, 2017.	S-1/A	333-220318	10.30	9/18/2017	
10.20	Amended and Restated Loan and Security Agreement, by and between Roku, Inc. and Silicon Valley Bank, dated November 18, 2014.	S-1	333-220318	10.14	9/1/2017	
10.21	First Amendment to Amended and Restated Loan and Security Agreement, by and between Roku, Inc. and Silicon Valley Bank, dated May 14, 2015.	S-1	333-220318	10.15	9/1/2017	
10.22	Second Amendment to Amended and Restated Loan and Security Agreement, by and between Roku, Inc. and Silicon Valley Bank, June 9, 2017.	S-1	333-220318	10.16	9/1/2017	
10.23	Subordinated Loan and Security Agreement, by and between Roku, Inc. and Silicon Valley Bank, dated June 9, 2017.	S-1	333-220318	10.17	9/1/2017	
10.24	Forms of Option Agreement and Option Grant Notice under 2017 Equity Incentive Plan.	10-Q	001-38211	10.24	8/10/2018	
10.25	Third Amendment to Amended and Restated Loan and Security Agreement, by and between Roku, Inc. and Silicon Valley Bank, July 18, 2018.	10-Q	001-38211	10.25	8/10/2018	
10.26	Coleman Highline Office Lease by and between Roku, Inc. and Cap Phase 1, LLC dated August 1, 2018 (1155 Coleman Ave)	10-Q	001-38211	10.26	8/10/2018	
10.27	Coleman Highline Office Lease by and between Roku, Inc. and Cap Oz 34, LLC dated August 1, 2018 (1173/1167/1161 Coleman Ave)	10-Q	001-38211	10.27	8/10/2018	
10.28	Executive Supplemental Stock Option Program Enrollment Form	8-K	001-38211	10.1	12/7/2018	
10.29	Forms of Option Grant Notice and Executive Supplemental Stock Option Agreement and Option Grant Notice under 2017 Equity Incentive Plan	8-K	001-38211	10.2	12/7/2018	
10.30	First Amendment to Coleman Highline Office Lease by and between Roku, Inc. and Cap Phase 1, LLC dated November 12, 2018 (1155 Coleman Ave)					X
10.31	First Amendment to Coleman Highline Office Lease by and between Roku, Inc. and Cap Oz 34, LLC dated November 18, 2018 (1173/1167/1161 Coleman Ave)					X
10.32	Credit Agreement, dated as of February 19, 2019, by and among Roku, Inc., Morgan Stanley Senior Funding, Inc., as lender, issuing bank, administrative agent and collateral agent, and the other issuing banks and lenders party thereto from time to time.					X
21.1	List of Subsidiaries of the Roku, Inc.	10-K	001-38211	21.1	3/1/2018	
23.1	Consent of Independent Registered Public Accounting Firm.					X
24.1	Power of Attorney					X
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1	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. *					X
32.2	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. *					X
101.INS	XBRL Instance Document.					X
101.SCH	XBRL Taxonomy Extension Schema Document.					X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.					X
101.DEF	XBRL Taxonomy Extension Definition.					X
101.LAB	XBRL Taxonomy Extension Label Linkbase					X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.					X

* These exhibits are furnished with this Annual Report on Form 10-K and are not deemed filed with the Securities and Exchange Commission and are not incorporated by reference in any filing of Roku, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date hereof and irrespective of any general incorporation language contained in such filings.
+Indicates a management contract or compensatory plan or arrangement.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Annual Report on Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized, on this 1st day of March 2019.

Roku, Inc.

By: /s/ Anthony Wood

Anthony Wood
President and Chief Executive Officer
(Principal Executive Officer)

By: /s/ Steve Louden

Steve Louden
Chief Financial Officer
(Principal Financial Officer)

Exhibit 10.30

COLEMAN HIGHLINE

FIRST AMENDMENT TO OFFICE LEASE

THIS FIRST AMENDMENT TO OFFICE LEASE (this "**First Amendment**") is made and entered into as of November 12, 2018 (the "**First Amendment Effective Date**"), by and between CAP PHASE 1, LLC, a Delaware limited liability company ("**Landlord**"), and ROKU, INC., a Delaware corporation ("**Tenant**").

R E C I T A L S:

A. Reference is hereby made to that certain Office Lease dated as of August 1, 2018 (the "**Lease**") between Landlord and Tenant.

B. Pursuant to the Lease, Tenant is currently leasing from Landlord that certain premises containing the entire first (1st), second (2nd) and third (3rd) floors (the "**Existing Premises**") of that certain six (6)-story building located at 1155 Coleman Avenue, San Jose, California 95110, commonly known as Building Two (the "**Building**"). The Building is part of a mixed-use Project (as that term is defined in the Lease) known as "Coleman Highline."

C. Landlord and Tenant now desire to amend the Lease to (i) expand the Existing Premises to include that certain premises (the "**Expansion Space**") containing the entire fourth (4th), fifth (5th) and sixth (6th) floors of the Building and comprising the balance of the rentable area of the Building, as depicted on the floor plan attached hereto as **Exhibit 1**, and (ii) modify various terms and provisions of the Lease, all as hereinafter provided.

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

1. **Capitalized Terms**. All capitalized terms when used herein shall have the same meaning as is given such terms in the Lease unless expressly superseded by the terms of this First Amendment.

2. **Remeasurement of the Building and Existing Premises**. Notwithstanding anything to the contrary set forth in the Lease, Landlord and Tenant acknowledge and agree that Landlord has remeasured the Building and that according to such remeasurement, commencing as of the First Amendment Effective Date, for all purposes under the Lease, as amended, the Building shall be deemed to contain 194,549 rentable square feet, the Existing Premises shall be deemed to contain 97,751 rentable square feet, and the Expansion Space shall be deemed to contain 96,798 rentable square feet. The rentable square footage for each floor of the Building is as follows:

Floor 1:	31,276 rsf
Floor 2:	34,747 rsf
Floor 3:	31,728 rsf
Floor 4:	32,266 rsf

Floor 5:	32,266 rsf
Floor 6:	32,266 rsf
Total Building:	194,549 rsf

3. **Modification of Premises**. Effective as of the Expansion Space Commencement Date (as defined in Section 4 below), the Existing Premises shall be expanded to include the Expansion Space, thereby increasing the size of the Existing Premises to 194,549 rentable square feet (*i.e.*, 97,751 rentable square feet in the Existing Premises + 96,798 rentable square feet in the Expansion Space). The Expansion Space shall be leased on the same terms and conditions set forth in the Lease, subject to the modifications set forth in this First Amendment. Effective as of the Expansion Space Commencement Date, the term "Premises" shall mean the Existing Premises and the Expansion Space.

4. **Commencement Dates**.

4.1. **Existing Space**. The Lease Commencement Date defined in Section 3.2 of the Summary of Basic Lease Information in the Lease is deleted in its entirety and replaced with the following:

"3.2 Lease Commencement Date:	January 23, 2019, with respect to floors 1 and 2, and April 23, 2019, with respect to floor 3. Notwithstanding the foregoing, Tenant has no obligation to pay Base Rent or Tenant's Share of Direct Expenses with respect to floor 3 until the Lease Commencement Date for floor 3 on April 23, 2019."

4.2. **Expansion Space**. For purposes of this First Amendment, the term "**Expansion Space Commencement Date**" shall mean the earlier to occur of: (i) the date upon which Tenant first commences to conduct business operations in the Expansion Space and (ii) September 1, 2019. The term for the Expansion Space (the "**Expansion Space Term**") shall commence on the Expansion Space Commencement Date and expire coterminously with the Lease Expiration Date for the Existing Premises (*i.e.*, the last day of the one hundred fortieth (140th) full calendar month of the Lease Term). The date that the Expansion Space Commencement Date actually occurs shall be confirmed by the parties in the Notice of Lease Term Dates as set forth in Section 2.1 of the Lease. Effective as of the First Amendment Effective Date, the term "Lease Commencement Date" shall mean the Lease Commencement Date for the Existing Premises and the Expansion Space Commencement Date for the Expansion Premises, as applicable.

5. **Single-Tenant Building**. As of the First Amendment Effective Date, Tenant leases the entire rentable square footage of the Building and is the sole tenant of the Building. Accordingly, in addition to the modifications expressly contained herein, the parties acknowledge and agree that the Lease shall be interpreted in the context of a single-tenant office building.

6. **Base Rent**. The Base Rent schedule set forth in Section 4 of the Summary of Basic Lease Information in the Lease shall be deleted in its entirety and replaced with the following schedule:

"4. Base Rent (Article 3):

Period During Lease Term	Annual Base Rent*	Monthly Installment of Base Rent*	Monthly Base Rent per RSF**
Lease Year 1□	$8,404,516.80	$700,376.40	$3.60
Lease Year 2	$8,656,652.28	$721,387.69	$3.71
Lease Year 3	$8,916,351.84	$743,029.32	$3.82
Lease Year 4	$9,183,842.40	$765,320.20	$3.93
Lease Year 5	$9,459,357.72	$788,279.81	$4.05
Lease Year 6	$9,743,138.40	$811,928.20	$4.17
Lease Year 7	$10,035,432.60	$836,286.05	$4.30
Lease Year 8	$10,336,495.56	$861,374.63	$4.43
Lease Year 9	$10,646,590.44	$887,215.87	$4.56
Lease Year 10	$10,965,988.20	$913,832.35	$4.70
Lease Year 11	$11,294,967.84	$941,247.32	$4.84
Lease Year 12	$11,633,816.88	$969,484.74	$4.98

□ The foregoing Base Rent schedule was determined based on the total rentable square feet of the entire Premises, without regard to the phasing Lease Commencement Dates for floors 1 and 2, floor 3, and floors 4, 5 and 6, respectively. Following the determination of such actual Lease Commencement Date for each floor of the Premises, the parties shall execute an amendment to this Lease reflecting the applicable Lease Commencement Date for each floor and the Base Rent (as increased as of the applicable Lease Commencement Date) owed for each floor, and Tenant shall be required to pay Base Rent only for the floors for which the applicable Lease Commencement Date has occurred.

***** The initial Monthly Installment of Base Rent amount was calculated by multiplying the initial Monthly Rental Rate per RSF amount by the number of rentable square feet of space in the Premises, and the Annual Base Rent amount was calculated by multiplying the initial Monthly Installment of Base Rent amount by twelve (12). In all subsequent Base Rent payment periods during the Lease Term commencing on the first (1st) day of the full calendar month that is Lease Month 13, the calculation of each Monthly Installment of Base Rent amount reflects an annual increase of three percent (3%) and each Annual Base Rent amount was calculated by multiplying the corresponding Monthly Installment of Base Rent amount by twelve (12).

****** The amounts identified in the column entitled "Monthly Rental Rate per RSF" are rounded amounts provided for informational purposes only."

7. **Base Rent Abatement**. As of the First Amendment Effective Date, the first grammatical sentence of Section 3.2 of the Lease shall be deleted in its entirety and replaced with the following:

"Provided that no monetary or material non-monetary event of default is occurring beyond any applicable notice and cure period, and subject to the terms of this Section 3.2 below, then, with respect to floors 1 and 2 of the Premises, during the six (6) full calendar months following the Lease Commencement Date, with respect to floor 3 of the Premises, during the six (6) full calendar months following the Substantial Completion of the Tenant Improvements with respect to floor 3, and with respect to floors 4, 5 and 6 of the Premises, during the six (6) full calendar months following the Expansion Space Commencement Date (collectively, the "**Base Rent Abatement Period**"), Tenant shall be entitled to an abatement of Base Rent (collectively, the "**Base Rent Abatement**")."

8. **Tenant's Share**. Due to the revised number of rentable square feet contained within the Premises (*i.e.*, the Existing Premises and the Expansion Space) as compared to the Existing Premises, from and after the First Amendment Effective Date, Section 5 of the Summary of Basic Lease Information in the Lease shall be deleted in its entirety and replaced with the following:

"5.	Tenant's Share (Article 4)	100%"

9. **Highline Extension Monthly Rent**. Subject to the terms and conditions set forth in this Section 9, in the event Landlord constructs the Highline Extension pursuant to Section 1.1 of the Tenant Work Letter, Tenant shall pay to Landlord, on a monthly basis during the Expansion Space Term and concurrent with Tenant's payment of Base Rent, an amount equal to the "Highline Extension Monthly Rent," as that term is defined below, in order to pay all or a portion of the costs incurred by Landlord in connection with the construction of the Highline Extension. The "**Highline Extension Monthly Rent**" shall be determined as the missing component of an annuity, which annuity shall have (w) $1,700,000.00 as the present value amount, (x) the number of full calendar months that occur during the Expansion Space Term as the number of payments, (y) six thousand six hundred sixty-six ten-thousandths (0.6666), which is equal to eight percent (8%)

divided by twelve (12) months per year, as the monthly interest factor, and (z) the Highline Extension Monthly Rent as the missing component of the annuity. As of the date of this First Amendment, the Highline Extension Monthly Rent has been calculated as an amount equal to Nineteen Thousand Three hundred Fifteen and 14/100 Dollars ($19,315.14), based on (i) the Lease Commencement Date occurring on January 23, 2019 (such that February, 2019 is the first full calendar month of the Lease Term), and (ii) the Expansion Space Commencement Date occurring on September 1, 2019, as such calculations are set forth on **Exhibit 4** attached hereto. If the Lease Commencement Date does not occur on or before February 1, 2019, or if the Expansion Space Commencement Date does not occur on September 1, 2019, then the Highline Extension Monthly Rent shall be recalculated with the number set forth in (x), above (i.e., the number of full calendar months that occur during the Expansion Space Term) being replaced with the actual number of full calendar months that occur during the Expansion Space Term.

10. **Letter of Credit**. As of the First Amendment Effective Date, Section 7 of the Summary of Basic Lease Information in the Lease shall be deleted in its entirety and replaced with the following:

"7.	Letter of Credit (Article 21)	$6,303,387.60, subject to reduction as set forth in Article 21 below."

11. **Parking**. As of the First Amendment Effective Date, Section 8 of the Summary of Basic Lease Information in the Lease shall be deleted in its entirety and replaced with the following:

"8.	Parking Pass Ratio (Article 28)	3.25 unreserved parking passes for every 1,000 RSF of the Premises, subject to Article 28 below, com-mencing on the applicable Lease Commencement Date."

12. **Building Signage**. As of the First Amendment Effective Date, the first paragraph of Section 23.4 of the Lease shall be deleted in its entirety (for clarity, Subsections 23.4.1 through 23.4.4 shall remain unmodified and in full force and effect) and replaced with the following:

"23.4 **Building Signage**. In addition to the signage rights expressly set forth above in this Article 23, Tenant, at Tenant's sole cost and expense, shall be entitled to (i) install up to two (2) exterior signs on the Building, provided, however, that Tenant shall not install any signage on the "Highline Extension," as that term is defined in Section 1.1 of **Exhibit B**, (ii) install up to one (1) panel on any monument sign pertaining to the Building, and (iii) paint Tenant's name and/or logo on the roof of the Building, provided that in doing so Tenant will not jeopardize or void Landlord's roof warranty (in the locations more particularly identified on **Exhibit**

I attached hereto) identifying Tenant's name and/or logo (the "**Tenant's Signage**") in connection with Tenant's lease of the Premises."

As of the First Amendment Effective Date, **Exhibit I** attached to the Lease shall be deleted in its entirety and replaced with **Exhibit I** attached to this First Amendment.

13. **Tenant Improvements**.

13.1. **Tenant Work Letter**. All references to the Tenant Work Letter, as defined in Section 1.1.1 of the Lease, with respect to the Expansion Space shall mean the Tenant Work Letter attached hereto as **Exhibit 2** instead and in place of the Tenant Work Letter attached to the Lease as **Exhibit B**.

13.2. **Tenant Improvement Allowance**. As of the First Amendment Effective Date, Section 13 of the Summary of Basic Lease Information in the Lease shall be deleted in its entirety and replaced with the following:

"13.	Tenant Improvement Allowance (**Exhibit B**)	$16,050,292.50 (*i.e.*, $82.50 per rentable square foot of the Premises)."

14. **Right of First Offer**. As of the First Amendment Effective Date, Section 1.2 of the Lease shall be deleted in its entirety and replaced with the following (for clarity, Subsections 1.2.1 through 1.2.6 shall remain unmodified and in full force and effect):

"1.2 **Right of First Offer**. During the first forty-eight (48) months of the Lease Term, Landlord hereby grants to the original Tenant set forth in this Lease (the "**Original Tenant**") and any Permitted Transferee Assignee, an ongoing right of first offer (the "**Right of First Offer**") with respect to office space in Building 1 (the "**First Offer Space**"), on the terms and conditions set forth in this Section 1.2. Notwithstanding the foregoing, and subject to the terms and conditions of Section 1.2.6 below, such Right of First Offer shall (i) be subordinate to any leases entered into by Landlord for the First Offer Space prior to the date of this Lease, (ii) be subordinate to all expansion rights set forth in any lease entered into by Landlord prior to the date of this Lease, and (iii) be subordinate to any lease (an "**Intervening Lease**") entered into by Landlord following Tenant's failure to timely exercise its right to lease the First Offer Space and all expansion rights set forth in any Intervening Lease (collectively, the "**Superior Leases**", and the tenants under such Superior Leases are "**Superior Right Holders**") (including, in each instance, renewals and expansions of any such Superior Leases, pursuant to rights in effect as of the date of this Lease regardless of whether such rights are exercised strictly in accordance with their terms). The only Superior Right Holder, as of the date of this Lease, is 8x8, Inc."

15. **Insurance**. As of the First Amendment Effective Date, the coverage for limits of liability under Section 10.3.1 of the Lease shall each be increased as follows:

"Bodily Injury and Property Damage Liability	$10,000,000 each occurrence $10,000,000 annual aggregate
Personal Injury Liability	$10,000,000 each occurrence $10,000,000 annual aggregate Reasonable Insured's participation"

16. **Condemnation**. As of the First Amendment Effective Date, Article 13 of the Lease shall be deleted in its entirety and replaced with the following:

ARTICLE 13

CONDEMNATION

"If the whole or any material part of the Premises, Building or Project shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or if any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use, reconstruction or remodeling of any material part of the Premises, Building or Project, or if Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation, Landlord shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. If more than twenty-five percent (25%) of the RSF of the Premises is taken, or if access to the Premises is substantially impaired, or if any material portion of the parking for the Premises is taken, in each case for a period in excess of one hundred eighty (180) days, Tenant shall have the option to terminate this Lease effective as of the date possession is required to be surrendered to the authority. Tenant shall not because of such taking assert any claim against Landlord or the authority for any compensation because of such taking and Landlord shall be entitled to the entire award or payment in connection therewith, except that Tenant shall have the right to file any separate claim available to Tenant for any taking of Tenant's personal property and fixtures belonging to Tenant and removable by Tenant upon expiration of the Lease Term pursuant to the terms of this Lease, and for moving expenses, so long as such claim is payable separately to Tenant or is otherwise separately identifiable. Notwithstanding anything in this Article 13 to the contrary, Landlord and Tenant shall each be entitled to receive fifty percent (50%) of the "bonus value" of the leasehold estate in connection therewith, which bonus value shall be equal to the difference between the Rent payable under this Lease and the sum established by the condemning authority as the award for compensation for the leasehold. All Rent shall be apportioned as of the date of such termination. If any part of the Premises shall be taken, and this Lease shall not be so terminated, the Rent shall be proportionately abated. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of The California Code of Civil Procedure.

Notwithstanding anything to the contrary contained in this Article 13, in the event of a temporary taking of all or any portion of the Premises for a period of one hundred and eighty (180) days or less, then this Lease shall not terminate but the Base Rent and the Additional Rent shall be abated for the period of such taking in proportion to the ratio that the amount of RSF of the Premises taken bears to the total RSF of the Premises. Landlord shall be entitled to receive the entire award made in connection with any such temporary taking, but nothing herein shall preclude Tenant from seeking a recovery from the condemning authority to the extent Landlord's award is not reduced as a result thereof."

17. **Transfer Restriction**. As of the First Amendment Effective Date, Section 14.2.4 of the Lease shall be deleted in its entirety.

18. **California Accessibility Disclosure**. For purposes of Section 1938 of the California Civil Code, Landlord hereby reaffirms in full its disclosures set forth in and restates to Tenant in full the statements contained in Section 24.3 of the Lease, which disclosures and statements hereby refer to the Expansion Space as part of the Premises.

19. **Amended and Restated Memorandum of Lease**. Tenant shall record an amended and restated memorandum providing record notice of the Lease, as amended hereby, which shall be in the form of **Exhibit 3** attached hereto ("**Restated Memorandum**"). The parties shall sign the Restated Memorandum concurrently with the execution of this First Amendment. In addition, within thirty (30) days after Landlord's written request following the expiration or earlier termination of the Lease, Tenant shall execute and deliver to Landlord in recordable form, termination of the Restated Memorandum. Tenant's obligation to execute and deliver such termination of the Restated Memorandum shall survive the expiration or earlier termination of the Lease. Tenant shall be solely responsible for all costs incurred under this Section 19.

20. **Brokers**. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this First Amendment, excepting only the real estate brokers or agents specified in Section 11 of the Summary of the Lease ("**Brokers**"), and that they know of no other real estate broker or agent who is entitled to a commission in connection with this First Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of any dealings with any real estate broker or agent, other than the Brokers, occurring by, through, or under the indemnifying party. Landlord agrees to pay the Brokers a commission pursuant to a separate written agreement entered into between Landlord and the Brokers in connection with this transaction.

21. **Construction of the Tenant Improvements**. Section 4 of Exhibit B of the Lease is deleted in its entirety and replaced with the following:

"**SECTION 4**
CONSTRUCTION OF THE TENANT IMPROVEMENTS

4.1 **Tenant's Selection of Contractors**.

4.1.1 **Contractor**. A general contractor shall be retained by Tenant to construct the Tenant Improvements. Such general contractor (the "**Contractor**") shall be selected by Tenant, and reasonably approved by Landlord. Tenant shall deliver to Landlord notice of its selection of the Contractor upon such selection.

4.1.2 **Tenant's Agents**. All subcontractors, laborers, materialmen, and suppliers used by Tenant (such subcontractors, laborers, materialmen, and suppliers, and the Contractor to be known collectively as "**Tenant's Agents**") must be approved in writing by Landlord, which approval shall not be unreasonably withheld or delayed. If Landlord does not approve any of Tenant's proposed subcontractors, laborers, materialmen or suppliers, Tenant shall submit other proposed subcontractors, laborers, materialmen or suppliers for Landlord's written approval.

4.2 **Construction of Tenant Improvements by Tenant's Agents**.

4.2.1 **Construction Contract; Cost Budget**. Tenant shall engage the Contractor under a contract reasonably approved by Landlord (the "**Contract**"). Prior to the commencement of the construction of the Tenant Improvements, and after Tenant has accepted all bids for the Tenant Improvements, Tenant shall provide Landlord with a detailed breakdown, by trade, of the final costs to be incurred or which have been incurred, as set forth more particularly in Sections 2.2.1.1 through 2.2.1.8, above, in connection with the design and construction of the Improvements to be performed by or at the direction of Tenant or the Contractor, which costs form a basis for the amount of the Contract (the "**Anticipated Costs**"). In the event that the Anticipated Costs are greater than the amount of the Tenant Improvement Allowance (the "**Anticipated Over-Allowance Amount**"), then, Tenant shall pay a percentage of each amount requested by the Contractor or otherwise to be disbursed under this Tenant Work Letter, which percentage (the "**Percentage**") shall be equal to the Anticipated Over-Allowance Amount divided by the amount of the Anticipated Costs (after deducting from the Anticipated Costs any amounts expended in connection with the preparation of the Construction Drawings, and the cost of all other Tenant Improvements incurred prior to the commencement of construction of the Tenant Improvements), and such payments by Tenant (the "**Over-Allowance Payments**") shall be a condition to Landlord's obligation to pay any amounts from the Tenant Improvement Allowance (the "**Tenant Improvement Allowance Payments**"). After the initial determination of the Anticipated Costs, Tenant shall advise Landlord from time to time as such Anticipated Costs are further refined or determined or the costs relating to the design and construction of the Tenant Improvements otherwise change and the Anticipated Over-Allowance Amount, and the Over-Allowance Payments shall be adjusted such that the Tenant Improvement Allowance Payments by Landlord and the Over-Allowance Payments by Tenant shall accurately reflect the then-current amount of Anticipated Costs.

4.2.2 **Tenant's Agents**.

4.2.2.1 **Landlord's General Conditions for Tenant's Agents and Tenant Improvement Work**. Tenant's and Tenant's Agent's construction of the Tenant Improvements shall comply with the following: (i) the Tenant Improvements shall be constructed in strict accordance with the Approved Working Drawings; and (ii) Tenant's Agents shall submit schedules of all work relating to the Tenant Improvements to Contractor and Contractor shall, within five (5) business days of receipt thereof, inform Tenant's Agents of any changes which are necessary thereto, and Tenant's Agents shall adhere to such corrected schedule. Tenant shall pay a construction supervision and management fee (the "**Landlord Supervision Fee**") to Landlord in an amount equal to the product of (i) two percent (2%) and (ii) the hard costs of constructing the Tenant Improvements. Notwithstanding anything to the contrary contained in this Tenant Work Letter, Tenant shall not be permitted to modify the slabs of the Base Building or the Expansion Space Base Building.

4.2.2.2 **Indemnity**. Tenant's indemnity of Landlord as set forth in this Lease shall also apply with respect to any and all costs, losses, damages, injuries and liabilities related in any way to any act or omission of Tenant or Tenant's Agents, or anyone directly or indirectly employed by any of them, or in connection with Tenant's non-payment of any amount arising out of the Tenant Improvements and/or Tenant's disapproval of all or any portion of any request for payment. Such indemnity by Tenant, as set forth in this Lease, shall also apply with respect to any and all costs, losses, damages, injuries and liabilities related in any way to Landlord's performance of any ministerial acts reasonably necessary (i) to permit Tenant to complete the Tenant Improvements, and (ii) to enable Tenant to obtain any building permit or certificate of occupancy for the Premises.

4.2.2.3 **Requirements of Tenant's Agents**. Each of Tenant's Agents shall guarantee to Tenant and for the benefit of Landlord that the portion of the Tenant Improvements for which it is responsible shall be free from any defects in workmanship and materials for a period of not less than one (1) year from the date of completion thereof. Each of Tenant's Agents shall be responsible for the replacement or repair, without additional charge, of all work done or furnished in accordance with its contract that shall become defective within one (1) year after the completion of the work performed by such contractor or subcontractors. The correction of such work shall include, without additional charge, all additional expenses and damages incurred in connection with such removal or replacement of all or any part of the Tenant Improvements, and/or the Building and/or common areas that may be damaged or disturbed thereby. All such warranties or guarantees as to materials or workmanship of or with respect to the Tenant Improvements shall be contained in the Contract or subcontract and shall be written such that such guarantees or warranties shall inure to the benefit of

both Landlord and Tenant, as their respective interests may appear, and can be directly enforced by either. Tenant covenants to give to Landlord any assignment or other assurances which may be necessary to effect such right of direct enforcement.

4.2.2.4 **Insurance Requirements**.

4.2.2.4.1 **General Coverages**. All of Tenant's Agents shall carry worker's compensation insurance covering all of their respective employees, and shall also carry public liability insurance, including property damage, all with limits, in form and with companies as are required to be carried by Tenant as set forth in this Lease.

4.2.2.4.2 **Special Coverages**. Tenant shall carry "Builder's All Risk" insurance in an amount approved by Landlord covering the construction of the Tenant Improvements, and such other insurance as Landlord may require, it being understood and agreed that the Tenant Improvements shall be insured by Tenant pursuant to this Lease immediately upon completion thereof. Such insurance shall be in amounts and shall include such extended coverage endorsements as may be reasonably required by Landlord including, but not limited to, the requirement that all of Tenant's Agents shall carry excess liability and Products and Completed Operation Coverage insurance, each in amounts not less than $5,000,000 per incident, $5,000,000 in aggregate, and in form and with companies as are required to be carried by Tenant as set forth in this Lease.

4.2.2.4.3 **General Terms**. Certificates for all insurance carried pursuant to this Section 4.2.2.4 shall be delivered to Landlord before the commencement of construction of the Tenant Improvements and before the Contractor's equipment is moved onto the site. All such policies of insurance must contain a provision that the company writing said policy will give Landlord thirty (30) days prior written notice of any cancellation or lapse of the effective date or any reduction in the amounts of such insurance. In the event that the Tenant Improvements are damaged by any cause during the course of the construction thereof, Tenant shall immediately repair the same at Tenant's sole cost and expense. Tenant's Agents shall maintain all of the foregoing insurance coverage in force until the Tenant Improvements are fully completed and accepted by Landlord, except for any Products and Completed Operation Coverage insurance required by Landlord, which is to be maintained for ten (10) years following completion of the work and acceptance by Landlord and Tenant. All policies carried under this Section 4.2.2.4 shall insure Landlord and Tenant, as their interests may appear, as well as Contractor and Tenant's Agents. All insurance, except Workers' Compensation, maintained by Tenant's Agents shall preclude subrogation claims by the insurer against anyone insured thereunder. Such insurance shall provide that it is primary insurance as respects the owner and that any other insurance maintained by owner is excess and noncontributing with the

insurance required hereunder. The requirements for the foregoing insurance shall not derogate from the provisions for indemnification of Landlord by Tenant under Section 4.2.2.2 of this Work Letter. Landlord may, in its discretion, require Tenant to obtain a lien and completion bond or some alternate form of security satisfactory to Landlord in an amount sufficient to ensure the lien-free completion of the Tenant Improvements and naming Landlord as a co-obligee.

4.2.3 **Governmental Compliance**. The Tenant Improvements shall comply in all respects with the following: (i) the Code and other state, federal, city or quasi-governmental laws, codes, ordinances and regulations, as each may apply according to the rulings of the controlling public official, agent or other person; (ii) applicable standards of the American Insurance Association (formerly, the National Board of Fire Underwriters) and the National Electrical Code; and (iii) building material manufacturer's specifications.

4.2.4 **Inspection by Landlord**. Landlord shall have the right to inspect the Tenant Improvements at all times, provided however, that Landlord's failure to inspect the Tenant Improvements shall in no event constitute a waiver of any of Landlord's rights hereunder nor shall Landlord's inspection of the Tenant Improvements constitute Landlord's approval of the same. Should Landlord disapprove any portion of the Tenant Improvements, Landlord shall notify Tenant in writing of such disapproval and shall specify the items disapproved. Any defects or deviations in, and/or disapproval by Landlord of, the Tenant Improvements shall be rectified by Tenant at no expense to Landlord, provided however, that in the event Landlord determines that a defect or deviation exists or disapproves of any matter in connection with any portion of the Tenant Improvements and such defect, deviation or matter might adversely affect the mechanical, electrical, plumbing, heating, ventilating and air conditioning or life-safety systems of the Building, the structure or exterior appearance of the Building or any other tenant's use of such other tenant's leased premises, Landlord may, take such action as Landlord deems necessary, at Tenant's expense and without incurring any liability on Landlord's part, to correct any such defect, deviation and/or matter, including, without limitation, causing the cessation of performance of the construction of the Tenant Improvements until such time as the defect, deviation and/or matter is corrected to Landlord's satisfaction.

4.2.5 **Meetings**. Commencing upon the execution of this Lease, Tenant shall hold weekly meetings at a reasonable time, with the Architect and the Contractor regarding the progress of the preparation of Construction Drawings and the construction of the Tenant Improvements, which meetings shall be held at a location designated by Landlord, and Landlord and/or its agents shall receive prior notice of, and shall have the right to attend, all such meetings, and, upon Landlord's request, certain of Tenant's Agents shall attend such meetings. In addition, minutes shall be

taken at all such meetings, a copy of which minutes shall be promptly delivered to Landlord. One such meeting each month shall include the review of Contractor's current request for payment.

4.3 **Notice of Completion; Copy of Record Set of Plans**. Tenant hereby indemnifies Landlord for any loss, claims, damages or delays arising from the actions of Architect on the Premises or in the Building. Within ten (10) days after completion of construction of the Tenant Improvements, Tenant shall cause a Notice of Completion to be recorded in the office of the County Recorder of the county in which the Building is located in accordance with Section 8182 of the Civil Code of the State of California or any successor statute and furnish a copy thereof to Landlord upon recordation, failing which, Landlord may itself execute and file the same as Tenant's agent for such purpose, at Tenant's sole cost and expense. At the conclusion of construction, (i) Tenant shall cause the Architect and Contractor (A) to update the Approved Working Drawings as necessary to reflect all changes made to the Approved Working Drawings during the course of construction, (B) to certify to the best of their knowledge that the "record-set" of as-built drawings are true and correct, which certification shall survive the expiration or termination of this Lease, and (C) to deliver to Landlord two (2) sets of copies of such record set of drawings within ninety (90) days following issuance of a certificate of occupancy for the Premises, and (ii) Tenant shall deliver to Landlord a copy of all warranties, guaranties, and operating manuals and information relating to the improvements, equipment, and systems in the Premises.

SECTION 5
[INTENTIONALLY OMITTED]"

22. **Base Building**. Section 4(o) of Schedule 1-B to **Exhibit B** of the Lease is deleted in its entirety and replaced with the following:

"o) Tenant generator provisions; Landlord has installed a 100kW generator at the exterior utility enclosure to provide emergency power to Core and Shell elements in the Building. Provisions have been made at an exterior utility enclosure for a generator for the Building, up to 500kW in size. Provisions to include underground conduits for power, control and parasitic connections. Tenant may, at the Tenant's sole expense, during Tenant's construction of Tenant Improvements, replace the existing generator with a new generator up to 500kW. If Tenant or Tenant's General Contractor can arrange a buy back of the existing 100kW generator, any proceeds from such transaction will be credited against the cost incurred by Tenant to upgrade the generator to a larger size."

23. **Subordination and Nondisturbance**. Pursuant to Article 18 of the Lease, concurrently with the execution and delivery of this First Amendment by Landlord and Tenant, Landlord shall provide to Tenant the Nondisturbance Agreement in the form of **Exhibit H** attached to the Lease executed and notarized by Landlord and the existing mortgagee for the Building.

24. **No Further Modification**. Except as set forth in this First Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

25. **Counterparts**. This First Amendment may be executed in multiple counterparts, each of which is to be deemed original for all purposes, but all of which together shall constitute one and the same instrument.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this First Amendment to be duly executed by their duly authorized representatives as of the First Amendment Effective Date.

LANDLORD:

CAP PHASE 1, LLC,
a Delaware limited liability company

By: Coleman Airport Partners, LLC,
a California limited liability company
Its: Sole Member

By: HS Airport, LLC,
a California limited liability company
Its: Manager

By: /s/ Derek K. Hunter, Jr.
Name: Derek K. Hunter, Jr.
Its: Member

By: /s/ Edward D. Storm
Name: Edward D. Storm
Its: Member

TENANT:

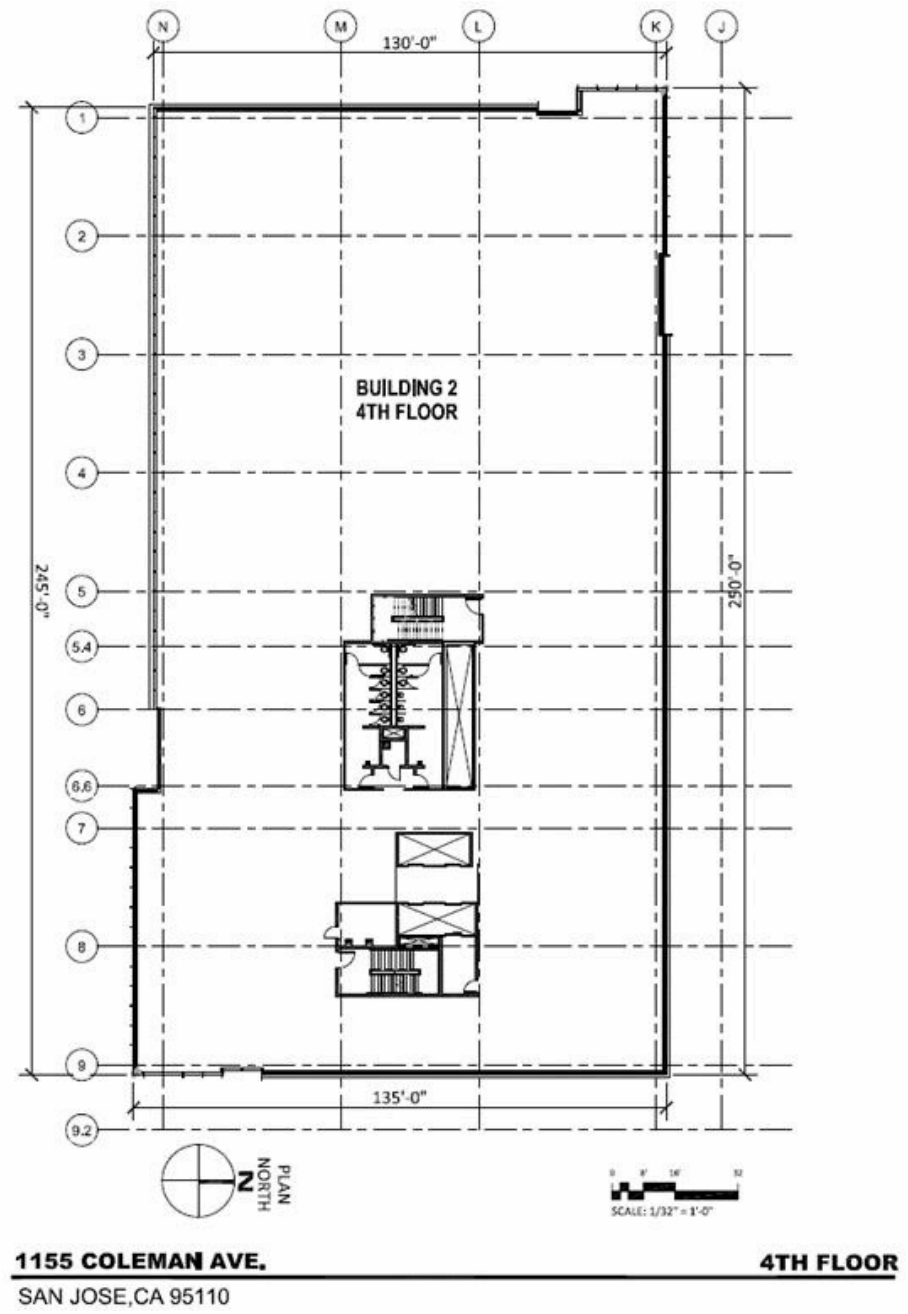
ROKU, INC.,
a Delaware corporation

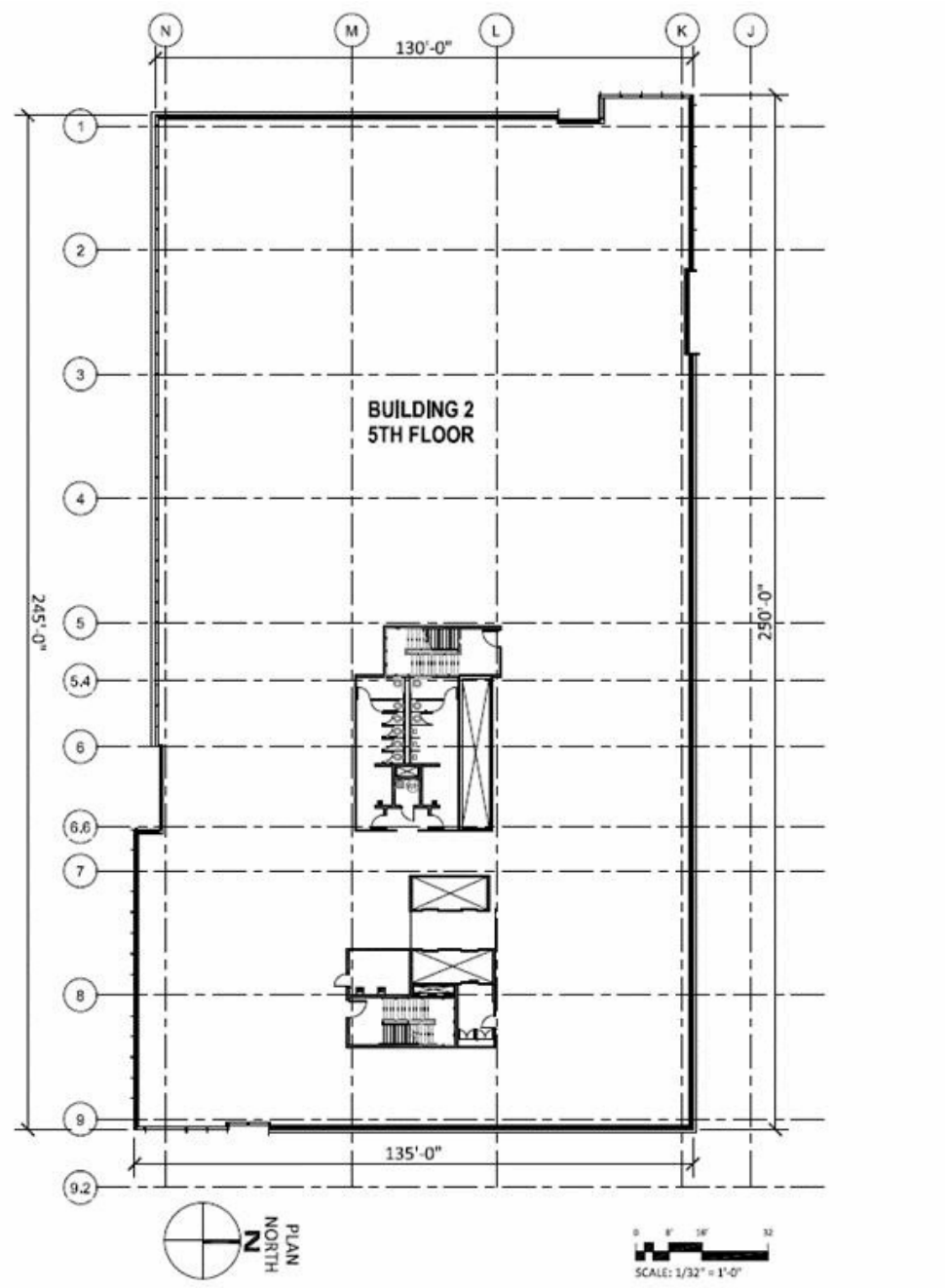
By: /s/ Steve Louden
Name: Steve Louden
Title: CFO

By: /s/ Troy Fenner
Name: Troy Fenner
Title: SVP – Human Resources

EXHIBIT 1

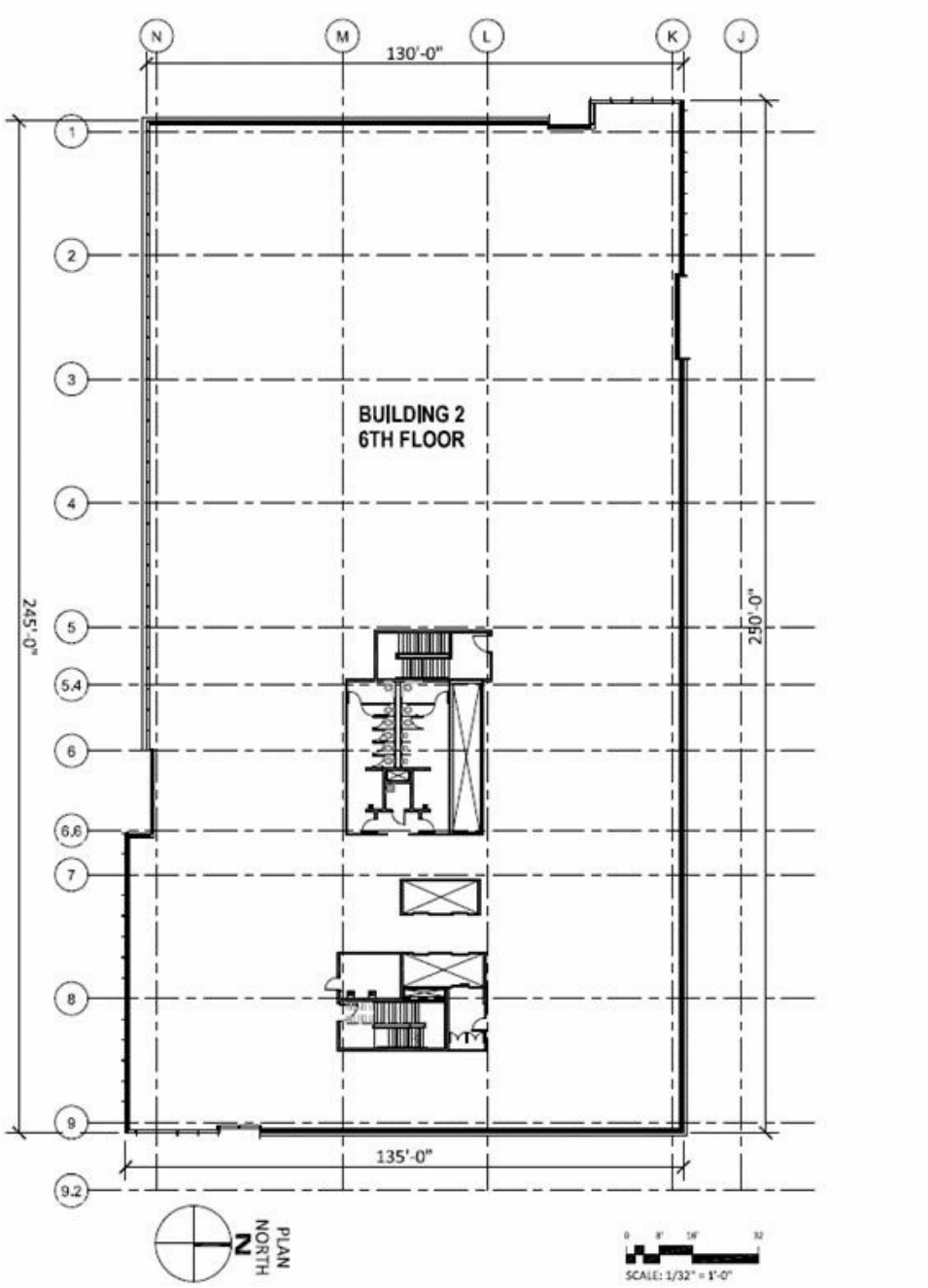
DEPICTION OF EXPANSION SPACE





1155 COLEMAN AVE. **5TH FLOOR**

SAN JOSE,CA 95110



1155 COLEMAN AVE. **6TH FLOOR**

SAN JOSE,CA 95110

EXHIBIT 2

COLEMAN HIGHLINE

TENANT WORK LETTER

This Tenant Work Letter shall set forth the terms and conditions relating to the construction of the improvements in the Expansion Space. This Tenant Work Letter is essentially organized chronologically and addresses the issues of the construction of the Expansion Space, in sequence, as such issues will arise during the actual construction of the Expansion Space. All references in this Tenant Work Letter to Sections of "this Tenant Work Letter" shall mean the relevant portion of Sections 1 through 6 of this Tenant Work Letter.

SECTION 1

LANDLORD'S INITIAL CONSTRUCTION OF THE EXPANSION SPACE BASE BUILDING

1.1 **Construction of Expansion Space Base Building and Highline Extension**. Landlord has constructed, at its sole cost and expense, in a good workmanlike manner and without deduction from the Tenant Improvement Allowance, the base, shell, and core of the Expansion Space, as set forth in **Schedule 1-A** attached hereto (collectively, the "**Expansion Space Base Building**"), and Tenant shall accept delivery of the Expansion Space and Expansion Space Base Building in its currently existing "as-is" condition, subject to "Landlord's Warranty," as that term is defined in Section 1.1.1 of the Lease.

1.1.1 **Highline Extension**. In addition, Landlord, at Landlord's sole cost and expense, shall construct a highline extension (the "**Highline Extension**") running between the Building and the A2 Amenity Building located at 1161 Coleman Avenue, San Jose, California, pursuant to plans (the "**Highline Extension Plans**") mutually approved by Landlord and Tenant and a cost estimate (the "**Estimated Highline Extension Cost**") provided by Landlord's Contractor (as defined below) for the construction of the Highline Extension. Notwithstanding the foregoing, Landlord may elect, but shall not be obligated, to construct the Highline Extension (a) prior to the date of the Highline Extension Plans and the Estimated Highline Extension Costs are agreed to in writing by Landlord and Tenant, and (b) if the Estimated Highline Extension Cost exceeds Two Million Two Hundred Thousand and 00/100 Dollars ($2,200,000.00) (the "**Over Highline Extension Cost**") or would delay (as determined by Landlord in its reasonable discretion) Landlord's construction at the Building; provided that (x) if the Estimated Highline Extension Cost exceeds the Over Highline Extension Cost and Landlord elects not to construct the Highline Extension, then Tenant may, at its option, pay to Landlord the difference between the Estimated Highline Extension Cost and the Over Highline Extension Cost (the "**Highline Extension Differential Cost**") within five (5) days after receiving notice from Landlord that Landlord has elected not to construct the Highline Extension, or (y) if Tenant sends Landlord a "Bidding Notice," as that term is defined below, and the "Competitive Highline Extension Cost," as that term is defined below, exceeds the Over Highline Extension Cost and Landlord elects not to construct the Highline Extension, then Tenant may, at its option, pay to Landlord the difference between the Competitive Highline Extension Cost and the Over Highline Extension Cost (the "**Competitive Highline Extension Differential Cost**") within five (5) days after Landlord provides Tenant with the Competitive Highline Extension Cost; provided further that if the entire Highline Extension Differential Cost or the entire Competitive Highline Extension Differential Cost, as applicable, is not timely paid by Tenant, Landlord may elect not to construct the Highline Extension, in which case Tenant shall have the right to elect, by written notice to Landlord within five (5) days after such payment by Tenant was due hereunder, to either (i) abate the Highline

Extension Monthly Rent set forth in Section 9 of the First Amendment, in which case Tenant shall not be obligated to pay the Highline Extension Monthly Rent, and Landlord shall reimburse Tenant for any payments of the Highline Extension Monthly Rent made by Tenant, or (ii) abate the monthly Base Rent up to a total of One Million Seven Hundred Thousand and 00/100 Dollars ($1,700,000.00), and continue to pay all Highline Extension Monthly Rent as set forth in Section 9 of the First Amendment. If Tenant does not timely elect one of the foregoing, then option (i) above will be deemed to be chosen by Tenant, and the Highline Extension Monthly Rent shall be abated. Except as stated in this Section 1.1.1, Tenant shall not be entitled to any deferred or abated Base Rent or any other damages for any delay to the construction of the Highline Extension for any reason.

1.1.2 **Reconciliation**. If the difference between the actual cost to construct the Highline Extension and the Over Highline Extension Cost is less than the Highline Extension Differential Cost or the Competitive Highline Extension Differential Cost, as applicable, paid by Tenant, Landlord shall credit Tenant's next payment of Base Rent with the amount by which Tenant's payment of the Highline Extension Differential Cost or the Competitive Highline Extension Differential Cost, as applicable, exceeds the difference between the actual cost to construct the Highline Extension and the Over Highline Extension Cost. If the difference between the actual cost to construct the Highline Extension and the Over Highline Extension Cost is more than the Highline Extension Differential Cost or the Competitive Highline Extension Differential Cost, as applicable, paid by Tenant, Tenant shall pay to Landlord with Tenant's next payment of Base Rent the amount by which the difference between the actual cost to construct the Highline Extension and the Over Highline Extension Cost exceeds Tenant's payment of the Highline Extension Differential Cost or the Competitive Highline Extension Differential Cost, as applicable.

1.1.3 **Highline Extension Contractor**. If Landlord constructs the Highline Extension pursuant to Section 1.1.1 above, the Highline Extension shall be constructed by a contractor selected by Landlord ("**Landlord's Contractor**"); provided that if the Estimated Highline Extension Cost exceeds the Over Highline Extension Cost and Landlord elects not to construct the Highline Extension, and provided that Landlord and Tenant have mutually approved the Highline Extension Plans, Tenant may elect to send Landlord written notice (the "**Bidding Notice**"), within five (5) days after receiving notice from Landlord that Landlord has elected not to construct the Highline Extension, requesting that Landlord select contractors to bid on the construction of the Highline Extension. If Tenant timely sends the Bidding Notice to Landlord, Landlord shall select two (2) licensed and reputable contractors (each a "**Bidding Contractor**," and, collectively, the "**Bidding Contractors**") that shall bid on the construction of the Highline Extension on or before a date mutually established by Landlord and Tenant. Each of the Bidding Contractors shall be notified in the bidding package, which shall be prepared by Landlord and reasonably approved in advance by Tenant, of the time schedule for construction of the Highline Extension. Landlord shall select a contractor (the "**Highline Extension Contractor**") from among the Bidding Contractors that (a) submitted qualified bids which were consistent with the bid assumptions and directions, including, without limitation, bids consistent with the Highline Extension Plans, (b) committed to Landlord's time schedule for construction of the Highline Extension, and (c) submitted bids which are lower than the Estimated Highline Extension Cost. If any of the foregoing criteria are not met by any Bidding Contractor, then Landlord shall not be required to select a Highline Extension Contractor from among the Bidding Contractors. If all of the foregoing criteria is met by at least one Bidding Contractor, Landlord may elect, but is not required, to give Landlord's Contractor an opportunity to submit a lower bid than the bid by the Highline Extension Contractor selected by Landlord. Whether or not Landlord allows Landlord's Contractor to submit a lower bid than the bid by the Highline Extension Contractor, Landlord shall provide Tenant with notice of the lowest estimated cost of constructing the Highline Extension (the "**Competitive Highline Extension Cost**") based on Landlord's comparison of the bids from the Highline Extension Contractor and Landlord's Contractor.

SECTION 2

TENANT IMPROVEMENTS

2.1 **Tenant Improvement Allowance**. Tenant shall be entitled to an improvement allowance (the "**Tenant Improvement Allowance**") in the amount of $82.50 per RSF of the Expansion Space for the costs relating to the initial design and construction of the improvements which are permanently affixed to the Expansion Space and which are part of the redevelopment of the landscaping and visitors parking in front of the Building (collectively, the "**Tenant Improvements**"). In no event shall Landlord be obligated to make disbursements pursuant to this Tenant Work Letter in the event that Tenant fails to immediately pay any portion of the "Over-Allowance Amount," as defined in Section 4.2.1, nor shall Landlord be obligated to pay a total amount which exceeds the Tenant Improvement Allowance. Notwithstanding the foregoing or any contrary provision of this Lease, all Tenant Improvements shall be deemed Landlord's property under the terms of this Lease. Any unused portion of the Tenant Improvement Allowance remaining as of the Expansion Space Commencement Date, shall remain with Landlord and Tenant shall have no further right thereto.

2.2 **Disbursement of the Tenant Improvement Allowance**.

2.2.1 **Tenant Improvement Allowance Items**. Except as otherwise set forth in this Tenant Work Letter, the Tenant Improvement Allowance shall be disbursed by Landlord (each of which disbursements shall be made pursuant to Landlord's disbursement process, including, without limitation, Landlord's receipt of invoices for all costs and fees described herein) for costs related to the construction of the Tenant Improvements and for the following items and costs (collectively, the "**Tenant Improvement Allowance Items**"):

2.2.1.1 Payment of (a) the fees of the "Architect" and the "Engineers," as those terms are defined in Section 3.1 of this Tenant Work Letter, (b) the fees of Tenant's consultants for project management and other engineers and/or consultants for lighting, HVAC, generators, rooftop installation, audio video equipment, not to exceed Five and 00/100 Dollars ($5.00) per RSF, (c) the fees incurred by, and the cost of documents and materials supplied by, Landlord and Landlord's consultants in connection with the preparation and review of the "Construction Drawings," as that term is defined in Section 3.1 of this Tenant Work Letter and (d) payment of plan check, permit and license fees relating to construction of the Tenant Improvements;

2.2.1.2 The cost of any changes in the Expansion Space Base Building when such changes are required by the Construction Drawings (including if such changes are due to the fact that such work is prepared on an unoccupied basis), such cost to include all direct architectural and/or engineering fees and expenses incurred in connection therewith;

2.2.1.3 The cost of any changes to the Construction Drawings or Tenant Improvements required by all applicable building codes (the "**Code**"); but to the extent changes are required because Landlord did not deliver the Expansion Space to Tenant in the condition required by Section 1, above, Landlord shall pay for such costs separate and apart from, and in addition to, the Tenant Improvement Allowance;

2.2.1.4 The "Landlord Supervision Fee", as that term is defined in Section 4.3.2 of this Tenant Work Letter.

2.2.1.5 The payment of plan check, plan check expeditor, permit and license fees relating to the construction of the Tenant Improvements;

2.2.1.6 The cost of construction of the Tenant Improvements, inclusive of supplemental HVAC and other backup power components, and including, without limitation, testing and inspection costs, after hours freight elevator usage (and services in connection with oversize or overweight items for which Landlord's elevator warranty requires an on-site elevator operator), costs to redevelop the landscaping and visitors parking in front of the Building, hoisting and trash removal costs, and contractors' fees and general conditions;

2.2.1.7 The cost of connection of the Expansion Space to the Building's energy management systems, and for chilled water hook-up fees, if applicable for the Expansion Space; and

2.2.1.8 Sales and use taxes and Title 24 fees.

2.2.2 **Disbursement of Tenant Improvement Allowance**. During the construction of the Tenant Improvements, Landlord shall make monthly disbursements of the Tenant Improvement Allowance for Tenant Improvement Allowance Items and shall authorize the release of monies as follows.

2.2.2.1 **Monthly Disbursements**. On or before the twentieth (20th) day of each calendar month, during the construction of the Tenant Improvements (or such other date as Landlord may designate), Tenant shall deliver to Landlord: (i) a request for payment of the "Contractor," as that term is defined in Section 4.1.1 of this Tenant Work Letter, approved by Tenant, in a form to be provided by Landlord, showing the schedule, by trade, of percentage of completion of the Tenant Improvements in the Expansion Space, detailing the portion of the work completed and the portion not completed; (ii) invoices from all of "Tenant's Agents," as that term is defined in Section 4.1.2 of this Tenant Work Letter, for labor rendered and materials delivered to the Expansion Space; and (iii) executed mechanic's lien releases from all of Tenant's Agents which shall comply with the appropriate provisions, as reasonably determined by Landlord, of California Civil Code Sections 8132, 8134, 8136 and/or 8138. Tenant's request for payment shall be deemed Tenant's acceptance and approval of the work furnished and/or the materials supplied as set forth in Tenant's payment request. Thereafter, Landlord shall deliver a check to Tenant made jointly payable to Contractor and Tenant, or directly to Contractor at Landlord's sole discretion, in payment of the lesser of: (A) the amounts so requested by Tenant, as set forth in this Section 2.2.2.1, above, less a ten percent (10%) retention (the aggregate amount of such retentions to be known as the "**Final Retention**") to the extent required pursuant to this Section 2.2.2.1 below, and (B) the balance of any remaining available portion of the Tenant Improvement Allowance (not including the Final Retention), provided that Landlord does not dispute any request for payment based on non-compliance of any work with the "Approved Working Drawings," as that term is defined in Section 3.4 below, or due to any substandard work, or for any other reason. Landlord's payment of such amounts shall not be deemed Landlord's approval or acceptance of the work furnished or materials supplied as set forth in Tenant's payment request. Notwithstanding the foregoing, if Tenant's contract with the Contractor (as defined below) includes a retention, the retention withheld by Landlord in clause (A) of the preceding sentence shall be ten percent (10%) less the retention in Tenant's contract with the Contractor such that the aggregate percentage withheld between Landlord and the Contractor equals ten percent (10%). Notwithstanding anything to the contrary contained in this Section 2.2.2.1 and Section 2.2.2.2 below, any costs of constructing the Tenant Improvements that are not part of the Contract, such as permitting fees, and reimbursements to the Architect shall not be subject to the Final Retention.

2.2.2.2 **Final Retention**. Subject to the provisions of this Work Letter, a check for the Final Retention payable jointly to Tenant and Contractor, or directly to Contractor at Landlord's sole discretion, shall be delivered by Landlord to Tenant within thirty (30) days following the completion of construction of the Tenant Improvements, provided that (i) Tenant delivers to Landlord (a) paid invoices for all Tenant Improvements and related costs for which the Tenant Improvement Allowance is to be disbursed, (b) signed permits for all Tenant Improvements completed within the Expansion Space, (c) properly executed unconditional mechanics lien releases in compliance with both California Civil Code Section 8134 and either Section 8136 or Section 8138 from Tenant's contractor, subcontractors and material suppliers and any other party which has lien rights in connection with the construction of the Tenant Improvements, (ii) Landlord has determined that no substandard work exists which adversely affects the mechanical, electrical, plumbing, heating, ventilating and air conditioning, life-safety or other systems of the Building, the curtain wall of the Building, or the structure or exterior appearance of the Building, (iii) Architect delivers to Landlord a "Certificate of Substantial Completion", in a form reasonably acceptable to Landlord, certifying that the construction of the Tenant Improvements in the Expansion Space has been substantially completed, (iv) Tenant delivers to Landlord a "close-out package" in both paper and electronic forms (including, as-built drawings, and final record CADD files for the associated plans, warranties and guarantees from all contractors, subcontractors and material suppliers, and an independent air balance report); and (v) a certificate of occupancy, a temporary certificate of occupancy or its equivalent is issued to Tenant for the Expansion Space.

2.2.2.3 **Other Terms**. Landlord shall only be obligated to make disbursements from the Tenant Improvement Allowance to the extent costs are incurred by Tenant for Tenant Improvement Allowance Items.

2.3 **Building Standards; LEED Standards**. Landlord has established or may establish specifications for certain Building standard components to be used in the construction of the Tenant Improvements in the Expansion Space. The quality of Tenant Improvements shall be equal to or of greater quality than the quality of such Building standards, provided that Landlord may, at Landlord's option, require the Tenant Improvements to comply with certain Building standards. Landlord may make changes to said specifications for Building standards from time to time. Removal requirements for Tenant Improvements are addressed in Article 8 of this Lease. Tenant shall not be obligated to incur any costs associated with Landlord's construction of the Expansion Space Base Building to comply with any LEED requirements, or relating to any LEED certification obtained for the Expansion Space Base Building.

2.4 **Offset Right**. Notwithstanding anything to the contrary contained herein, if Landlord fails to timely fulfill its obligation to fund any portion of the Tenant Improvement Allowance, Tenant shall be entitled to deliver notice (" **Payment Notice**") thereof to Landlord and to any mortgage or trust deed holder of the Building whose identity and address have been previously provided to Tenant. If Landlord still fails to fulfill any such obligation within twenty (20) business days after Landlord's receipt of the Payment Notice from Tenant and if Landlord fails to deliver notice to Tenant within such twenty (20) business day period explaining Landlord's reasons that Landlord believes that the amounts described in Tenant's Payment Notice are not due and payable by Landlord ("**Refusal Notice**"), Tenant shall be entitled to offset the amount so funded, together with interest at the Interest Rate from the date Landlord was obligated to pay such amount until the date of offset, against Tenant's next obligations to pay Rent; provided, however, Landlord shall be obligated to immediately disburse to Tenant any undisputed amounts. However, if Tenant is in default under Section 19.1 of this Lease at the time that such offset would otherwise be applicable, Tenant shall not be entitled to such offset until such default is cured. If Landlord delivers a Refusal Notice, and if Landlord and Tenant are not able to agree on the amounts to be so paid by Landlord, if any, within ten (10) days after Tenant's receipt of a Refusal Notice, Tenant shall not be entitled to offset such amount against Rent unless and until such dispute is finally resolved by mutual agreement of the parties or pursuant to a final, non-appealable order issued by a court of competent jurisdiction.

SECTION 3

CONSTRUCTION DRAWINGS

3.1 **Selection of Architect/Construction Drawings**. Tenant shall retain an architect/space planner reasonably approved by Landlord (the "**Architect**") to prepare the "Construction Drawings," as that term is defined in this Section 3.1. Landlord hereby approves KSH or Gensler as the Architect. Tenant shall retain the engineering consultants designated by Landlord (the "**Engineers**") to prepare all engineering construction documents and specifications relating to the structural life safety, and sprinkler work in the Expansion Space, which work is not part of the Expansion Space Base Building. The plans and drawings to be prepared by Architect and the Engineers hereunder shall be known collectively as the "**Construction Drawings**." All Construction Drawings shall comply with reasonable, industry standard drawing formats and specifications and may be submitted to Landlord as such Construction Drawings are completed, and shall be subject to Landlord's approval, which shall not be unreasonably withheld or delayed; provided, that any components of the Construction Drawings which present a "Design Problem" (as that term is defined hereinbelow) shall be subject to Landlord's consent in its sole and absolute discretion (collectively, "**Landlord's Consent Standard**"). Tenant and Architect shall verify, in the field, the dimensions and conditions of the Expansion Space Base Building, and Tenant and Architect shall be solely responsible for the same, and Landlord shall have no responsibility in connection therewith. Landlord's review of the Construction Drawings as set forth in this Section 3, shall be for its sole purpose and shall not imply Landlord's review of the same, or obligate Landlord to review the same, for quality, design, Code compliance or other like matters. Accordingly, notwithstanding that any Construction Drawings are reviewed by Landlord or its space planner, architect, engineers and consultants, and notwithstanding any advice or assistance which may be rendered to Tenant by Landlord or Landlord's space planner, architect, engineers, and consultants, Landlord shall have no liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in the Construction Drawings, and Tenant's waiver and indemnity set forth in this Lease shall specifically apply to the Construction Drawings. A "**Design Problem**" is defined as and will be deemed to exist if such improvements (i) will affect the exterior appearance of the Building, (ii) will adversely affect the Expansion Space Base Building, (iii) will fail to comply with Applicable Laws, including without limitation the LEED certification requirements relating to the construction of the Tenant Improvements required by the City of San Jose, or (iv) are not consistent with the applicable Permitted Use.

3.2 **Intentionally Omitted**.

3.3 **Final Construction Drawings**. Tenant, the Architect and the Engineers shall complete the architectural and engineering documents for the Expansion Space, and Architect shall compile a fully coordinated set of architectural, structural, mechanical, electrical and plumbing working drawings in a form which is complete to allow subcontractors to bid on the work and to obtain all applicable permits (collectively, the "**Final Construction Drawings**") and shall submit the same to Landlord for Landlord's approval, which shall not be withheld except in the case of a Design Problem. Tenant shall supply Landlord with four (4) copies signed by Tenant of such Final Construction Drawings. Landlord shall advise Tenant within ten (10) business days after Landlord's receipt of the Final Construction Drawings for the Expansion Space if the same is incomplete in any material respect or if a Design Problem exists. If Tenant is so advised, Tenant shall immediately revise the Final Construction Drawings to cause them to be complete and to eliminate any Design Problem. If Landlord fails to respond to the Final Construction Drawings within the ten (10) business day period set forth above, Tenant may send Landlord a notice of setting forth such failure.

3.4 **Permits; Approved Working Drawings**. The Final Construction Drawings shall be approved by Landlord (the "**Approved Working Drawings**") prior to the commencement of the construction of the Tenant Improvements. Tenant shall immediately submit the Approved Working Drawings to the appropriate municipal authorities for all applicable building and other permits necessary to allow "Contractor," as that term is defined in Section 4.1, below, to commence and fully complete the construction of the Tenant Improvements (the "**Permits**"), and, in connection therewith, Tenant shall coordinate with Landlord in order to allow Landlord, at its option, to take part in all phases of the permitting process and shall supply Landlord, as soon as possible, with all plan check numbers and dates of submittal and obtain the Permits, provided that such coordination does not delay permit plan submittal. Notwithstanding anything to the contrary set forth in this Section 3.4, Tenant hereby agrees that neither Landlord nor Landlord's consultants shall be responsible for obtaining any building permit or certificate of occupancy for the Expansion Space and that the obtaining of the same shall be Tenant's responsibility; provided however that Landlord shall, in any event, cooperate with Tenant in executing permit applications and performing other ministerial acts reasonably necessary to enable Tenant to obtain any such permit or certificate of occupancy. No changes, modifications or alterations in the Approved Working Drawings may be made without the prior written consent of Landlord, which consent shall be granted or withheld in accordance with Landlord's Consent Standard.

3.5 **Electronic Approvals**. Notwithstanding any provision to the contrary contained in the Lease or this Tenant Work Letter, Landlord may, in Landlord's sole and absolute discretion, transmit or otherwise deliver any of the approvals required under this Tenant Work Letter via electronic mail to Tenant's representative identified in Section 5.2 of this Tenant Work Letter, or by any of the other means identified in Section 29.18 of this Lease.

SECTION 4

CONSTRUCTION OF THE TENANT IMPROVEMENTS

4.1 **Tenant's Selection of Contractors**.

4.1.1 **Contractor**. A general contractor shall be retained by Tenant to construct the Tenant Improvements. Such general contractor (the "**Contractor**") shall be selected by Tenant, and reasonably approved by Landlord. Tenant shall deliver to Landlord notice of its selection of the Contractor upon such selection.

4.1.2 **Tenant's Agents**. All subcontractors, laborers, materialmen, and suppliers used by Tenant (such subcontractors, laborers, materialmen, and suppliers, and the Contractor to be known collectively as "**Tenant's Agents**") must be approved in writing by Landlord, which approval shall not be unreasonably withheld or delayed. If Landlord does not approve any of Tenant's proposed subcontractors, laborers, materialmen or suppliers, Tenant shall submit other proposed subcontractors, laborers, materialmen or suppliers for Landlord's written approval.

4.2 **Construction of Tenant Improvements by Tenant's Agents**.

4.2.1 **Construction Contract; Cost Budget**. Tenant shall engage the Contractor under a contract reasonably approved by Landlord (the "**Contract**"). Prior to the commencement of the construction of the Tenant Improvements, and after Tenant has accepted all bids for the Tenant Improvements, Tenant shall provide Landlord with a detailed breakdown, by trade, of the final costs to be incurred or which have been incurred, as set forth more particularly in Sections 2.2.1.1 through 2.2.1.8, above, in connection with the design and construction of the Improvements to be performed by or at the direction of Tenant or the Contractor, which costs form

a basis for the amount of the Contract (the "**Anticipated Costs**"). In the event that the Anticipated Costs are greater than the amount of the Tenant Improvement Allowance (the "**Anticipated Over-Allowance Amount**"), then, Tenant shall pay a percentage of each amount requested by the Contractor or otherwise to be disbursed under this Tenant Work Letter, which percentage (the "**Percentage**") shall be equal to the Anticipated Over-Allowance Amount divided by the amount of the Anticipated Costs (after deducting from the Anticipated Costs any amounts expended in connection with the preparation of the Construction Drawings, and the cost of all other Tenant Improvements incurred prior to the commencement of construction of the Tenant Improvements), and such payments by Tenant (the "**Over-Allowance Payments**") shall be a condition to Landlord's obligation to pay any amounts from the Tenant Improvement Allowance (the "**Tenant Improvement Allowance Payments**"). After the initial determination of the Anticipated Costs, Tenant shall advise Landlord from time to time as such Anticipated Costs are further refined or determined or the costs relating to the design and construction of the Tenant Improvements otherwise change and the Anticipated Over-Allowance Amount, and the Over-Allowance Payments shall be adjusted such that the Tenant Improvement Allowance Payments by Landlord and the Over-Allowance Payments by Tenant shall accurately reflect the then-current amount of Anticipated Costs.

4.2.2 **Tenant's Agents**.

4.2.2.1 **Landlord's General Conditions for Tenant's Agents and Tenant Improvement Work**. Tenant's and Tenant's Agent's construction of the Tenant Improvements shall comply with the following: (i) the Tenant Improvements shall be constructed in strict accordance with the Approved Working Drawings; and (ii) Tenant's Agents shall submit schedules of all work relating to the Tenant Improvements to Contractor and Contractor shall, within five (5) business days of receipt thereof, inform Tenant's Agents of any changes which are necessary thereto, and Tenant's Agents shall adhere to such corrected schedule. Tenant shall pay a construction supervision and management fee (the "**Landlord Supervision Fee**") to Landlord in an amount equal to the product of (i) two percent (2%) and (ii) the hard costs of constructing the Tenant Improvements. Notwithstanding anything to the contrary contained in this Tenant Work Letter, Tenant shall not be permitted to modify the slabs of the Base Building or the Expansion Space Base Building.

4.2.2.2 **Indemnity**. Tenant's indemnity of Landlord as set forth in this Lease shall also apply with respect to any and all costs, losses, damages, injuries and liabilities related in any way to any act or omission of Tenant or Tenant's Agents, or anyone directly or indirectly employed by any of them, or in connection with Tenant's non-payment of any amount arising out of the Tenant Improvements and/or Tenant's disapproval of all or any portion of any request for payment. Such indemnity by Tenant, as set forth in this Lease, shall also apply with respect to any and all costs, losses, damages, injuries and liabilities related in any way to Landlord's performance of any ministerial acts reasonably necessary (i) to permit Tenant to complete the Tenant Improvements, and (ii) to enable Tenant to obtain any building permit or certificate of occupancy for the Expansion Space.

4.2.2.3 **Requirements of Tenant's Agents**. Each of Tenant's Agents shall guarantee to Tenant and for the benefit of Landlord that the portion of the Tenant Improvements for which it is responsible shall be free from any defects in workmanship and materials for a period of not less than one (1) year from the date of completion thereof. Each of Tenant's Agents shall be responsible for the replacement or repair, without additional charge, of all work done or furnished in accordance with its contract that shall become defective within one (1) year after the completion of the work performed by such contractor or subcontractors. The correction of such

work shall include, without additional charge, all additional expenses and damages incurred in connection with such removal or replacement of all or any part of the Tenant Improvements, and/or the Building and/or common areas that may be damaged or disturbed thereby. All such warranties or guarantees as to materials or workmanship of or with respect to the Tenant Improvements shall be contained in the Contract or subcontract and shall be written such that such guarantees or warranties shall inure to the benefit of both Landlord and Tenant, as their respective interests may appear, and can be directly enforced by either. Tenant covenants to give to Landlord any assignment or other assurances which may be necessary to effect such right of direct enforcement.

4.2.2.4 **Insurance Requirements**.

4.2.2.4.1 **General Coverages**. All of Tenant's Agents shall carry worker's compensation insurance covering all of their respective employees, and shall also carry public liability insurance, including property damage, all with limits, in form and with companies as are required to be carried by Tenant as set forth in this Lease.

4.2.2.4.2 **Special Coverages**. Tenant shall carry "Builder's All Risk" insurance in an amount approved by Landlord covering the construction of the Tenant Improvements, and such other insurance as Landlord may require, it being understood and agreed that the Tenant Improvements shall be insured by Tenant pursuant to this Lease immediately upon completion thereof. Such insurance shall be in amounts and shall include such extended coverage endorsements as may be reasonably required by Landlord including, but not limited to, the requirement that all of Tenant's Agents shall carry excess liability and Products and Completed Operation Coverage insurance, each in amounts not less than $5,000,000 per incident, $5,000,000 in aggregate, and in form and with companies as are required to be carried by Tenant as set forth in this Lease.

4.2.2.4.3 **General Terms**. Certificates for all insurance carried pursuant to this Section 4.2.2.4 shall be delivered to Landlord before the commencement of construction of the Tenant Improvements and before the Contractor's equipment is moved onto the site. All such policies of insurance must contain a provision that the company writing said policy will give Landlord thirty (30) days prior written notice of any cancellation or lapse of the effective date or any reduction in the amounts of such insurance. In the event that the Tenant Improvements are damaged by any cause during the course of the construction thereof, Tenant shall immediately repair the same at Tenant's sole cost and expense. Tenant's Agents shall maintain all of the foregoing insurance coverage in force until the Tenant Improvements are fully completed and accepted by Landlord, except for any Products and Completed Operation Coverage insurance required by Landlord, which is to be maintained for ten (10) years following completion of the work and acceptance by Landlord and Tenant. All policies carried under this Section 4.2.2.4 shall insure Landlord and Tenant, as their interests may appear, as well as Contractor and Tenant's Agents. All insurance, except Workers' Compensation, maintained by Tenant's Agents shall preclude subrogation claims by the insurer against anyone insured thereunder. Such insurance shall provide that it is primary insurance as respects the owner and that any other insurance maintained by owner is excess and noncontributing with the insurance required hereunder. The requirements for the foregoing insurance shall not derogate from the provisions for indemnification of Landlord by Tenant under Section 4.2.2.2 of this Work Letter. Landlord may, in its discretion, require Tenant to obtain a lien and completion bond or some alternate form of security satisfactory to Landlord in an amount sufficient to ensure the lien-free completion of the Tenant Improvements and naming Landlord as a co-obligee.

4.2.3 **Governmental Compliance**. The Tenant Improvements shall comply in all respects with the following: (i) the Code and other state, federal, city or quasi-governmental

laws, codes, ordinances and regulations, as each may apply according to the rulings of the controlling public official, agent or other person; (ii) applicable standards of the American Insurance Association (formerly, the National Board of Fire Underwriters) and the National Electrical Code; and (iii) building material manufacturer's specifications.

4.2.4 **Inspection by Landlord**. Landlord shall have the right to inspect the Tenant Improvements at all times, provided however, that Landlord's failure to inspect the Tenant Improvements shall in no event constitute a waiver of any of Landlord's rights hereunder nor shall Landlord's inspection of the Tenant Improvements constitute Landlord's approval of the same. Should Landlord disapprove any portion of the Tenant Improvements, Landlord shall notify Tenant in writing of such disapproval and shall specify the items disapproved. Any defects or deviations in, and/or disapproval by Landlord of, the Tenant Improvements shall be rectified by Tenant at no expense to Landlord, provided however, that in the event Landlord determines that a defect or deviation exists or disapproves of any matter in connection with any portion of the Tenant Improvements and such defect, deviation or matter might adversely affect the mechanical, electrical, plumbing, heating, ventilating and air conditioning or life-safety systems of the Building, the structure or exterior appearance of the Building or any other tenant's use of such other tenant's leased premises, Landlord may, take such action as Landlord deems necessary, at Tenant's expense and without incurring any liability on Landlord's part, to correct any such defect, deviation and/or matter, including, without limitation, causing the cessation of performance of the construction of the Tenant Improvements until such time as the defect, deviation and/or matter is corrected to Landlord's satisfaction.

4.2.5 **Meetings**. Commencing upon the execution of this Lease, Tenant shall hold weekly meetings at a reasonable time, with the Architect and the Contractor regarding the progress of the preparation of Construction Drawings and the construction of the Tenant Improvements, which meetings shall be held at a location designated by Landlord, and Landlord and/or its agents shall receive prior notice of, and shall have the right to attend, all such meetings, and, upon Landlord's request, certain of Tenant's Agents shall attend such meetings. In addition, minutes shall be taken at all such meetings, a copy of which minutes shall be promptly delivered to Landlord. One such meeting each month shall include the review of Contractor's current request for payment.

4.3 **Notice of Completion; Copy of Record Set of Plans**. Tenant hereby indemnifies Landlord for any loss, claims, damages or delays arising from the actions of Architect in the Expansion Space or in the Building. Within ten (10) days after completion of construction of the Tenant Improvements, Tenant shall cause a Notice of Completion to be recorded in the office of the County Recorder of the county in which the Building is located in accordance with Section 8182 of the Civil Code of the State of California or any successor statute and furnish a copy thereof to Landlord upon recordation, failing which, Landlord may itself execute and file the same as Tenant's agent for such purpose, at Tenant's sole cost and expense. At the conclusion of construction, (i) Tenant shall cause the Architect and Contractor (A) to update the Approved Working Drawings as necessary to reflect all changes made to the Approved Working Drawings during the course of construction, (B) to certify to the best of their knowledge that the "record-set" of as-built drawings are true and correct, which certification shall survive the expiration or termination of this Lease, and (C) to deliver to Landlord two (2) sets of copies of such record set of drawings within ninety (90) days following issuance of a certificate of occupancy for the Expansion Space, and (ii) Tenant shall deliver to Landlord a copy of all warranties, guaranties, and operating manuals and information relating to the improvements, equipment, and systems in the Expansion Space.

SECTION 5

COMPLETION OF THE TENANT IMPROVEMENTS; EXPANSION SPACE COMMENCEMENT DATE

5.1 **Landlord Caused Delays**. The Expansion Space Commencement Date shall occur as provided in Section 4 of the First Amendment, provided that the Expansion Space Commencement Date shall be extended by the number of days of delay of the Substantial Completion of the Tenant Improvements, as that term is defined in Section 5.2, below, in the applicable portion of the Expansion Space to the extent (i) caused by a Landlord Caused Delay, as that term is defined below, and (ii) the subject delay causes the Substantial Completion of the Tenant Improvements to occur after September 1, 2019. As used herein, the term "**Landlord Caused Delay**" shall mean actual delays to the extent resulting from the acts or omissions of Landlord including, but not limited to (a) material and unreasonable interference by Landlord, its agents or other Landlord Parties (except as otherwise allowed under this Tenant Work Letter) with the Substantial Completion of the Tenant Improvements which objectively precludes or delays the construction of Tenant Improvements, which interference relates to access by Tenant, or Tenant's Agents to the Building or any Common Areas or service (including temporary power) during normal construction hours, or the use thereof during normal construction hours, and (b) delays due to the acts or failures to act of Landlord with respect to payment of the Tenant Improvement Allowance (except as otherwise allowed under this Tenant Work Letter).

5.2 **Determination of Landlord Caused Delay**. If Tenant contends that a Landlord Caused Delay has occurred, Tenant shall notify Landlord in writing (the "**Delay Notice**") of the event which constitutes such Landlord Caused Delay. If such actions, inaction or circumstance described in the Delay Notice are not cured by Landlord within one (1) business day of Landlord's receipt of the Delay Notice and if such action, inaction or circumstance otherwise qualify as a Landlord Caused Delay, then a Landlord Caused Delay shall be deemed to have occurred commencing as of the date of Landlord's receipt of the Delay Notice and ending as of the date such delay ends. Notwithstanding the foregoing, an event shall constitute the basis for a Landlord Caused Delay only to the extent the effect of such Landlord Caused Delay cannot be mitigated in a reasonably practicable manner by Landlord on commercially reasonable terms (without requiring Landlord to incur any expense or overtime). For purposes of this Section 5, "**Substantial Completion of the Tenant Improvements**" shall mean completion of construction of the Tenant Improvements in the Expansion Space pursuant to the Approved Working Drawings, with the exception of any punch list items.

SECTION 6

MISCELLANEOUS

6.1 **Miscellaneous Items**. Prior to the Expansion Space Commencement Date, during the construction of the Tenant Improvements, and subject to compliance with Landlord's TI Manual (as the same is in effect on the date of this Lease), and if and to the extent reasonably available, Tenant may use the following items, on a nonexclusive basis, and in a manner and to the extent reasonably necessary to perform the Tenant Improvements: freight elevators, loading areas, non-potable water, temporary electrical services, and HVAC; provided, however, that Tenant shall be responsible, at Tenant's cost, for providing any security services required to facilitate operation of the foregoing after-hours, which security services shall be subject to Landlord's reasonable approval.

6.2 **Tenant's Representative**. Tenant has designated Ernest Evans as its sole representative with respect to the matters set forth in this Tenant Work Letter (whose e-mail address for the purposes of this Tenant Work Letter is eevans@roku.com, who, until further notice to Landlord, shall have full authority and responsibility to act on behalf of the Tenant as required in this Tenant Work Letter.

6.3 **Landlord's Representatives**. Landlord has designated Curtis Leigh (whose e-mail address for the purposes of this Tenant Work Letter is curtis@hunterproperties.com), as its sole representative with respect to the matters set forth in this Tenant Work Letter, who, until further notice to Tenant, shall have full authority and responsibility to act on behalf of the Landlord as required in this Tenant Work Letter.

6.4 **Labor Harmony**. Tenant shall not use (and upon notice from Landlord shall cease using) contractors, services, workmen, labor, materials or equipment that, in Landlord's reasonable judgment, would disturb labor harmony with the workforce or trades engaged in performing other work, labor or services in or about the Building or the Common Areas. In addition, Tenant shall retain any union trades to the extent required by Applicable Laws.

6.5 **Time is of the Essence**. Time is of the essence under this Tenant Work Letter. Unless otherwise indicated, all references herein to a "number of days" shall mean and refer to calendar days. In all instances where Tenant is required to approve or deliver an item, if no written notice of approval is given or the item is not delivered within the stated time period, at Landlord's sole option, at the end of such period the item shall automatically be deemed approved or delivered by Tenant and the next succeeding time period shall commence. If any item requiring approval is timely disapproved by the applicable party, the procedure for preparation of the document and approval thereof shall be repeated until the document is approved.

6.6 **Tenant's Lease Default**. Notwithstanding any provision to the contrary contained in this Lease , if any default, after expiration of any applicable notice or cure period, as described in the Lease or this Tenant Work Letter has occurred at any time on or before the Substantial Completion of the Tenant Improvements, then (i) in addition to all other rights and remedies granted to Landlord pursuant to this Lease, Landlord shall have the right to withhold payment of all or any portion of the Tenant Improvement Allowance, and (ii) all other obligations of Landlord under the terms of the Lease and this Tenant Work Letter shall be forgiven until such time as such default is cured or waived pursuant to the terms of this Lease (in which case, Tenant shall be responsible for any delay in the Substantial Completion of the Tenant Improvements caused by such inaction by Landlord).

SCHEDULE 1-A TO EXHIBIT 2

COLEMAN HIGHLINE

EXPANSION SPACE BASE BUILDING DESCRIPTION

All references to "Code" below shall mean compliance with applicable Code to the extent necessary for Tenant to obtain and retain a certificate of occupancy or temporary certificate of occupancy or legal equivalent for the Expansion Space for general office use.

1) Site and Shell:

All landscape, site work, lighting, paving, striping, Code related signage, and utilities (sewer, water, gas). Includes infrastructure for future communication and cable TV requirements. Work includes all vaults, fees, backflow and monitoring devices.

2) Shell:

All work required to obtain a shell permit final inspection (not a temporary certificate for occupancy). All work shall conform to local Code for the shell. Weather tight (air and water infiltration) shell complete with rain water distribution system. Exterior doors with manual exit panic hardware. 2 sets of standard pre- engineered stairs for access and egress with one set to access the roof. Fire riser and complete shell system, including "up heads" with capped tees for Tenant Improvements at all floors and roof monitors and PIV (monitoring system by Tenant). Floor of the Building designed for 80 PSF uniform live load. Steel framework shall be designed to accommodate shaft and elevator openings. Includes roof screen. Insulation at underside of roof deck provided, furring and drywall at perimeter walls and all columns are excluded. 10' high ceiling for most open office space. The Building is classified as Type II-A. Exterior lobby door hardware to be electrified.

3) Electrical:

All primary and secondary electrical services from the street to a location in the Building, including transformer pads, and house meter section.

4) Core:

All work related to construction of core bathrooms, stairs shafts, HVAC shafts, electrical and phone rooms, janitor closets, elevators and shafts. Work related to construction of main lobby and upper elevator lobbies are excluded.

a) Core bathrooms (one set for men and women per floor) shall include multiple stalls with one (1) handicap stall per floor and provide +2 plumbing fixtures over code requirement for occupancy load. Includes showers for men and women on first floor only. Bathroom will receive tile flooring and wall tiles up to wainscot height at wet walls only (6' above finished floor). All other bathroom interior walls and gypsum board ceilings will be taped, finished, and painted. All plumbing fixtures including water closets, urinals, lavatory sinks and faucets will be battery operated.

Toilet accessories including soap dispensers, toilet paper dispensers, toilet seat dispensers, trash receptacles, paper towel dispensers, napkin dispensers, and handicap grab bars are included. Plastic laminate toilet partitions are included. Granite countertops with under mount sinks are included. All associated lighting, fire sprinklers, power receptacles, ventilation, venting, sewer piping, water piping and floor drains are included. All associated lighting and fire sprinklers are included.

b) Stair shafts will be constructed with metal stud framing and drywall assembly with fire rating in compliance to construction type. Stairs to be 1' wider than Code required. All interior walls facing the egress stairs will be taped, finished, and painted. Gypsum board ceiling will be constructed at the top level. No soffit on the underside of stairs. Stair rails and stringers will be painted. All associated lighting and fire sprinklers are included.

c) Electrical and telephone rooms will receive sealed concrete with plywood backing on walls. Electrical scope will include power distribution including transformer, conduit risers and electrical panels. Conduit risers will be provided for phone service distribution.

d) SVP transformer pad for each Building. Main switchboard to be per CEC, Silicon Valley Power and City of San Jose requirements. Meter main per Silicon Valley Power requirements, with utility metering section with CAT5E station cable to MPOE. Provide a vertical 480/277V 3PH bus riser complete with bus plugs capable of supply full floor power, lighting and miscellaneous loads at electrical room on each floor for future tenant distribution.

e) Fully operational main electric service for the Building including main switchboard rated at 14 Watts per SF, 2500 AMP 480/277V 3PH, serving Tenant lighting, power and miscellaneous loads, as well as Expansion Space Base Building electrical and mechanical equipment loads. Space sized for Tenant panels and transformers are included. Includes bus duct for lighting and power for Core only. Includes conduits and wire feeders for Mechanical. Landlord to provide electrical panels for Tenant to use at electrical closet on each floor of the Expansion Space.

f) HVAC shall be air-cooled package rooftop VAV unit(s). Units will be side discharge to a shaft location where ducts will extend down shaft and connect to fire smoke dampers at ceiling level for each floor. Rooftop ductwork will be internally lined and ductwork inside shaft will be wrapped. Duct loops at each floor are not included (risers and stubs on each floor only). Design shall be for an indoor temperature of 74 F, and outdoor temperatures corresponding to the 0.4% ASHRAE design day: a winter temperature of 36 F, and a summer temperature of 92 F dry bulb and 67 F wet bulb. Additionally, HVAC design shall comply with ASHRAE Standard 90.1, 62.1, and 55. Landlord to provide mechanical HVAC pads on roof for Tenant-installed HVAC units, Landlord to coordinate conduit placement for electrical, data and AV during construction of Building 2 prior to pouring the

concrete slab, provided that locations are identified by Tenant for Landlord in a timely manner and will not impact construction schedule.

g) DDC controls for Expansion Space Base Building system (rooftop heating and cooling) with the availability of the addition of DDC controls should the future tenant require. Electrical monitoring is not included.

General Office Areas:

Lighting load (including task lighting): Cooling system designed for 1.2 watts/RSF; Lighting designed to be restricted to .95 watts/RSF to conform to potential LEED goals

Non Core miscellaneous office equipment designed for cooling loads 3.0 watts/RSF (highly populated floor plates need more watts/SF)

Designated dry lab space: Increased loads are a tenant expense performed by Landlord

Occupancy: designed to accommodate 150 SF/person

h) Hot water boiler system, including hot water pump(s), water treatment and all necessary piping specialties, serving one riser extending from the roof to the lower floor. Supply and return valves to be located on each floor for future connection to hot water piping loop if required. Piping loops on each floor are not included.

i) Auxiliary cooling is not included.

j) Domestic cold water main branch piping to each floor near the stair for future break rooms.

k) Fire alarm system: Building is fully sprinklered and monitored including the PIV as required by Code. Life safety system distribution (smoke detectors, annunciators, strobes, etc.) as required by Code for core and common areas. Each floor is designated as one smoke zone. Fire alarm to be expandable.

l) Building telephone MPOE shall be separate from Main Electrical Room. Roof pad to allow for future 24hr cooling tenant requirement and stacked IDF closets shall be included per Code. Phone systems, switching equipment, connections etc., are not included.

m) Elevators (quantity and size to meet code) shall be machine room less elevators with call buttons to meet ADA and fire code requirements. Pit ladder(s), separation screens, sill angles, guide rails and separation beams will be installed, if required, in shaft. Elevator vestibule walls will be fire taped for tenant improvement. Flooring on upper level vestibule to be provided by T.I. Excludes build out of main lobby and upper elevator lobbies. Standard elevator cab finish will be provided. Upgrades if required by Tenant. Elevators to include security card-reader.

n) Emergency power; An inverter will be provided for the Building to power exterior egress lighting. All interior egress lights to be powered by self-contained emergency battery packs.

o) Tenant generator provisions; Provisions will be made at exterior utility enclosure for a 500kW generator for the Building. Provisions to include underground conduits for power, control and parasitic connections. Balance of work to be NIC.

p) All core walls will be constructed with metal stud framing and drywall assembly with fire rating in compliance to construction type. Wall facing Tenant space will be fire taped.

EXHIBIT 3

FORM OF AMENDED AND RESTATED MEMORANDUM OF LEASE

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

ROKU, Inc.
c/o Friedman & Associates, Inc.
1100 Glendon Avenue, Suite PH9
Los Angeles, CA 90024-3526
Attention: Jason Perscheid, Esq.

(space above this line for recorder's use)

AMENDED AND RESTATED MEMORANDUM OF LEASE

(1155 Coleman Avenue, San Jose, California)

THIS AMENDED AND RESTATED MEMORANDUM OF LEASE (" **Memorandum**") is entered into as of the _____ day of _____, 2018, by and between CAP Phase 1, LLC, a Delaware limited liability company ("**Landlord**"), and Roku, Inc., a Delaware corporation ("**Tenant**").

1. Defined Terms; Exhibits. All capitalized terms used in this Memorandum and not otherwise defined herein shall have the meanings ascribed to such terms in the Lease (as defined below). All Exhibits referenced herein are attached hereto, and are incorporated herein by this reference.

2. Premises; Building; Project. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, pursuant to the terms and conditions of that certain Office Lease dated as of August 1, 2018 (as amended, the "**Lease**"), those certain premises described in the Lease, consisting of a total of 194,549 rentable square feet of space (the "**Premises**"), as more fully described in the Lease. The Premises consists of the entire building located at 1155 Coleman Avenue, San Jose, California (the " **Building**"). The Building, as well as the building in the Project located at 1143 Coleman Avenue, a portion of which is subject to Tenant's right of first offer discussed in Section 5 below, are located on the land legally described on **Exhibit A** to this Memorandum.

3. Lease Term. The term of the Lease ("**Lease Term**") is for a period of approximately one hundred forty (140) calendar months, starting on the Lease Commencement Date and ending one hundred forty (140) calendar months thereafter, subject to adjustment as provided in the Lease. The Lease Commencement Date is expected to occur on or about January 23, 2019, subject to adjustment as provided in the Lease.

4. Extension Options. Pursuant to the Lease, Landlord grants to Tenant one (1) option to extend the Lease Term for a period of seven (7) years.

5. Right of First Offer. Pursuant to the Lease, Landlord grants to Tenant, during the first forty-eight (48) months of the Lease Term, an ongoing right of first offer to lease office space in that certain building in the Project located at 1143 Coleman Avenue.

6. Lease Incorporated. All the other terms, conditions and covenants of the Lease are incorporated herein by this reference. In the event of a conflict between the provisions of this Memorandum and the provisions of the Lease, the provisions of the Lease shall govern.

7. Counterparts. This Memorandum may be executed in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement. This Memorandum is solely for notice and recording purposes and shall not be construed to alter, modify, expand, diminish or supplement the provisions of the Lease.

8. Successors and Assigns. The terms, covenants and provisions of the Lease, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of Tenant and Landlord.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum to be executed the day and date first above written.

"LANDLORD"

CAP Phase 1, LLC,
a Delaware limited liability company

By: Coleman Airport Partners, LLC,
a California limited liability company
Its: Sole Member

By: HS Airport, LLC,
a California limited liability company
Its: Manager

By: _____
Name: Derek K. Hunter, Jr.
Its: Member

By: _____
Name: Edward D. Storm
Its: Member

[signatures continue on following page]

"TENANT"

Roku, Inc.
a Delaware corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)
On _____, before me, _____,
(insert name of notary)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)
On _____, before me, _____,
(insert name of notary)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A TO EXHIBIT 3

LEGAL DESCRIPTION

All that certain real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL FIVE: (NEW LOT 5)

New Lot 5 as shown on Lot Line Adjustment Permit recorded February 08, 2018 as Document No. 23864278 of Official Records, being more particularly described as follows;

Being a portion of Lots 3, 5 and 6 as described in that certain "Grant Deed" recorded December 9, 2015 as Document No. 23166921, Official Records of Santa Clara County, and being more particularly described as follows:

Beginning at the northerly corner of said Lot 6;

Thence along the northeasterly line of said Lot 6, South 57°34'50" East, 117.95 feet to the True Point of Beginning;

Thence leaving said northeasterly line, and continuing the following eleven (11) courses and distances:

1. South 32°25'10" West, 221.94 feet;
2. South 57°34'50" East, 179.56 feet;
3. South 32°25'10" West, 52.50 feet;
4. South 57°34'50" East, 4.00 feet;
5. South 32°25'10" West, 26.50 feet;
6. South 57°34'50" East, 11.50 feet,
7. South 32°25'10" West,19.38 feet;
8. South 57°34'50" East, 18.50 feet;
9. South 32°25'10" West, 35.12 feet;
10. South 57°34'50" East, 187.00 feet;
11. North 32°25'10" East, 355.44 feet to a point on the northeasterly line of said Lot 5;

Thence along the northeasterly line of said Lots 5 and 6, North 57°34'50" West 400.56 feet to the True Point of Beginning.

Containing 2.681 ± acres.

As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

PARCEL SIX: (NEW LOT 6)

New Lot 6 as shown on Lot Line Adjustment Permit recorded February 08, 2018 as Document No. 23864278 of Official Records, being more particularly described as follows;

Being a portion of Lots 3, 5 and 6 as described in that certain "Grant Deed" recorded December 9 , 2015 as Document No. 23166921, Official Records of Santa Clara County, and being more particularly described as follows:

Beginning at the northerly corner of said Lot 6;

Thence along the northeasterly line of said Lot 6, South 57°34'50" East, 117.95 feet;

Thence leaving said northeasterly line, and continuing the following nine (9) courses and distances:

1. South 32°25'10" West, 221.94 feet;
2. South 57°34'50" East, 179.56 feet;
3. South 32°25'10" West, 52.50 feet;
4. South 57°34'50" East, 4.00 feet;
5. South 32°25'10" West, 26.50 feet;
6. South 57°34'50" East, 11.50 feet;
7. South 32°25'10" West, 19.38 feet;
8. South 57°34'50" East, 18.50 feet;
9. South 32°25'10" West, 193.54 feet to a point on the southwesterly line of Said Lot 3;

Thence along the southwesterly line of said lots 3 and 6, North 57°34'50" West, 331.50 feet;

Thence along the northwesterly line of said lot 6, North 32°25'10" East, 513.86 feet to the Point of Beginning.

Containing 2.755 ± acres.

As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

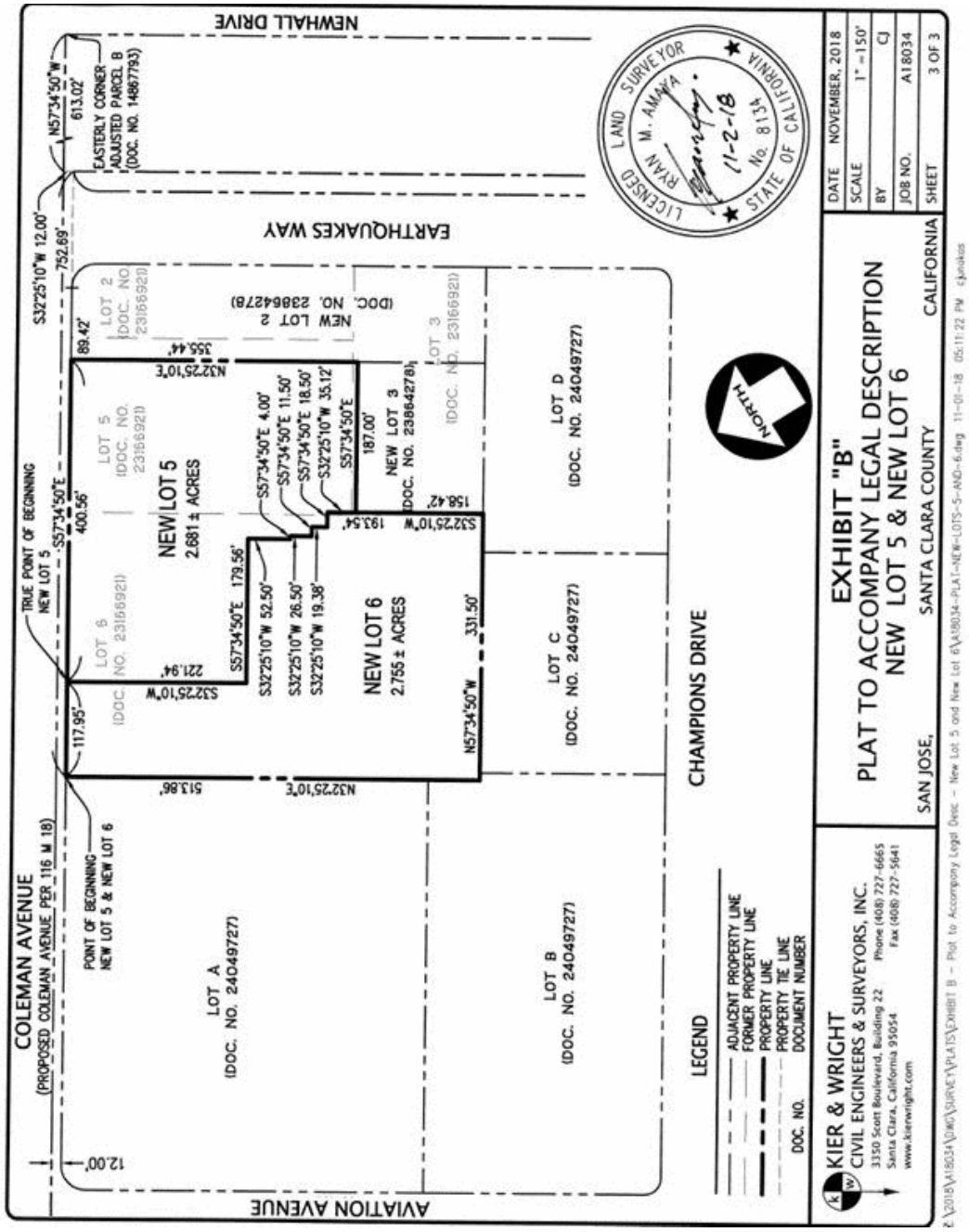

NEWHALL DRIVE
EARTHQUAKES WAY
AVIATION AVENUE
COLEMAN AVENUE
(PROPOSED COLEMAN AVENUE PER 116 M 18)
CHAMPIONS DRIVE
TRUE POINT OF BEGINNING
NEW LOT 5
POINT OF BEGINNING
NEW LOT 5 & NEW LOT 6
EASTERLY CORNER
ADJUSTED PARCEL B
(DOC. NO. 14867793)
N57°34'50"W
613.02'
S32°25'10"W 12.00'
752.69'
S57°34'50"E
400.56'
89.42'
LOT 2
(DOC. NO. 23166921)
LOT 5
(DOC. NO. 23166921)
LOT 6
(DOC. NO. 23166921)
NEW LOT 5
2.681 ± ACRES
NEW LOT 2
(DOC. NO. 23864278)
LOT 3
(DOC. NO. 23166921)
NEW LOT 3
(DOC. NO. 23864278)
NEW LOT 6
2.755 ± ACRES
LOT A
(DOC. NO. 24049727)
LOT B
(DOC. NO. 24049727)
LOT C
(DOC. NO. 24049727)
LOT D
(DOC. NO. 24049727)
N32°25'10"E 355.44'
S57°34'50"E 4.00'
S57°34'50"E 11.50'
S57°34'50"E 18.50'
S32°25'10"W 35.12'
S57°34'50"E 187.00'
S32°25'10"W 193.54'
158.42'
S32°25'10"W 221.94'
S57°34'50"E 179.56'
S32°25'10"W 52.50'
S32°25'10"W 26.50'
S32°25'10"W 19.38'
N57°34'50"W 331.50'
N32°25'10"E 513.86'
117.95'
12.00'
NORTH
LEGEND
ADJACENT PROPERTY LINE
FORMER PROPERTY LINE
PROPERTY LINE
PROPERTY TIE LINE
DOC. NO. DOCUMENT NUMBER
LICENSED LAND SURVEYOR
RYAN M. AMMA
No. 8134
STATE OF CALIFORNIA
11-2-18
KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
3350 Scott Boulevard, Building 22
Santa Clara, California 95054
www.kierwright.com
Phone (408) 727-6665
Fax (408) 727-5641
EXHIBIT "B"
PLAT TO ACCOMPANY LEGAL DESCRIPTION
NEW LOT 5 & NEW LOT 6
SAN JOSE, SANTA CLARA COUNTY CALIFORNIA
DATE NOVEMBER, 2018
SCALE 1" = 150'
BY CJ
JOB NO. A18034
SHEET 3 OF 3
E:\2018\A18034\Dwg\SURVEY\PLATS\EXHIBIT B - Plat to Accompany Legal Desc - New Lot 5 and New Lot 6\A18034-PLAT-NEW-LOTS-5-AND-6.dwg 11-01-18 05:11:22 PM cjanokos

EXHIBIT 4

HIGHLINE EXTENSION MONTHLY RENT

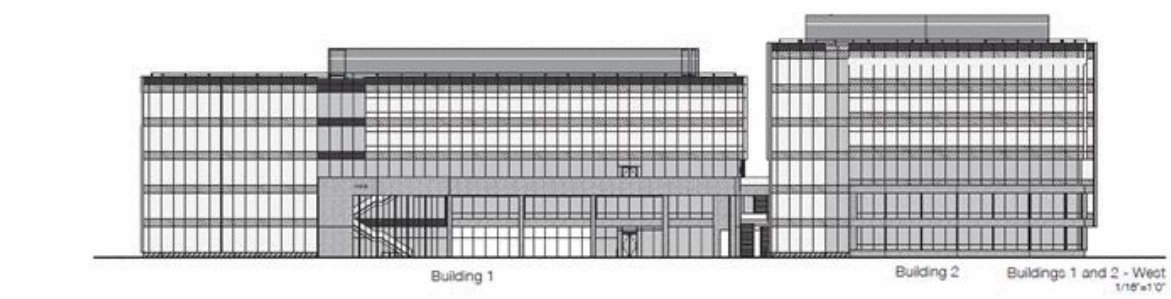
Square Footage		66,023	31,728		96,798	194,549	
		Floors 1-2	Floor 3	Amortized Improvements	Floors 4-6	Total	$ / SF
Lease Year 1:							
2/1/2019	Comm Date	*Free*	$ -	$ -	$ -	$ -	
3/1/2019		*Free*	$ -	$ -	$ -	$ -	
4/1/2019		*Free*	$ -	$ -	$ -	$ -	
5/1/2019		*Free*	*Free*	$ -	$ -	$ -	
6/1/2019		*Free*	*Free*	$ -	$ -	$ -	
7/1/2019		*Free*	*Free*	$ -	$ -	$ -	
8/1/2019		$ 237,682.80	*Free*	$ -	$ -	$ 237,682.80	
9/1/2019		$ 237,682.80	*Free*	$ 19,315.14	*Free*	$ 256,997.94	
10/1/2019		$ 237,682.80	*Free*	$ 19,315.14	*Free*	$ 256,997.94	
11/1/2019		$ 237,682.80	$ 114,220.80	$ 19,315.14	*Free*	$ 371,218.74	
12/1/2019		$ 237,682.80	$ 114,220.80	$ 19,315.14	*Free*	$ 371,218.74	
1/1/2020		$ 237,682.80	$ 114,220.80	$ 19,315.14	*Free*	$ 371,218.74	$ 3.60
Lease Year 2:							
2/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	*Free*	$ 381,775.85	
3/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
4/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
5/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
6/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
7/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
8/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
9/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
10/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
11/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
12/1/2020		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	
1/1/2021		$ 244,813.28	$ 117,647.42	$ 19,315.14	$ 358,926.98	$ 740,702.84	$ 3.71
Lease Year 3:							
2/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
3/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
4/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
5/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
6/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
7/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
8/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
9/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
10/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
11/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
12/1/2021		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	
1/1/2022		$ 252,157.68	$ 121,176.85	$ 19,315.14	$ 369,694.79	$ 762,344.47	$ 3.82
Lease Year 4:							
2/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
3/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
4/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
5/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
6/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
7/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
8/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
9/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
10/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
11/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
12/1/2022		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	
1/1/2023		$ 259,722.41	$ 124,812.15	$ 19,315.14	$ 380,785.64	$ 784,635.35	$ 3.93

Lease Year 5:						
2/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
3/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
4/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
5/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
6/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
7/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
8/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
9/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
10/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
11/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
12/1/2023	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	
1/1/2024	$ 267,514.09	$ 128,556.52	$ 19,315.14	$ 392,209.21	$ 807,594.95	$ 4.05
Lease Year 6:						
2/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
3/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
4/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
5/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
6/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
7/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
8/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
9/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
10/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
11/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
12/1/2024	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	
1/1/2025	$ 275,539.51	$ 132,413.21	$ 19,315.14	$ 403,975.48	$ 831,243.35	$ 4.17
Lease Year 7:						
2/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
3/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
4/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
5/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
6/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
7/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
8/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
9/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
10/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
11/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
12/1/2025	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	
1/1/2026	$ 283,805.69	$ 136,385.61	$ 19,315.14	$ 416,094.75	$ 855,601.19	$ 4.30
Lease Year 8:						
2/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
3/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
4/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
5/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
6/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
7/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
8/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
9/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
10/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
11/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
12/1/2026	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	
1/1/2027	$ 292,319.86	$ 140,477.18	$ 19,315.14	$ 428,577.59	$ 880,689.77	$ 4.43

Lease Year 9:											
2/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
3/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
4/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
5/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
6/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
7/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
8/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
9/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
10/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.10		
11/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
12/1/2027		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01		
1/1/2028		$	301,089.46	$	144,691.49	$	19,315.14	$	441,434.92	$	906,531.01	$	4.56
Lease Year 10:											
2/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
3/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
4/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
5/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
6/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
7/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
8/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
9/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
10/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
11/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
12/1/2028		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49		
1/1/2029		$	310,122.14	$	149,032.24	$	19,315.14	$	454,677.96	$	933,147.49	$	4.70
Lease Year 11:											
2/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
3/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
4/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
5/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
6/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
7/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
8/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
9/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
10/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
11/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
12/1/2029		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46		
1/1/2030		$	319,425.81	$	153,503.20	$	19,315.14	$	468,318.30	$	960,562.46	$	4.84
Lease Year 12:											
2/1/2030		$	329,008.58	$	158,108.30	$	19,315.14	$	482,367.85	$	988,799.88		
3/1/2030		$	329,008.58	$	158,108.30	$	19,315.14	$	482,367.85	$	988,799.88		
4/1/2030		$	329,008.58	$	158,108.30	$	19,315.14	$	482,367.85	$	988,799.88		
5/1/2030		$	329,008.58	$	158,108.30	$	19,315.14	$	482,367.85	$	988,799.88		
6/1/2030		$	329,008.58	$	158,108.30	$	19,315.14	$	482,367.85	$	988,799.88		
7/1/2030		$	329,008.58	$	158,108.30	$	19,315.14	$	482,367.85	$	988,799.88		
8/1/2030		$	329,008.58	$	158,108.30	$	19,315.14	$	482,367.85	$	988,799.88		
9/1/2030	Expiration Date	$	329,008.58	$	158,108.30	$	19,315.14	$	482,367.85	$	988,799.88	$	4.98

EXHIBIT I

LOCATIONS OF TENANT'S SIGNAGE

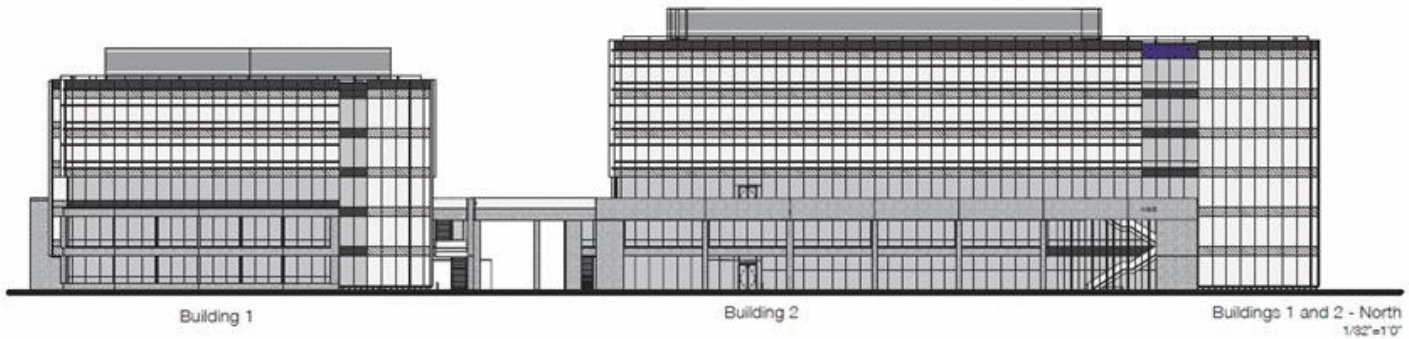


ROSS+LUTHINCREATIVE
707.573.7368
creative@rossluthin.com
648 Third Street, Studio B
Santa Rosa CA 95404

Client: HUNTER PROPERTIES
Project: COLEMAN HIGHLINE
Exterior Signage

Phase:
- ☐ Planning
- ☐ Conceptual Design
- ■ Design Devel. 90%
- ☐ City Submittal

Revision: 11.06.18
Scale: As Shown
Title: TID
Tenant Identity Signage
Bldgs 1 & 2, East & West
Page: 10.1



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648 Third Street, Studio B
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Client: HUNTER PROPERTIES
Project: COLEMAN HIGHLINE
Exterior Signage

Phase:
- ☐ Planning
- ☐ Conceptual Design
- ■ Design Devel. 90%
- ☐ City Submittal

Revision: 11.06.18
Scale: As Shown
Title: TID
Tenant Identity Signage
Bldgs 1 & 2, North
Page: 10.2

Exhibit 10.31

FIRST AMENDMENT TO OFFICE LEASE

THIS FIRST AMENDMENT TO OFFICE LEASE (this "**First Amendment**") is made and entered into as of November 18, 2018 (the "**First Amendment Effective Date**"), by and between CAP OZ 34, LLC, a Delaware limited liability company ("**Landlord**"), and ROKU, INC., a Delaware corporation ("**Tenant**").

R E C I T A L S :

A. Reference is hereby made to that certain Office Lease dated as of August 1, 2018 (the "Lease") between Landlord and Tenant.

B. Pursuant to the Lease, Tenant is currently leasing from Landlord a total of 380,951 RSF, as further set forth in **Exhibit A** to the Lease, consisting of (i) the entirety of the 194,790 RSF of that certain six (6)-story building ("**Building 3**") to be located at 1173 Coleman Avenue, San Jose, California 95110, (ii) the entirety of the 163,272 RSF of that certain five (5)-story building ("**Building 4**") to be located at 1167 Coleman Avenue, San Jose, California 95110 and (iii) the entirety of the 22,889 RSF of that certain three (3)-story amenities building ("**Building A2**") to be located at 1161 Coleman Avenue, San Jose, California 95110. Building 3, Building 4, and Building A2 are collectively referred to herein as the "**Buildings.**"

C. Landlord and Tenant now desire to amend the Lease to, among other things, amend the legal description of the land upon which the Buildings are located attached as Exhibit A to **Exhibit L** of the Lease.

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

1. **Capitalized Terms**. All capitalized terms when used herein shall have the same meaning as is given such terms in the Lease unless expressly superseded by the terms of this First Amendment.

2. **Recording**. Landlord shall have the right to record against the Project an Amended and Restated Memorandum of Lease (the "**Amended Memorandum**"), which shall be in the form of **Exhibit A** attached hereto, providing record notice of the Lease, as amended, and the revised Legal Description of the land upon which the Buildings are located, and which shall amend and restate that certain Memorandum of Lease recorded on August 16, 2018 in the Official Records of Santa Clara County as Instrument Number 24004814 (the "**Original Memorandum**"). The parties shall sign the Amended Memorandum concurrently with the execution of this First Amendment. In addition, within thirty (30) days after Landlord's written request following the expiration or earlier termination of the Lease, as amended, Tenant shall execute and deliver to Landlord in recordable form, a termination of the Amended Memorandum. Tenant's obligation to execute and deliver such termination of the Amended Memorandum shall survive the expiration or earlier termination of the Lease, as amended. Landlord shall be solely responsible for all costs incurred under this Section 2.

3. **Release of Original Memorandum**. Concurrently with the execution of this First Amendment, the parties shall execute a Release of Memorandum of Lease in the form attached hereto as **Exhibit B**, which Landlord shall cause to be recorded in the Official Records of Santa Clara County.

4. **Section 29.6**. Landlord and Tenant acknowledge and agree that Section 29.6 of the Lease is deleted in its entirety and is of no further force and effect.

5. **Effect of First Amendment**. Except as amended and/or modified by this First Amendment, the Lease is hereby ratified and confirmed and all other terms of the Lease shall remain in full force and effect, unaltered and unchanged by this First Amendment. In the event of any conflict between the provisions of this First Amendment and the provisions of the Lease, the provisions of this First Amendment shall prevail. Whether or not specifically amended by the provisions of this First Amendment, all of the terms and provisions of the Lease are hereby amended to the extent necessary to give effect to the purpose and intent of this First Amendment.

6. **Governing Law**. This First Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

7. **Counterparts**. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together will constitute one and the same instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this First Amendment attached thereto.

8. **No Further Modification**. Except as set forth in this First Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this First Amendment to be duly executed by their duly authorized representatives as of the First Amendment Effective Date.

LANDLORD"

CAP OZ 34, LLC
a Delaware limited liability company

By: CAP OZ I, LLC,
a Delaware limited liability company
Its: Sole Member

By: HS Airport 2, LLC,
a California limited liability company
Its: Manager

By: /s/ Derek K. Hunter, Jr.
Name: Derek K. Hunter, Jr.
Its: Member

"TENANT"

Roku, Inc.
a Delaware corporation

By: /s/ Troy Fenner
Name: Troy Fenner
Its: SVP – Human Resources

By: /s/ Steve Louden
Name: Steve Louden
Its: CFO

EXHIBIT A

FORM OF AMENDED AND RESTATED MEMORANDUM OF LEASE

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

ROKU, Inc.
c/o Friedman & Associates, Inc.
1100 Glendon Avenue, Suite PH9
Los Angeles, CA 90024-3526
Attention: Jason Perscheid, Esq.

(space above this line for recorder's use)

AMENDED AND RESTATED MEMORANDUM OF LEASE

This Amended and Restated Memorandum of Lease ("**Memorandum**") is made and entered into as of November __, 2018, for the purpose of recording, by and between CAP OZ 34, LLC, a Delaware limited liability company ("**Landlord**"), and Roku, Inc., a Delaware corporation ("**Tenant**").

1. Defined Terms; Exhibits. All capitalized terms used in this Memorandum and not otherwise defined herein shall have the meanings ascribed to such terms in the Lease (as defined below). All Exhibits referenced herein are attached hereto, and are incorporated herein by this reference.

2. Premises; Building; Project. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, pursuant to the terms and conditions of that certain Office Lease dated as of August 1, 2018 (as amended, the "**Lease**"), those certain premises described in the Lease, consisting of a total of 380,951 rentable square feet of space (the "**Premises**"), depicted on **Exhibit A** attached to the Lease. The Premises consists of (i) the entirety of the building located at 1173 Coleman Avenue, San Jose, California, (ii) the entirety of the building located at 1167 Coleman Avenue, San Jose, California, and (iii) the entirety of the building located at 1161 Coleman Avenue, San Jose, California (the "**Buildings**"). The Buildings are located on the land legally described on **Exhibit A** to this Memorandum.

3. Lease Term. The term of the Lease ("**Lease Term**") is for a period of approximately one hundred forty (140) calendar months, starting on the Lease Commencement Date and ending one hundred forty (140) calendar months thereafter, subject to adjustment as provided in the Lease. The Lease Commencement Date is expected to occur on or about March 1, 2020, subject to adjustment as provided in the Lease.

4. Extension Options. Pursuant to the Lease, Landlord grants to Tenant one (1) option to extend the Lease Term for a period of seven (7) years.

5. Right of First Offer. Pursuant to the Lease, Landlord grants to Tenant a one-time right of first offer to lease office space in the Building and that certain building in the Project located at 1179 Coleman Avenue.

6. Lease Incorporated. All the other terms, conditions and covenants of the Lease are incorporated herein by this reference. In the event of a conflict between the provisions of this Memorandum and the provisions of the Lease, the provisions of the Lease shall govern.

7. Counterparts. This Memorandum may be executed in counterparts, each of which shall be an original but all of which together shall constitute one and the same agreement. This Memorandum is solely for notice and recording purposes and shall not be construed to alter, modify, expand, diminish or supplement the provisions of the Lease.

8. Successors and Assigns. The terms, covenants and provisions of the Lease, the terms of which are hereby incorporated by reference into this Memorandum, shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of Tenant and Landlord.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Memorandum to be executed the day and date first above written.

"LANDLORD"

CAP OZ 34, LLC
a Delaware limited liability company

By: CAP OZ I, LLC,
a Delaware limited liability company
Its: Sole Member

By: HS Airport 2, LLC,
a California limited liability company
Its: Manager

By: _____
Name: Derek K. Hunter, Jr.
Its: Member

"TENANT"

Roku, Inc.
a Delaware corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)

On _____, before me, _____,
(insert name of notary)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)

On _____, before me, _____,
(insert name of notary)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

[ATTACH LEGAL DESCRIPTION]

EXHIBIT A TO EXHIBIT A

LEGAL DESCRIPTION

All that certain real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

LOT A

LOT A Final description being more particularly described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, being a portion of Lot 8 as described in that certain Grant Deed recorded March 5, 2015 as Document No. 22873577, Official Records of Santa Clara County, said property being more particularly described as follows:

COMMENCING at the most easterly comer of Adjusted Parcel B as described in the Lot Line Adjustment Permit recorded on June 22, 1999 as Document. No. 14867793, Official Records of Santa Clara County, said comer being on the southwesterly line of Coleman Avenue, shown as "Proposed Coleman Ave." on the Record of Survey recorded on January 25, 1960 in Book 116 of Maps, at Page 18, Records of Santa Clara County;

Thence along the northeasterly line of said Adjusted Parcel B, also being said southwesterly line of Coleman Avenue, North 57° 34' 50" West 613.02 feet to the most northerly comer of the property described in the Grant Deed recorded on November 14, 2012 as Document No. 21950036, Official Records of Santa Clara County;

Thence along the general northwesterly line of said Grant Deed, South 32° 25' 10" West 12.00 feet to a point being 12.00 feet distant southwesterly, measured at a right angle, from said southwesterly line of Coleman Avenue;

Thence parallel with said southwesterly line of Coleman A venue, North 57° 34' 50" West 752.69 feet to the POINT OF BEGINNING, said point being 1,365.71 feet distant northwesterly, measured at a right angle, from the southeasterly line of said Adjusted Parcel B;

Thence parallel with the southeasterly line of said Adjusted Parcel B, South 32° 25' 10" West 449.86 feet to a point being 461.86 feet distant southwesterly, measured at a right angle, from said southwesterly line of Coleman Avenue

Thence parallel with said southwesterly line of Coleman Avenue, North 57°34' 50" West 513.68 feet to a point being 1,879.39 feet distant northwesterly, measured at a right angle, from said southeasterly line of Adjusted Parcel B;

Thence parallel with said southeasterly line of Adjusted Parcel B, North 32° 25' 1 O" East 419.86 feet to the beginning of a tangent curve to the right, concave southerly, having a radius of 30.00 feet;

Thence along said curve to the right through a central angle of 90° 00' 00" for an arc distance of 47.12 feet to a point being 12.00 feet distant southwesterly, measured at a right angle, from said southwesterly line of Coleman Avenue

Thence parallel with the southwesterly line of Coleman Avenue, South 57° 34' 50" East
483.68 feet to the POINT OF BEGINNING

Containing 5.300 ± acres.

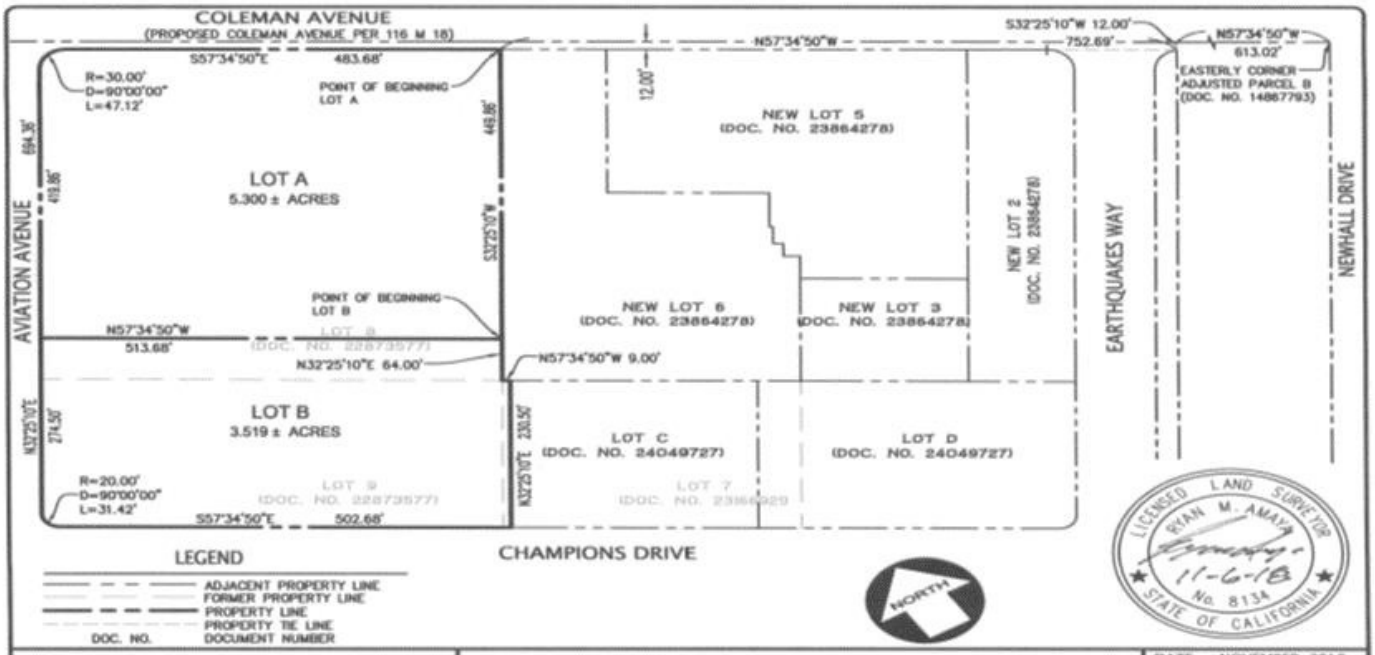
As shown on Exhibit "B" attached hereto and by this reference made a part hereof.

Description prepared by Kier & Wright Civil Engineers & Surveyors,Inc

Ryan M. Amaya LS 8134

11-6-18

Date



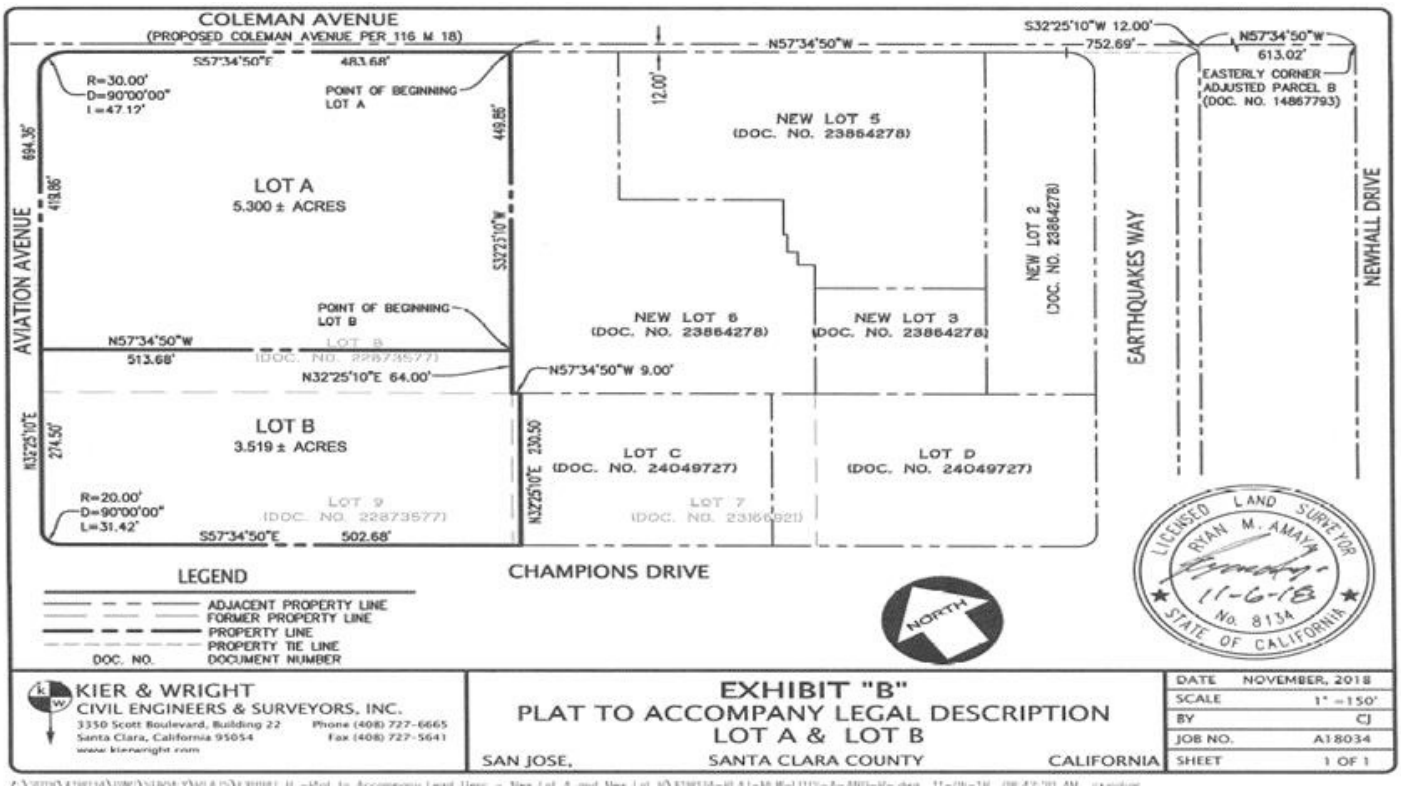
KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
3350 Scott Boulevard, Building 22 Phone (408) 727-6665
Santa Clara, California 95054 Fax (408) 727-5641
www.kierwright.com

EXHIBIT "B"
PLAT TO ACCOMPANY LEGAL DESCRIPTION
LOT A & LOT B

SAN JOSE, SANTA CLARA COUNTY CALIFORNIA

DATE	NOVEMBER, 2018
SCALE	1" = 150'
BY	CJ
JOB NO.	A18034
SHEET	1 OF 1

Z:\2018\A18034\DWG\SURVEY\PLATS\EXHIBIT B --Plat to Accompany Legal Desc - New Lot A and New Lot B\A18034-PLAT-NEW-LOTS-A-AND-B-.dwg 11-06-18 08:42:20 AM cjandres


COLEMAN AVENUE
(PROPOSED COLEMAN AVENUE PER 116 M 18)
S57°34'50"E 483.68'
R=30.00'
D=90°00'00"
L=47.12'
POINT OF BEGINNING
LOT A
694.36'
418.86'
449.86'
LOT A
5.300 ± ACRES
AVIATION AVENUE
S32°25'10"W
POINT OF BEGINNING
LOT B
N57°34'50"W
513.68'
LOT B
(DOC. NO. 22873577)
N32°25'10"E 64.00'
N57°34'50"W 9.00'
N32°25'10"E
274.50'
LOT B
3.519 ± ACRES
R=20.00'
D=90°00'00"
L=31.42'
LOT 9
(DOC. NO. 22873577)
S57°34'50"E 502.68'
N32°25'10"E 230.50'
LOT C
(DOC. NO. 24049727)
LOT 7
(DOC. NO. 23160921)
LOT D
(DOC. NO. 24049727)
CHAMPIONS DRIVE
12.00'
NEW LOT 5
(DOC. NO. 23864278)
NEW LOT 6
(DOC. NO. 23864278)
NEW LOT 3
(DOC. NO. 23864278)
NEW LOT 2
(DOC. NO. 23864278)
EARTHQUAKES WAY
S32°25'10"W 12.00'
N57°34'50"W
752.69'
N57°34'50"W
613.02'
EASTERLY CORNER
ADJUSTED PARCEL B
(DOC. NO. 14867793)
NEWHALL DRIVE
LEGEND
ADJACENT PROPERTY LINE
FORMER PROPERTY LINE
PROPERTY LINE
PROPERTY TIE LINE
DOC. NO. DOCUMENT NUMBER
NORTH
LICENSED LAND SURVEYOR
RYAN M. AMAYA
11-6-18
No. 8134
STATE OF CALIFORNIA
KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
3350 Scott Boulevard, Building 22
Santa Clara, California 95054
www.kierwright.com
Phone (408) 727-6665
Fax (408) 727-5641
EXHIBIT "B"
PLAT TO ACCOMPANY LEGAL DESCRIPTION
LOT A & LOT B
SAN JOSE, SANTA CLARA COUNTY CALIFORNIA
DATE NOVEMBER, 2018
SCALE 1" = 150'
BY CJ
JOB NO. A18034
SHEET 1 OF 1

FORM OF RELEASE OF MEMORANDUM OF LEASE

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

ROKU, Inc.
c/o Friedman & Associates, Inc.
1100 Glendon Avenue, Suite PH9
Los Angeles, CA 90024-3526
Attention: Jason Perscheid, Esq.

(space above this line for recorder's use)

RELEASE OF MEMORANDUM OF LEASE

This Release of Memorandum of Lease ("**Memorandum**") is made and entered into as of November __, 2018, for the purpose of recording, by and between CAP OZ 34, LLC, a Delaware limited liability company ("**Landlord**"), and Roku, Inc., a Delaware corporation ("**Tenant**").

RECITALS:

A. Landlord and Tenant entered into an Office Lease, dated as of August 1, 2018 (the "**Lease**"), for certain premises described in the Lease, consisting of a total of 380,951 rentable square feet of space (the "**Premises**"), depicted on **Exhibit A** attached to the Lease. The Premises consists of (i) the entirety of the building located at 1173 Coleman Avenue, San Jose, California, (ii) the entirety of the building located at 1167 Coleman Avenue, San Jose, California, and (iii) the entirety of the building located at 1161 Coleman Avenue, San Jose, California (the "**Buildings**").

B. Landlord and Tenant executed a Memorandum of Lease (the "**Memorandum**"), which Tenant recorded the Memorandum in the Real Property Records of Santa Clara County, California, which recording information is more particularly described as follows: Recorded on August 16, 2018 as Instrument Number 24004814.

C. Landlord and Tenant subsequently executed an Amended and Restated Memorandum of Lease dated November___, 2018 (the "**Amended Memorandum**"), which Tenant intends to record in the Real Property Records of Santa Clara County, California.

D. Landlord and Tenant are executing this Release of Memorandum of Lease for the purpose of terminating the Memorandum and giving third parties notice that the Memorandum has been terminated.

AGREEMENTS:

NOW, THEREFORE, Landlord and Tenant hereby terminate the Memorandum as more particularly described above.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Executed as of the date first written above.

"LANDLORD"

CAP OZ 34, LLC
a Delaware limited liability company

By: CAP OZ I, LLC,
a Delaware limited liability company
Its: Sole Member

By: HS Airport 2, LLC,
a California limited liability company
Its: Manager

By: _____
Name: Derek K. Hunter, Jr.
Its: Member

"TENANT"

Roku, Inc.
a Delaware corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)

On _____, before me, _____,
(insert name of notary)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
County of _____)

On _____, before me, _____,
(insert name of notary)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit 10.32

Execution Version

Term Loan
CUSIP: 77543UAA3
ISIN: US77543UAA34

Revolver
CUSIP: 77543UAC9
ISIN: US77543UAC99

$150,000,000

CREDIT AGREEMENT

dated as of

February 19, 2019,

among

ROKU, INC.,

The Lenders and Issuing Banks Party Hereto,

and

MORGAN STANLEY SENIOR FUNDING, INC.,
as Administrative Agent and Collateral Agent

MORGAN STANLEY SENIOR FUNDING, INC.
and
CITIBANK, N.A.,

as Joint Lead Arrangers and Joint Bookrunners

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SCHEDULES:

EXHIBITS:

CREDIT AGREEMENT, dated as of February 19, 2019 (as amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof, this "Agreement"), among Roku, Inc., a Delaware corporation (the "Borrower"), the Lenders (such term and each other capitalized term used and not otherwise defined herein having the meaning assigned to it in Article I) and Issuing Banks party hereto from time to time and Morgan Stanley Senior Funding, Inc., as Administrative Agent and Collateral Agent.

PRELIMINARY STATEMENTS:

WHEREAS, the Borrower has requested that the Lenders extend credit to the Borrower in the form of Initial Revolving Credit Commitments on the Effective Date in an aggregate principal amount of $75,000,000.

WHEREAS, the Borrower has requested that the Lenders extend credit in the form of Initial Term A Loan Commitments on the Effective Date in an aggregate principal amount of $75,000,000.

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

ARTICLE I

DEFINITIONS

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

"ABR" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, is bearing interest at a rate determined by reference to the Alternate Base Rate.

"Acquisition-Related Incremental Commitments" has the meaning assigned to such term in Section 2.17(a).

"Adjusted LIBO Rate" means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/100 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

"Adjusted Quick Ratio" means, as of any date of determination, a ratio of (a) Quick Assets to (b) Consolidated Current Liabilities less Deferred Revenue.

"Administrative Agent" means Morgan Stanley Senior Funding, Inc., in its capacity as administrative agent for the Lenders hereunder, together with any successors in such capacity.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"Affected Loans" has the meaning assigned to such term in Section 2.22.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with the Person specified.

"Agent Parties" has the meaning assigned to such term in Section 9.01(d)(ii).

"Agents" means, collectively, the Administrative Agent and the Collateral Agent and "Agent" means any one of them.

"Agreed L/C Cash Collateral Amount" means 105% of the total outstanding Letter of Credit Usage.

"Agreement" has the meaning assigned to such term in the first paragraph of this Agreement.

"All-in Yield" means, as to any Indebtedness, the effective interest rate with respect thereto as reasonably determined in good faith by the Administrative Agent in consultation with the Borrower and consistent with generally accepted financial practices, taking into account the interest rate, margin, original issue discount, upfront fees and "LIBOR floors" or "base rate floors"; provided that (i) original issue discount and upfront fees shall be equated to interest rate assuming a four-year life to maturity of such Indebtedness, (ii) arrangement, structuring, ticking, underwriting, amendment, commitment or similar fees paid solely to the applicable arrangers or agents with respect to such Indebtedness and, if applicable, consent fees for an amendment paid generally to consenting Lenders, shall each be excluded and (iii) for the purpose of Section 2.17, if the "LIBOR floor" for the Incremental Term Loans exceeds 0 basis points, such excess shall be equated to interest rate margins for the purpose of this definition.

"Allocation Date" mean the date on which the Lead Arrangers have syndicated the Initial Term A Loan Commitments in accordance with the Engagement Letter to the Initial Term A Lenders and provided each Initial Term A Lender with its respective allocation thereto (which date may have occurred prior to the Effective Date).

"Alternate Base Rate" means, for any day, a rate per annum equal to the highest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Effective Rate in effect on such day *plus* 1/2 of 1% and (c) the Adjusted LIBO Rate for an Interest Period of one month commencing on such day (or if such day is not a Business Day, the immediately preceding Business Day) *plus* 1.00%; *provided* that, for purposes of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBOR Screen Rate (or if the LIBOR Screen Rate is not available for a one month Interest Period at such time for any reason, then the "Adjusted LIBO Rate" shall be the interest rate per annum determined by the Administrative Agent to be the average of the rates per annum at which deposits in dollars are offered for a one month Interest Period to major banks in the London interbank market by the Administrative Agent at approximately 11:00 a.m., London time, on such day) at approximately 11:00 a.m., London time on such day. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate for an Interest Period of one month shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Adjusted LIBO Rate, respectively; provided that, if determined pursuant to the foregoing, the Alternate Base Rate is below zero, the Alternate Base Rate will be deemed to be zero.

"Anti-Corruption Laws" means all laws, rules and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries concerning or relating to bribery or corruption, including without limitation the U.S. Foreign Corrupt Practices Act and the UK Bribery Act.

"Anti-Money Laundering Laws" means the applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the applicable the money laundering statutes of all jurisdictions in which the Borrower and its Subsidiaries operate, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority.

"Applicable Date" has the meaning assigned to such term in Section 9.02(h).

"Applicable Margin" means, for any day, (i) with respect to any Initial Term A Loan, 2.00% per annum in the case of any Eurodollar Loan and 1.00% per annum in the case of any ABR Loan; (ii) with respect to any Initial Revolving Loan, 2.00% per annum in the case of any Eurodollar Loan and 1.00% per annum in the case of any ABR Loan and (iii) with respect to any Incremental Loan, Extended Revolving Loan, Extended Term Loan, Replacement Revolving Loans or Refinancing Term Loan, the "Applicable Margin" set forth in the Incremental Assumption Agreement, Incremental Term Loan Amendment, Extension Amendment or Refinancing Amendment (as applicable) relating thereto; provided that following the date of the delivery of financial statements for the first full Fiscal Quarter following the Effective Date pursuant to Section 5.01(a) or (b), the Applicable Margin pursuant to clauses (i) and (ii) above shall be determined in accordance with the Pricing Grid.

"Applicable Percentage" means, with respect to any Lender, the percentage of the total Commitments represented by such Lender's Commitment. If Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.

"Applicable Period" has the meaning assigned to such term in the definition of "Pricing Grid".

"Applicable Revolving Commitment Fee Rate" means (a) with respect to only Initial Revolving Credit Commitment, the Initial Revolving Commitment Fee Rate and (b) with respect to any Incremental Revolving Credit Commitment, Extended Revolving Credit Commitment or Replacement Revolving Credit Commitment, the "Applicable Revolving Commitment Fee Rate" set forth in the Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment (as applicable) relating thereto.

"Application" means the Letter of Credit application in the form as may be approved by the applicable Issuing Bank and executed and delivered by the Borrower to the Administrative Agent and the applicable Issuing Bank, requesting such Issuing Bank issue a Letter of Credit.

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

"Auction Procedures" means the auction procedures with respect to Dutch Auctions set forth in Schedule 1.01C hereto.

"Available Amount" means, as of any date of determination, an amount not less than zero, determined on a cumulative basis equal to, without duplication:

(a) $25,000,000, plus

(b) the Available ECF Amount at such time, plus

(c) the aggregate amount of Net Equity Proceeds received by the Borrower from the sale or issuance of Equity Interests of the Borrower after the Effective Date and on or prior to such time (including upon exercise of warrants or options) (other than Disqualified Stock), plus

(d) the amounts received in cash, Permitted Investments or Permitted Foreign Investments by the Borrower or any Restricted Subsidiary from any distribution, dividend, profit, return of capital, repayment of loans or upon the Disposition of any Investment, or otherwise received from an Unrestricted Subsidiary (including the amounts received in cash, Permitted Investments or Permitted Foreign Investments from any Disposition or issuance of Equity Interests of an Unrestricted Subsidiary), in each case to the extent received in respect of an Investment (including the designation of an Unrestricted Subsidiary) made in reliance on the Available Amount and, in each case, not to exceed the original amount of such Investment, plus

(e) the fair market value of the Investments by the Borrower and its Restricted Subsidiaries made in any Unrestricted Subsidiary pursuant to Section 6.04(w) at the time it is redesignated as or merged into a Restricted Subsidiary (in each case, not to exceed the lesser of (i) the fair market value (as determined in good faith by the Borrower) of such Investments made in such Unrestricted Subsidiary at the time of such redesignation or merger and (ii) the fair market value (as determined in good faith by the Borrower) of such Investments in such Unrestricted Subsidiary at the time such Investments were made), minus

(f) the aggregate amount of any Investment made pursuant to Section 6.04(w), any Restricted Payments made pursuant to Section 6.06(a)(vi), or any prepayment made pursuant to Section 6.06(b)(vi) after the Effective Date and on or prior to such time.

"Available ECF Amount" means, on any date, an amount not less than zero determined on a cumulative basis equal to Excess Cash Flow for each fiscal year, commencing with the fiscal year ending December 31, 2019 and ending with the fiscal year of the Borrower most recently ended prior to the date of determination for which financial statements and a Compliance Certificate have been delivered pursuant to Section 5.01(h).

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

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Bankruptcy Code" means the Bankruptcy Code of the United States of America.

"Bankruptcy Event" means, with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it; provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

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

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

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

"Board of Directors" means, with respect to any Person, (a) in the case of any corporation or company, the board of directors of such Person or any committee thereof duly authorized to act on behalf of such board, (b) in the case of any exempted or limited liability company, the board of managers, board of directors, manager or managing member of such Person or the functional equivalent of the foregoing, (c) in the case of any partnership, the board of directors, board of managers, manager or managing member of a general partner of such Person or the functional equivalent of the foregoing and (d) in any other case, the functional equivalent of the foregoing.

"Borrower" has the meaning assigned to such term in the first paragraph of this Agreement.

"Borrower Materials" has the meaning assigned to such term in Section 9.16.

"Borrowing" means Loans of the same Class and Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

"Borrowing Request" means a request by the Borrower for a Borrowing in accordance with Section 2.03 which shall be, in the case of any such written request, substantially in the form of Exhibit B or any other form approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent).

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

"Capital Expenditures" means, for any period, the aggregate of all expenditures by the Borrower and its Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as capital expenditures on the consolidated statement of cash flows of the Borrower.

"Capital Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or tangible personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital or financing leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP; provided that all obligations of any Person that are or would be characterized as operating lease obligations in accordance with GAAP immediately prior to the Effective Date (whether or not such operating lease obligations were in effect on such date) shall continue to be accounted for as operating lease obligations that would not otherwise be required to be reflected on such Person's balance sheet (and not as Capital Lease Obligations) for purposes of this Agreement regardless of any change in GAAP or change in the application of GAAP following the date that would otherwise require such obligations to be reflected on such Person's balance sheet or characterized as Capital Lease Obligations.

"Captive Insurance Subsidiary" means any Restricted Subsidiary of the Borrower that is subject to regulation as an insurance company (or any Restricted Subsidiary thereof).

"Cash Collateralize" means, in respect of an Obligation, to provide and pledge (as a first priority perfected security interest) cash collateral in dollars, at a location and pursuant to documentation in form and substance reasonably satisfactory to Administrative Agent and the applicable Issuing Bank (and "Cash Collateralization" has a corresponding meaning). "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Management Agreement" means any agreement to provide to the Borrower or any Restricted Subsidiary cash management services for collections, treasury management services (including controlled disbursement, overdraft, automated clearing house fund transfer services, return items and interstate depository network services), any demand deposit, payroll, trust or operating account relationships, commercial credit cards, merchant card, purchase or debit cards, non-card e-payables services, and other cash management services, including electronic funds transfer services, lockbox services, stop payment services and wire transfer services.

"Cash Management Bank" means (i) any Person that, at the time it enters into a Cash Management Agreement, is an Agent, a Lender or an Affiliate of any such Person and (ii) any Person that is an Agent, a Lender or an Affiliate of such Person as of the Effective Date and that is party to a Cash Management Agreement as of the Effective Date, in each case, in its capacity as a party to such Cash Management Agreement.

"CFC" means a "controlled foreign corporation" within the meaning of section 957(a) of the Code.

"CFC Holdco" means a Subsidiary that has no material assets other than Equity Interests (including, for this purpose, any debt or other instrument treated as equity for U.S. federal income tax purposes) of one or more other CFC Holdcos or Foreign Subsidiaries that are CFCs.

"Change in Control" means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the Effective Date) (other than a Permitted Holder), of Equity Interests representing more than 30% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Borrower; or (b) a Change in Control or similar event, however denominated, under any Material Indebtedness.

"Change in Law" means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the interpretation or application thereof by any Governmental Authority or (c) compliance by any Lender (or, for purposes of Section 2.12(b), by any lending office of such Lender or by such Lender's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided, however, that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines, or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law" regardless of the date enacted, adopted or issued, but only to the extent it is the general policy of a Lender to impose applicable increased costs or costs in connection with capital adequacy requirements similar to those described in clauses (a) and (b) of Section 2.12 generally on other similarly situated borrowers under similar circumstances under agreements permitting such impositions.

"Charges" has the meaning assigned to such term in Section 9.14.

"Class," when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Initial Revolving Loans, Other Revolving Loans, Initial Term A Loans or Other Term Loans and (b) any Commitment refers to whether such Commitment is a Term Loan Commitment to make Initial Term A Loans or Other Term Loans, or a Revolving Credit Commitment to make Initial Revolving Loans or Other Revolving Loans. Other Term Loans or Other Revolving Loans that have different terms and conditions (together with the Commitments in respect thereof) from the Initial Term A Loans, Initial Revolving Loans, or from Other Term Loans or Other Revolving Loans, as applicable, shall be construed to be in separate and distinct Classes.

"Class Loans" has the meaning assigned to such term in Section 9.02(h).

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means any and all "Collateral," "Pledged Collateral," "Mortgaged Property," "Trust Property," or similar term as defined in any applicable Security Document and all other property of any Loan Party that is subject to any Lien in favor of the Collateral Agent for the benefit of the Secured Parties pursuant to any Security Document; provided that, notwithstanding anything herein or in any Security Document or other Loan Document, the "Collateral" shall exclude any Excluded Property.

"Collateral Agent" means Morgan Stanley Senior Funding, Inc. or any successor thereto in its capacity as collateral agent for the Secured Parties.

"Collateral and Guarantee Requirement" means, at any time, that the following requirements shall be satisfied (to the extent such requirements are stated to be applicable at the time):

(i) on the Effective Date, the Collateral Agent shall have received (A) from the Borrower and each Guarantor, a counterpart of the Guaranty and Security Agreement and (B) from the Borrower and each Guarantor, a counterpart of the Perfection Certificate, in each case, duly executed and delivered on behalf of such Person;

(ii) on the Effective Date, (A)(x) all outstanding Equity Interests directly owned by the Loan Parties as of the Effective Date, other than Excluded Property, and (y) all Indebtedness owing to any Loan Party, other than Excluded Property, shall have been pledged or assigned for security purposes to the extent required under the Security Documents and (B) the Collateral Agent shall have received certificates or other instruments (if any) representing such Equity Interests and any notes or other instruments required to be delivered pursuant to the applicable Security Documents, together with stock powers, note powers or other instruments of transfer with respect thereto (as applicable) endorsed in blank;

(iii) in the case of any Person that becomes a Guarantor after the Effective Date, subject to Section 5.11, the Collateral Agent shall have received supplements to the Guaranty and Security Agreement and any other Security Documents, if applicable, in the form specified therefor or otherwise reasonably acceptable to the Collateral Agent, in each case, duly executed and delivered on behalf of such Guarantor;

(iv) after the Effective Date, subject to Section 5.11, all outstanding Equity Interests of any Person (other than Excluded Property) that are directly held or acquired by a Loan Party after the Effective Date and all Indebtedness owing to any Loan Party (other than Excluded Property) that are directly acquired by a Loan Party after the Effective Date shall have been pledged pursuant to the Security Documents and the Collateral Agent shall have received certificates or other instruments (if any) representing such Equity Interests and any notes or other instruments required to be delivered pursuant to the applicable Security Documents, together with stock powers or other instruments of transfer with respect thereto (as applicable) endorsed in blank;

(v) except as otherwise contemplated by this Agreement or any Security Document, all documents and instruments, including Uniform Commercial Code financing statements, intellectual property security agreements and filings with the United States Copyright Office and the United States Patent and Trademark Office, and all other actions reasonably requested by the Collateral Agent (including those required by applicable Requirements of Law) to be delivered, filed, registered or recorded to create the Liens intended to be created by the Security

Documents (in each case, including any supplements thereto) and perfect such Liens to the extent required by, and with the priority required by, the Security Documents, shall have been delivered, filed, registered or recorded or delivered to the Collateral Agent for filing, registration or the recording substantially concurrently with, or promptly following, the execution and delivery of each such Security Document;

(vi) on the Effective Date, evidence of the insurance (if any) in effect on the Effective Date and required by the terms of Section 5.07 hereof shall have been received by the Collateral Agent;

(vii) after the Effective Date, the Collateral Agent shall have received (i) such other Security Documents as may be required to be delivered pursuant to Section 5.11 or the Security Documents, and (ii) upon reasonable request by the Collateral Agent, evidence of compliance with any other requirements of Section 5.11; provided, that notwithstanding anything herein to the contrary, no actions required by the laws of any non-U.S. jurisdiction to create or perfect any security interest in assets located or titled outside the U.S., including any Intellectual Property registered in any non-U.S. jurisdiction, shall be required or requested to be delivered, filed, registered or recorded (it being understood that there shall be no security agreements or pledge agreements governed under the laws of any non-U.S. jurisdiction); and

(viii) the Collateral Agent shall have received counterparts of a Mortgage, together with the other deliverables described in Section 5.11(b) with respect to each Material Real Property duly executed and delivered by the record owner of such property within the time periods set forth in Section 4.01(f) or Section 5.11 (as applicable).

The foregoing definition shall not require, and the Loan Documents shall not contain any requirements as to, the creation, perfection or maintenance of pledges of, or security interests in, mortgages on, or the obtaining of mortgage policies, surveys, abstracts or appraisals or taking other actions with respect to, any Excluded Property.

Notwithstanding anything to the contrary in this Agreement, the Security Documents or any other Loan Document, (i) the Collateral Agent may grant extensions of time or waiver of requirement for the creation or perfection of security interests in or the execution and delivery of any Mortgage and the obtaining of title insurance, surveys or opinions of counsel with respect to, or obtaining of insurance with respect to, particular assets (including extensions beyond the Effective Date for the perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that perfection or obtaining of such items cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the other Loan Documents, (ii) there shall be no control, lockbox or similar arrangements nor any control agreements relating to the Borrower's and its Subsidiaries' bank accounts (including deposit, securities or commodities accounts), (iii) there shall be no landlord, mortgagee or bailee waivers required, (iv) no actions required by the laws of any non-U.S. jurisdiction shall be required to be taken to create or perfect any security interests in assets located or titled outside of the United States (including any Equity Interests of any Foreign Subsidiary and any non U.S. Intellectual Property) or to perfect or make enforceable any security interests in such assets, and (v) no action shall be required to perfect a security interest in letter of credit rights, other than the filing of a UCC financing statement,.

"Commitment" means, as applicable, a Revolving Credit Commitment and/or a Term Loan Commitment.

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"Communications" has the meaning assigned to such term in Section 9.01(d)(ii).

"Competitor" means (a) any Person identified in Schedule 9.04 of the Disclosure Letter or in writing upon three (3) Business Days' notice by the Borrower to the Administrative Agent that competes with the Borrower and/or its Subsidiaries in a principal line of business of the Borrower and/or its Subsidiaries, considered as a whole or (b) any Affiliate of any Person described in clause (a) to the extent such Affiliate is clearly identifiable solely on the basis of the similarity of such Affiliate's name to any Person described in clause (a) (but excluding any Affiliate of such Person that is a bona fide debt fund or investment vehicle that is primarily engaged, or that advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds or similar extensions of credit or securities in the ordinary course and with respect to which such Person does not, directly or indirectly, possess the power to direct or cause the direction of the investment policies of such entity), in each case, solely to the extent the list of Competitors described in clause (a) is made available to all Lenders (either by the Borrower or by the Administrative Agent with the Borrower's express authorization) on the Platform; it being understood that to the extent the Borrower provides such list (or any supplement thereto) to the Administrative Agent, the Administrative Agent is authorized to and shall post such list (and any such supplement thereto) on the Platform; provided that no supplement to the list of Competitors described in clause (a) shall apply retroactively to disqualify any Persons that have previously acquired an assignment or participation interest in the Loans.

"Compliance Certificate" means a Compliance Certificate substantially in the form of Exhibit I.

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

"Consolidated Current Assets" means, as at any date of determination, the consolidated current assets of the Borrower and its Restricted Subsidiaries that may properly be classified as current assets in conformity with GAAP, excluding cash and cash equivalents.

"Consolidated Current Liabilities" means, as at any date of determination, the consolidated current liabilities of the Borrower and its Restricted Subsidiaries that may properly be classified as current liabilities in conformity with GAAP, excluding, without duplication, the current portion of any long-term Indebtedness, including with respect to the Adjusted Quick Ratio, (i) the aggregate principal amount of outstanding Revolving Loans, (ii) the aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding and (iii) the current portion of any Term Loans.

"Consolidated Depreciation and Amortization Expense" means, with respect to the Borrower and its Restricted Subsidiaries for any Test Period, the total amount of depreciation and amortization expense, including the amortization of goodwill and other intangibles, for such Test Period on a consolidated basis and otherwise determined in accordance with GAAP.

"Consolidated EBITDA" means, for any Test Period, an amount determined for Borrower and its Restricted Subsidiaries on a consolidated basis equal to Consolidated Net Income, for such Test Period:

(a) *increased* by (without duplication) in each case only to the extent the same was deducted (and not added back) in determining such Consolidated Net Income (other than with respect to clause (xiii) below) and without duplication:

(i) Consolidated Depreciation and Amortization Expense of such Person for such Test Period; plus

(ii) interest expense for such Test Period; plus

(iii) Integration Costs; provided, that, the aggregate add-backs pursuant to this clause (iii) shall not exceed the greater of (x) $10,000,000 and (y) 15% of Consolidated EBITDA for such Test Period (calculated prior to giving effect to any add-back under this clause (iii)); plus

(iv) imputed interest on Capital Lease Obligations; plus

(v) commissions, discounts and other fees and charges owed with respect to letters of credit securing financial obligations, bankers' acceptance financing and receivables financings; plus

(vi) amortization of debt issuance costs, debt discount or premium and other financing fees and expenses; plus

(vii) any provision for taxes based on income or profits or capital (including federal, state and local taxes, franchise taxes, excise taxes and similar taxes, including any penalties or interest with respect thereto) for such Test Period; plus

(viii) any fees, commissions, costs, expenses or other charges or any amortization related to any issuance of Equity Interests, Investment not prohibited hereunder, acquisition (including earn-out provisions), Disposition, recapitalization or the incurrence, prepayment, amendment, modification, restructuring or refinancing of Indebtedness permitted by this Agreement or occurring prior to the Effective Date (whether or not successful) for such Test Period, including (A) such fees, costs, expenses or charges related to the Facilities and the other Transactions and (B) any amendment or other modification to the terms of any such transactions; plus

(ix) the amount of any cash restructuring charge and related charges, business optimization expenses, or reserve or related items incurred during such Test Period; plus

(x) any other non-cash losses, charges and expenses (including non-cash compensation charges and any impairment of intangibles and goodwill) reducing Consolidated Net Income for such Test Period except to the extent reserved for a cash expense or charge in any future period; plus

(xi) any net loss from disposed, abandoned, transferred, closed or discontinued operations (excluding held for sale discontinued operations until actually disposed of); plus

(xii) any non-cash compensation expense recorded from grants of stock appreciation or similar rights, stock options, restricted stock or other rights during such Test Period; plus

(xiii) the amount of expected cost savings, operating expense reductions, restructuring charges and expenses and cost-saving synergies projected by the Borrower in good faith to be realized as a result of actions taken or expected to be taken (calculated on a Pro Forma Basis as though such cost savings, operating expense reductions, restructuring charges and expenses and cost-saving synergies had been realized on the first day of such Test Period) related to mergers and other business combinations, acquisitions, divestitures, restructurings, cost saving and other similar initiatives which are, in each case, factually supportable and reasonably identifiable, in each case net of the amount of actual benefits realized during such Test Period from such actions; provided that (x) such cost savings, operating expense reductions, restructuring charges and expense and cost-saving synergies are expected to be realized (in the good faith determination of the Borrower) within eighteen (18) months after such transaction or initiative has been consummated, (y) no cost savings, operating expense reductions, restructuring charges and

expense and cost-saving synergies may be added pursuant to this clause (xiii) to the extent duplicative of any expenses or charges relating thereto that are either excluded in computing Consolidated Net Income or included (i.e., added back) in computing Consolidated EBITDA for such Test Period and (z) the aggregate add-backs pursuant to this clause (xiii) (plus any adjustments made in respect of anticipated synergies and cost savings pursuant to clause (y) of the definition of "Pro Forma Basis") shall not exceed 20% of Consolidated EBITDA for such Test Period (calculated on a Pro Forma Basis but prior to giving effect to any add back under this clause (xiii) or such adjustments made pursuant to clause (y) of the definition of "Pro Forma Basis"); plus

(xiv) expenses relating to changes in GAAP; plus

(b) *increased or decreased* by (without duplication, and in each case solely to the extent reflected in determining such Consolidated Net Income for such Test Period):

(i) any net gain or loss resulting in such Test Period from currency translation gains or losses related to currency hedges or remeasurements of Indebtedness (including any net loss or gain resulting from currency exchange risk), plus or minus, as applicable;

(ii) any net after-tax income (loss) from the early extinguishment of Indebtedness, plus or minus, as applicable;

(iii) extraordinary or non-recurring losses, charges, expenses or gains, plus or minus, as applicable; and

(iv) any non-cash charges or losses or realized gains or losses related to the write-offs, write-downs or mark-to-market adjustments or sales or exchanges of any investments in debt or equity securities by the Borrower or any Restricted Subsidiary; all as determined on a consolidated basis for the Borrower and its Restricted Subsidiaries in accordance with GAAP.

"Consolidated Net Income" means, for any period, the net income (or loss) of the Borrower and its Restricted Subsidiaries during such period, calculated on a consolidated basis in accordance with GAAP; provided that there shall be excluded from such net income (to the extent otherwise included therein) the following: (a) gains or losses attributable to property sales not in the ordinary course of business (as determined in good faith by the Borrower), (b) the cumulative effect of a change in accounting principles and any gains or losses attributable to write-ups or write-downs of assets and (c) the net income (or loss) of any Person that is not the Borrower or a Restricted Subsidiary or that is accounted for by the equity method of accounting, provided that the income of such Person will be included to the extent of the amount of dividends or similar distributions paid in cash (or converted to cash) to the Borrower or a Restricted Subsidiary.

"Consolidated Total Assets" means, as of any date of determination, the amount 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 Borrower and its Restricted Subsidiaries at such date.

"Consolidated Working Capital" means, as of the date of determination, Consolidated Current Assets minus Consolidated Current Liabilities.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlled" has a meaning correlative thereto.

"Convertible Notes" mean Indebtedness (including debt securities), the terms of which provide for conversion and/or exchange into Equity Interests, cash by reference to Equity Interests or a combination thereof.

"Credit Extension" shall mean the making of a Loan by a Lender.

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

"Default" means any event or condition that constitutes an Event of Default or that upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"Defaulting Lender" means, subject to Section 2.18(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded by it hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's good faith determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (b) has notified the Borrower or the Administrative Agent in writing or has made a public statement to the effect that it does not intend to comply with its funding obligations hereunder or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's good faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied or generally under other agreements in which it commits to extend credit), (c) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a Bankruptcy Event or (ii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of (A) an Undisclosed Administration or (B) the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of the courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Deferred Revenue" means, with respect to the Borrower and its Restricted Subsidiaries, all amounts received or invoiced in advance of performance under contracts or delivery of goods and not yet recognized as revenue.

"Disclosure Letter" means the disclosure letter and schedules attached thereto, dated as of the Effective Date, as amended or supplemented from time to time pursuant to the terms of this Agreement, delivered by Borrower to the Administrative Agent for the benefit of the Lenders.

"Disposition" or "Dispose" means, with respect to any Person, the sale, transfer, license or other disposition (including any sale and leaseback transaction) of any property of such Person.

"Disqualified Stock" means, with respect to any Person, any Equity Interests of such Person that, by their terms (or by the terms of any security or other Equity Interests into which they are convertible or for which they are exchangeable), or upon the happening of any event or condition (a) mature (excluding any maturity as the result of an optional redemption by the issuer thereof) or are mandatorily redeemable (other than solely for Qualified Equity Interests of the Borrower and cash in lieu of fractional shares of such Equity Interests), pursuant to a sinking fund obligation or otherwise, (b) are redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), in whole or in part, (c) provide for scheduled, mandatory payments of dividends in cash, or (d) are or become convertible into or exchangeable, either mandatorily or at the option of the holder thereof, for Indebtedness or any other Equity Interests that would constitute Disqualified Stock, in the case of each of the foregoing clauses (a), (b), (c) and (d), (A) prior to the date that is ninety-one (91) days after the Latest Maturity Date in effect at the time of issuance thereof and (B) except as a result of a change of control, asset sale, casualty, condemnation, eminent domain or similar event so long as any rights of the holders thereof upon the occurrence of a change of control, asset sale, casualty, condemnation, eminent domain event or similar event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments (provided, that only the portion of the Equity Interests that so mature or are mandatorily redeemable, are so convertible or exchangeable or are so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock). Notwithstanding the foregoing: (i) any Equity Interests issued to any employee or to any plan for the benefit of employees or directors of the Borrower or any of its Subsidiaries or by any such plan to such employees or directors shall not constitute Disqualified Stock solely because they may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employees' or directors' termination, death or disability and (ii) any class of Equity Interests of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Qualified Equity Interests shall not be deemed to be Disqualified Stock.

"dollars" or "$" refers to lawful money of the United States of America.

"Domestic Subsidiaries" means all Subsidiaries that are organized under the laws of the United States, any state thereof or the District of Columbia.

"Dutch Auction" means an auction conducted by the Borrower or any Subsidiary in order to purchase Term Loans as contemplated by Section 9.04(f), as applicable, in accordance with the Auction Procedures.

"ECP" means an "eligible contract participant" as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

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

"EEA Member Country" means any member state of the European Union, Iceland, Liechtenstein and Norway.

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

"Effective Date" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02), which is February 20, 2019.

"Electronic Signature" means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a natural person with the intent to sign, authenticate or accept such contract or record.

"Electronic System" means any electronic system, including e-mail, e-fax, Intralinks®, ClearPar®, Debt Domain, Syndtrak and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent and any of its Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

"Eligible Assignee" shall mean (i) any Lender, (ii) an Affiliate of any Lender, (iii) an Approved Fund and (iv) any other person approved by the Administrative Agent and the Borrower (each such approval not to be unreasonably withheld or delayed, and the Borrower shall be deemed to have so approved such person unless the Borrower shall object thereto by written notice to the Administrative Agent within five (5) Business Days after the Borrower having received notice thereof); *provided* that (x) no approval of the Borrower shall be required during the continuance of an Event of Default or prior to the completion of the primary syndication of the Commitments and Loans (as determined by the Lead Arrangers) and (y) "Eligible Assignee" shall not include (1) any natural person or (2) any Competitor.

"Engagement Letter" means the engagement letter, dated as of February 6, 2019, between the Borrower and the Lead Arrangers.

"Environmental Laws" means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, or injunctions issued or promulgated by any Governmental Authority, governing pollution, protection of the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Materials or human health or safety matters.

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

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest, but excluding any debt securities convertible into such shares or other such equity interests.

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

"ERISA Affiliate" means any trade or business (whether or not incorporated), other than the Borrower, that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414(m) or (o) of the Code.

"ERISA Event" means (a) any "reportable event," as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Plan of any unpaid "minimum required contribution" (as defined in Section 430 of the Code or Section 303 of ERISA), whether or not waived, or with respect to a Multiemployer Plan, any failure to make a required contribution; (c) a determination that any Plan is, or is expected to be, in "at-risk" status; (d) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (e) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (f) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (g) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal (including under Section 4062(e) of ERISA) from any Plan or Multiemployer Plan; or (h) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA or is in "endangered" or "critical" or "critical and declining" status, within the meaning of Section 432 of the Code or Section 305 of ERISA.

"EU Bail-In Legislation Schedule" means the document described as such and published by the Loan Market Association (or any successor Person) from time to time.

"Eurodollar," when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

"Event of Default" has the meaning assigned to such term in Section 7.01.

"Excess Cash Flow" means, for any fiscal year of the Borrower, the excess of:

the sum, without duplication, of:

(i) Consolidated Net Income of the Borrower and its Restricted Subsidiaries for such period;

(ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization, non-cash compensation expense arising from equity awards, provisions for doubtful accounts, changes in fair value of preferred stock warrant liability, noncash interest expenses, loss on disposals of property and equipment, loss from exit of facilities and impairment of long lived assets) to the extent deducted in arriving at the Consolidated Net Income of the Borrower and its Restricted Subsidiaries;

(iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions by the Borrower and its Restricted Subsidiaries completed during such period or the application of purchase accounting);

(iv) cash receipts in respect of Swap Agreements during such period to the extent not otherwise included in Consolidated Net Income of the Borrower and its Restricted Subsidiaries; and

(v) the amount of tax expense deducted in determining Consolidated Net Income of the Borrower and its Restricted Subsidiaries for such period to the extent it exceeds the amount of cash taxes (including penalties and interest) paid or tax reserves set aside or payable (without duplication) in such period; minus

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income of the Borrower and its Restricted Subsidiaries and non-cash gains to the extent included in arriving at such Consolidated Net Income of the Borrower and its Restricted Subsidiaries;

(ii) without duplication of amounts deducted pursuant to clause (x) below in prior fiscal years, the amount of Capital Expenditures or acquisitions made in cash during such period, except to the extent that such Capital Expenditures or acquisitions were financed with the proceeds of an incurrence or issuance of Indebtedness (other than extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness);

(iii) the aggregate amount of all principal payments of Indebtedness of the Borrower and its Restricted Subsidiaries (including (A) the principal component of Capital Lease Obligations, (B) prepayments of Loans pursuant to Section 2.08(b) to the extent required due to a Disposition that resulted in an increase to such Consolidated Net Income and not in excess of the amount of such increase, (C) voluntary prepayments of the Term Loans and (D) the amount of scheduled amortization payments in respect of the Term Loans, but excluding (X) all other prepayments of Term Loans and (Y) all prepayments in respect of any revolving credit facility available to the Borrower or any of its Restricted Subsidiaries except, in the case of this clause (Y), to the extent there is an equivalent permanent reduction in commitments thereunder) made during such period, except to the extent financed with the proceeds of an incurrence of Indebtedness (other than extensions of credit under any revolving credit facility or similar facility or other short term Indebtedness);

(iv) the amount of cash taxes (including penalties and interest) paid or tax reserves set aside or payable (without duplication) in such period to the extent they exceed the amount of tax expense deducted in determining Consolidated Net Income for such period;

(v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions by the Borrower and its Restricted Subsidiaries completed during such period or the application of purchase accounting);

(vi) cash payments by the Borrower and its Restricted Subsidiaries during such period in respect of long-term liabilities of the Borrower and its Restricted Subsidiaries other than Indebtedness;

(vii) without duplication of amounts deducted pursuant to clause (x) below in prior periods, the amount of Investments made under clauses (g), (m), (r), (w) (solely with respect to clause (a) of the definition of "Available Amount"), (x) and (y) of Section 6.04, except to the extent that such Investments and acquisitions were financed with the proceeds of an incurrence of Indebtedness (other than extensions of credit under any other revolving credit facility or similar facility or other short term Indebtedness);

(viii) cash expenditures in respect of Swap Agreements during such period to the extent not deducted in arriving at such Consolidated Net Income;

(ix) the aggregate amount of any premium, make-whole or penalty payments paid in cash by the Borrower and its Restricted Subsidiaries during such period that are required to be made in connection with any prepayment of Indebtedness except to the extent that such amounts were financed with the proceeds of an incurrence of Indebtedness (other than extensions of credit under any other revolving credit facility or similar facility or other short term Indebtedness);

(x) without duplication of amounts deducted from Excess Cash Flow in prior periods, at the option of the Borrower, the aggregate consideration required to be paid in cash by the Borrower or any of its Restricted Subsidiaries pursuant to binding contracts (the "Contract Consideration") entered into prior to or during such period relating to Investments permitted by Section 6.04, Permitted Acquisitions, Capital Expenditures or acquisitions to be consummated or made during the period of four consecutive Fiscal Quarters of the Borrower following the end of such period except to the extent intended to be financed with the proceeds of an incurrence of other Indebtedness (other than extensions of credit under any other revolving credit facility or similar facility or other short term Indebtedness); provided that to the extent the aggregate amount utilized to finance such Investments permitted by Section 6.04, Permitted Acquisitions, Capital Expenditures or acquisitions during such period of four consecutive Fiscal Quarters is less than the Contract Consideration, the amount of such shortfall, shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive Fiscal Quarters;

(xi) the aggregate amount of all cash Restricted Payments of the Borrower and its Restricted Subsidiaries made during such period; and

(xii) cash payments during such period in respect of non-cash items expensed in a prior period but not reducing Excess Cash Flow as calculated for such prior period.

"Excluded Property" means (i) any leasehold interest in real property, (ii) any fee owned real property (other than Material Real Property), (iii) motor vehicles and other assets subject to certificates of title, except to the extent a security interest therein can be perfected by the filing of a UCC financing statement, (iv) letter of credit rights, except the extent perfection can be accomplished by filing of a UCC financing statement, and commercial tort claims in an amount reasonably estimated by the Borrower to be less than $500,000, (v) pledges and security interests prohibited by applicable law, rule or regulation including the requirement to obtain consent of any governmental authority after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable law, other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code or other applicable law notwithstanding such prohibition, (vi) Equity Interests in any Person other than Wholly Owned Subsidiaries, to the extent not permitted by the terms of such Person's organizational or joint venture documents after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable law, other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code or other applicable law notwithstanding such prohibition, (vii) any lease, permit, license or agreement, any property subject to a purchase money security interest, Capital Lease Obligations or similar arrangement

permitted under this Agreement, and any deposit or cash collateral account securing Liens of a type described in Section 6.02(j) and paragraphs (c) and (d) of the definition of Permitted Encumbrances, in each case, to the extent the grant of a security interest therein would violate or invalidate such lease, permit, license or agreement, purchase money or similar arrangement, or agreement governing such deposit or cash collateral account or create a right of termination in favor of any other party thereto (other than the Borrower or any of its Restricted Subsidiaries) after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law, other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable law notwithstanding such prohibition, (viii) those assets as to which the Administrative Agent and the Borrower reasonably agree that the cost of obtaining such security interest or perfection thereof are excessive in relation to the benefit to the Lenders of the security afforded thereby, (ix) (a) voting Equity Interests in excess of 65% of the voting Equity Interests of any first tier CFC or CFC Holdco or (b) any of the assets of a CFC (including any of the Equity Interests of a Subsidiary of a CFC), (x) any governmental licenses or state or local franchises, charters and authorizations, to the extent security interests in such licenses, franchises, charters or authorizations are prohibited or restricted by the terms thereof after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable law, (xi) any U.S. trademark application filed on the basis of an intent-to-use such trademark prior to the filing with and acceptance by the United States Patent and Trademark Office of a "Statement of Use" or "Amendment to Allege Use" with respect thereto pursuant to Section 1(c) or Section 1(d) of the Lanham Act (15 U.S.C. §1051, et seq.), to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable federal law, (xii) (a) payroll and other employee wage and benefit accounts, (b) sales tax accounts, (c) escrow accounts for the benefit of unaffiliated third parties and (d) fiduciary or trust accounts for the benefit of unaffiliated third parties, and, in the case of clauses (a) through (d), the funds or other property held in or maintained in any such account, in each case, other than to the extent perfection may be accomplished by filing of a UCC financing statement and other than proceeds of Collateral, (xiii) any acquired property (including property acquired through acquisition or merger of another entity), if at the time of such acquisition the granting of a security interest therein or the pledge thereof is prohibited by contract or other agreement binding on such acquired property (in each case, not created in contemplation thereof) to the extent and for so long as such contract or other agreement prohibits such security interest or pledge after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable law, other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code or other applicable law notwithstanding such prohibition, (xiv) Equity Interests issued by, or assets of, Unrestricted Subsidiaries, Immaterial Subsidiaries, not for profit subsidiaries and Captive Insurance Subsidiaries, (xv) Margin Stock, and (xvi) assets to the extent the granting of a security interest in such assets would result in a material adverse tax consequence to the Borrower or its Subsidiaries (as reasonably determined by the Administrative Agent and the Borrower).

"Excluded Subsidiary" means any of the following:

(a) each Immaterial Subsidiary,

(b) each Domestic Subsidiary that is not a Wholly Owned Subsidiary (for so long as such Subsidiary remains a non-Wholly Owned Subsidiary),

(c) each Domestic Subsidiary that is prohibited but only for so long as such Domestic Subsidiary is prohibited from guaranteeing or granting Lien to secure the Secured Obligations by any applicable law, rule or regulation or that would require consent, approval, license or authorization of a Governmental Authority to Guarantee or grant Liens to secure the Obligations (unless such consent, approval, license or authorization has been received),

(d) each Domestic Subsidiary that is prohibited but only for so long as such Domestic Subsidiary by any applicable contractual requirement from guaranteeing or granting Liens to secure the Secured Obligations existing on the Effective Date or existing at the time such Subsidiary becomes a Subsidiary, so long as such prohibition did not arise as part of such acquisition (and for so long as such restriction or any replacement or renewal thereof is in effect),

(e) any Foreign Subsidiary,

(f) any Domestic Subsidiary (i) that is a CFC Holdco or (ii) that is a direct or indirect Subsidiary of a CFC Holdco or of a Foreign Subsidiary that is a CFC,

(g) any other Domestic Subsidiary with respect to which the Administrative Agent and the Borrower reasonably agree that the cost (or material adverse Tax consequences) of providing a Guarantee of or granting Liens to secure the Secured Obligations would be excessive in relation to the benefit to be afforded thereby,

(h) each Unrestricted Subsidiary,

(i) any not-for-profit Subsidiary, and

(j) any Captive Insurance Subsidiary.

"Excluded Swap Obligation" means, with respect to any Loan Party, any Specified Swap Obligation if, and 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 Specified Swap Obligation (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) (a) by virtue of such Loan Party's failure for any reason to constitute an ECP at the time the Guarantee of such Loan Party or the grant of such security interest becomes or would become effective with respect to such Specified Swap Obligation or (b) in the case of a Specified Swap Obligation subject to a clearing requirement pursuant to Section 2(h) of the Commodity Exchange Act (or any successor provision thereto), because such Loan Party is a "financial entity," as defined in Section 2(h)(7)(C)(i) of the Commodity Exchange Act (or any successor provision thereto), at the time such Guarantee of such Loan Party becomes or would become effective with respect to such related Specified Swap Obligation. If a Specified Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Specified Swap Obligation that is attributable to swaps for which such Obligation is guaranteed by such Loan Party or security interest is or becomes illegal.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office located in or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment, pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the applicable Commitment, or, in the case of an applicable interest in a Loan not funded pursuant to a prior Commitment, such Lender acquires such interest in such Loan; provided that this clause (b)(i) shall not apply to an assignee pursuant to a request by the Borrower under Section 2.16(b) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.14, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired such applicable interest in such Loan or Commitment or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.14(f) and (d) any Taxes imposed under FATCA.

"Existing Class Loans" has the meaning assigned to such term in Section 9.02(h).

"Existing Credit Agreement" means that certain Amended and Restated Loan and Security Agreement, dated as of November 18, 2014, as amended, amended and restated, supplemented, or otherwise modified from time to time, among the Borrower and Silicon Valley Bank.

"Extended Revolving Credit Commitment" has the meaning assigned to such term in Section 2.19(a).

"Extended Revolving Loan" has the meaning assigned to such term in Section 2.19(a).

"Extended Term Loan" has the meaning assigned to such term in Section 2.19(a).

"Extending Lender" has the meaning assigned to such term in Section 2.19(a).

"Extension" has the meaning assigned to such term in Section 2.19(a).

"Extension Amendment" has the meaning assigned to such term in Section 2.19(b).

"Extension Election" has the meaning assigned to such term in Section 2.19(a).

"Facility" means the respective facility and commitments utilized in making Loans hereunder, it being understood that, as of the Effective Date there are two Facilities (i.e., the Initial Term A Facility and the Initial Revolving Facility) and thereafter, the term "Facility" may include any other Class of Commitments and the extensions of credit thereunder.

"FATCA" means Sections 1471 through 1474 of the Code, as of the Effective Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to the foregoing (or any amended or successor version described above), any intergovernmental agreements, treaties or conventions entered into in connection with the foregoing and any law, regulations, or official rules adopted pursuant to any such intergovernmental agreement, treaty or convention.

"Federal Funds Effective Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"Financial Officer" of any Loan Party means the chief financial officer, principal accounting officer, treasurer or controller of such Loan Party.

"Fiscal Quarter" means the fiscal quarter of the Borrower, ending on the last day of each March, June, September and December of each year.

"Flood Insurance Laws" means, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statue thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (v) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

"Foreign Lender" means a Lender that is not a U.S. Person.

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

"GAAP" means generally accepted accounting principles in the United States of America, applied on a consistent basis, subject to the provisions of Section 1.03.

"Governmental Acts" means any act or omission, whether rightful or wrongful, of any present or future Governmental Authority.

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

"Guarantee" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Guarantee shall be deemed to be the lower of (i) an amount equal to the stated or determined amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which such guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guarantee, or, if such Guarantee is not an unconditional guarantee of the entire amount of the primary obligation and such maximum amount is not stated or determinable, the amount of such guaranteeing Person's maximum reasonably anticipated liability in respect thereof determined by such Person in good faith.

"Guarantors" means each Restricted Subsidiary that becomes party to a Guaranty and Security Agreement as a Guarantor, and the permitted successors and assigns of each such Person (except to the extent such Restricted Subsidiary or successor or assign thereof is relieved from its obligations under the Guaranty and Security Agreement pursuant to the provisions of this Agreement); *provided* that (a) no Loan Party shall be a "Guarantor" with respect to any Secured Obligation to the extent such Loan Party is the primary obligor thereof and (b) in no event will an Excluded Subsidiary be a Guarantor.

"Guaranty and Security Agreement" means the Guaranty and Security Agreement substantially in the form of Exhibit C dated as of the Effective Date among the Borrower, each Guarantor and the Collateral Agent.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Hedge Bank" means any Agent, Lender or an Affiliate thereof that is a party to a Swap Agreement with the Borrower or a Restricted Subsidiary and any Person that was an Agent, a Lender or an Affiliate thereof at the time it entered into a Swap Agreement with a Loan Party.

"Immaterial Subsidiary" means a Restricted Subsidiary that both (a) generates in the aggregate less than 5% of the Consolidated EBITDA of the Borrower and its Subsidiaries and (b) holds in the aggregate assets that constitute less than 5% of Consolidated Total Assets of the Borrower and its Restricted Subsidiaries, in each case, as of the last day of the most recent Fiscal Quarter for which financial statements of the Borrower are available; provided that, if the Consolidated EBITDA or Consolidated Total Assets of all Restricted Subsidiaries that would otherwise be an "Immaterial Subsidiary" pursuant to clauses (a) and (b) above exceeds (i) 10% of the of the Consolidated EBITDA of the Borrower and its Subsidiaries for such Fiscal Quarter or (ii) 10% of Consolidated Total Assets of the Borrower and its Restricted Subsidiaries as of such Fiscal Quarter, then the Borrower shall designate in writing to the Administrative Agent one or more of such Restricted Subsidiaries to be "Material Subsidiaries" to the extent necessary to eliminate such excess. Notwithstanding the foregoing, for any determination made as of or prior to the date any Person becomes a direct or indirect Subsidiary of the Borrower, such determination and designation shall be made based on financial statements provided by or on behalf of such Person in connection with the acquisition by the Borrower of such Person or such Person's assets.

"Incremental Assumption Agreement" means an Incremental Assumption Agreement in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the Administrative Agent and, if applicable, one or more Incremental Revolving Lenders and/or Incremental Term Lenders.

"Incremental Commitment" means any Incremental Revolving Credit Commitment or Incremental Term Loan Commitment.

"Incremental Equivalent Debt" means Indebtedness issued, incurred or otherwise obtained by any Loan Party in respect of one or more series of senior unsecured notes, senior secured first lien or junior lien notes or subordinated notes (in each case issued in a public offering, Rule 144A or other private placement in lieu of the foregoing (and any Registered Equivalent Notes issued in exchange therefor)) or junior lien or unsecured (but not senior secured first lien) loans that, in each case, if secured, will be secured by Liens on the Collateral on a pari passu basis (but without regard to the control of remedies) or a junior priority basis with the Liens on Collateral securing the Secured Obligations, and that are issued or made in lieu of Incremental Loans; provided that (i) the aggregate principal amount of all Incremental Equivalent Debt at the time of issuance or incurrence shall not exceed the amount that would be permitted to be incurred as Incremental Loans under Section 2.17(a) at such time (ii) such Incremental Equivalent Debt shall not be subject to any Guarantee by any Person other than a Loan Party, (iii) in the case of Incremental Equivalent Debt that is secured, the obligations in respect there of shall not be secured by any Lien on any asset of any Person other than any asset constituting Collateral, (iv) if such Incremental Equivalent Debt is secured, such Incremental Equivalent Debt shall be subject to an applicable Intercreditor Agreement and if such Incremental Equivalent Debt is payment subordinated, shall be subject to a subordination agreement on terms that are reasonably acceptable to the Administrative Agent and (v) at the time of incurrence, such Incremental Equivalent Debt has a final maturity date equal to or later than the Latest Maturity Date then in effect with respect to, and has a Weighted Average Life to Maturity equal to or longer than, the Weighted Average Life to Maturity of, the Class of outstanding Term Loans with the then Latest Maturity Date or Weighted Average Life to Maturity, as the case may be.

"Incremental Loan" means an Incremental Term Loan or an Incremental Revolving Loan.

"Incremental Revolving Credit Commitment" means any incremental revolving credit commitment provided pursuant to Section 2.17.

"Incremental Revolving Lender" means a Lender with an Incremental Revolving Credit Commitment or an outstanding Incremental Revolving Loan.

"Incremental Revolving Loans" means Revolving Loans made by one or more Revolving Lenders to the Borrower pursuant to an Incremental Revolving Credit Commitment to make additional Revolving Loans.

"Incremental Term Loan Amendment" has the meaning assigned to such term in Section 2.17(a).

"Incremental Term Loan Commitment" means the commitment of any Lender, established pursuant to Section 2.17, to make Incremental Term Loans to the Borrower.

"Incremental Term Loan Lender" means a Lender with an Incremental Term Loan Commitment or an outstanding Incremental Term Loan.

"Incremental Term Loans" means any additional term loans made pursuant to Section 2.17.

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding (i) current accounts and trade payables payable incurred in the ordinary course of business and (ii) any bona-fide earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and if not paid after being due and payable), (e) all Indebtedness of others secured by any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed by such Person, but limited to the fair market value of such property, (f) all Guarantees by such Person of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (i) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances and (j) all Disqualified Stock in such Person, valued, as of the date of determination, at the greater of (i) the maximum aggregate amount that would be payable upon maturity, redemption, repayment or repurchase thereof (or of Disqualified Stock or Indebtedness into which such Disqualified Stock convertible or exchangeable) and (ii) the maximum liquidation preference of such Disqualified Stock (excluding accrued dividends that have not increased the liquidation preference of such Disqualified Stock); provided that the term "Indebtedness" shall not include (i) deferred or prepaid revenue, (ii) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the seller, or (iii) financing, construction or other similar liabilities arising pursuant to EITF 97-10 (ASC 840) or any successor accounting pronouncement and not reflecting any obligation to any other Person. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. The amount of Indebtedness of any Person for purposes of clause (e) above shall (unless such Indebtedness has been assumed by such Person) be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the fair market value of the property encumbered thereby as determined by such Person in good faith.

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

"Indemnitee" has the meaning assigned to such term in Section 9.03(b).

"Initial Revolving Availability Period" means, as to the Initial Revolving Credit Commitments, the period from (but not including) the Effective Date to (but not including) the Initial Revolving Maturity Date, or such earlier date as the Initial Revolving Credit Commitments shall terminate as provided herein.

"Initial Revolving Commitment Fee Rate" means the Initial Revolving Commitment Fee Rate determined in accordance with the Pricing Grid.

"Initial Revolving Credit Commitment" means, as to any Initial Revolving Lender, its obligation to make Initial Revolving Loans to, and/or issue or participate in Letters of Credit issued on behalf of, the Borrower in an aggregate amount not to exceed at any one time outstanding the amount set forth opposite such Revolving Lender's name in Schedule 1.01A under the heading "Initial Revolving Credit Commitment"; collectively, as to all the Initial Revolving Lenders, the "Initial Revolving Credit Commitments". The original amount of the aggregate Initial Revolving Credit Commitments of the Revolving Lenders is $75,000,000.

"Initial Revolving Facility" means the Initial Revolving Credit Commitments and the Initial Revolving Loans made hereunder.

"Initial Revolving Loans" means the revolving loans made by the Initial Revolving Lenders to the Borrower during the Initial Revolving Availability Period pursuant to Section 2.01(a).

"Initial Revolving Lenders" means a Lender with an Initial Revolving Credit Commitment or an outstanding Initial Revolving Loan.

"Initial Revolving Maturity Date" means the fourth anniversary of the Effective Date.

"Initial Term A Availability Period" means the period from and including the Effective Date to and including the date that is nine months following the Effective Date or such earlier date as the Initial Term A Loan Commitments shall terminate as provided herein.

"Initial Term A Borrowing" means any Borrowing comprised of Initial Term A Loans.

"Initial Term A Commitment Fee Rate" means, (a) for the period beginning on the Effective Date and ending on the day that is 45 days after the Allocation Date, 0%, (b) for the period beginning on the day that is 46 days after the Allocation Date and ending on the day that is 90 days after the Allocation Date, 50% of the Applicable Margin for Eurodollar Initial Term A Loans and (c) for the period beginning on the day that is 91 days after the Allocation Date and ending on the Initial Term A Termination Date, the Applicable Margin for Eurodollar Initial Term A Loans.

"Initial Term A Facility" means the Initial Term A Loan Commitments and the Initial Term A Loans made hereunder.

"Initial Term A Facility Maturity Date" means the fourth anniversary of the Effective Date.

"Initial Term A Lender" means a Lender with an Initial Term A Loan Commitment or an outstanding Initial Term A Loan.

"Initial Term A Loan Commitment" means, with respect to each Term Loan Lender, the commitment of such Term Loan Lender to make Initial Term A Loans hereunder. The amount of each Term Loan Lender's Initial Term A Loan Commitment as of the Effective Date is set forth on Schedule 1.01A. The aggregate amount of the Initial Term A Loan Commitments as of the Effective Date is $75,000,000.

"Initial Term A Loans" means the term loans made by the Term Loan Lenders to the Borrower during the Initial Term A Availability Period on the Effective Date pursuant to Section 2.01(b).

"Initial Term A Termination Date" means the date that is the earlier of (i) the final day of the Initial Term A Availability Period and (ii) the date on which the Initial Term A Loan Commitment has been fully drawn.

"Integration Costs" means integration, consolidation, relocation and severance costs, golden parachute payments, restructuring charges and other costs associated with office openings and closings and lease termination costs, all determined in accordance with GAAP.

"Intellectual Property" means the following: (a) copyrights, mask works (including integrated circuit designs) and rights in works of authorship, registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress and registrations and applications of registrations thereof, (c) patents, as well as any reissued and reexamined patents and extensions corresponding to the patents and any patent applications, as well as any related continuation, continuation in part and divisional applications and patents issuing therefrom, and all inventions, discoveries and designs claimed or described therein, (d) trade secrets, and other confidential information, including ideas, designs, concepts, compilations of information, databases and rights in data, methods, techniques, procedures, processes and other know-how, whether or not patentable and (e) all other intellectual property or industrial property.

"Intercompany Indebtedness" means any Indebtedness of the Borrower or any Restricted Subsidiary owed to and held by the Borrower or any Restricted Subsidiary; provided that the occurrence of any event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any subsequent transfer of such Indebtedness (other than to the Borrower or another Restricted Subsidiary) shall be deemed, in each case, to constitute a new incurrence of Indebtedness other than Intercompany Indebtedness by the issuer thereof.

"Intercreditor Agreement" means a Permitted Pari Passu Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable.

"Interest Election Request" means a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.05.

"Interest Payment Date" means (a) with respect to any ABR Loan, (i) the last day of each March, June, September and December and (ii) the applicable Maturity Date and (b) with respect to any Eurodollar Loan, (i) the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period and (ii) the applicable Maturity Date.

"Interest Period" means with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter (or, to the extent agreed to by all Lenders with Commitments or Loans under the applicable Class, twelve months, a period shorter than one month, or any other period as is satisfactory to the Administrative Agent), as the Borrower may elect; 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, in the case of a Eurodollar Borrowing only, 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 and (b) any Interest Period pertaining to a Eurodollar Borrowing 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. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"Investment" has the meaning assigned to such term in Section 6.04.

"IRS" means the United States Internal Revenue Service.

"ISP 98" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be reasonably acceptable to the applicable Issuing Bank and in effect at the time of issuance of such Letter of Credit).

"Issuance Notice" means an Issuance Notice substantially in the form of Exhibit H.

"Issuing Bank" means each Initial Revolving Lender (or affiliate thereof) with a Letter of Credit Issuer Sublimit on Schedule 1.01A, as an Issuing Bank hereunder, and any other Revolving Lender (or affiliate thereof) that shall agree in writing, at the request of the Borrower and with the consent of the Administrative Agent (not to be unreasonably withheld, conditioned or delayed), to become an "Issuing Bank", in each case together with its permitted successors and assigns in such capacity. Any Issuing Bank may issue Letters of Credit through any of its branch offices or through any of its affiliates or any of the branch offices of its affiliates.

"Joint Venture" means a corporation, partnership or other Person (other than a Restricted Subsidiary) jointly owned by the Borrower or a Restricted Subsidiary and one or more Persons that are not Affiliates of the Borrower for the purpose of engaging in any business in which the Borrower would be permitted to engage under Section 6.03(b).

"Junior Debt" has the meaning assigned to such term in Section 6.06(b).

"Junior Debt Prepayment" has the meaning assigned to such term in Section 6.06(b).

"Latest Maturity Date" means, at any date of determination, the latest Maturity Date applicable to any Loan or Commitment hereunder at such time, in each case then in effect on such date of determination.

"LCA Election" has the meaning assigned to such term in Section 1.05(b).

"LCA Test Date" has the meaning assigned to such term in Section 1.05(b).

"Lead Arrangers" means the Joint Lead Arrangers and Joint Bookrunners listed on the cover page.

"Lenders" means the Persons listed on Schedule 1.01A and any other Person that shall have become a Lender hereto pursuant to an Assignment and Assumption, Incremental Assumption Agreement, Incremental Term Loan Amendment, Extension Amendment or Refinancing Amendment, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

"Letter of Credit" means a standby letter of credit issued or to be issued by an Issuing Bank pursuant to this Agreement in such form as may be approved from time to time by the applicable Issuing Bank. Letters of Credit shall be issued in dollars.

"Letter of Credit Issuer Sublimit" means (a) with respect to each Issuing Bank as of the Effective Date, as set forth on Schedule 1.01A and (b) with respect to any other Issuing Bank, an amount as shall be agreed to by the Administrative Agent, such Issuing Bank and the Borrower.

"Letter of Credit Sublimit" means the lesser of (a) $75,000,000 and (b) the aggregate unused amount of the Revolving Credit Commitments then in effect.

"Letter of Credit Usage" means, as at any date of determination, the sum of (a) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding and (b) the aggregate amount of all drawings under Letters of Credit honored by any Issuing Bank and not theretofore reimbursed by or on behalf of the Borrower or with the proceeds of a Revolving Loan. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired without being drawn by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.13 or 3.14 of the ISP 98 or because a drawing was presented under such Letter of Credit on or prior to the last date permitted for presentation thereunder but has not yet been honored or dishonored, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"LIBO Rate" means:

with respect to any Eurodollar Borrowings for any Interest Period, the rate appearing on Bloomberg screen LIBOR01 (or any successor to or substitute for such service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) (the "LIBOR Screen Rate") at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for deposits in dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; provided that in the event such rate is not available at such time for any reason, then the "LIBO Rate" with respect to such Eurodollar Borrowing for such Interest Period shall be the interest rate per annum determined by the Administrative Agent to be the average of the rates per annum at which deposits in dollars are offered for such relevant Interest Period to major banks in the London interbank market by the Administrative Agent at approximately 11:00 a.m., London time, on the date that is two Business Days prior to the beginning of such Interest Period; and

(b) for any rate calculation with respect to a ABR Loan on any date, the rate per annum equal to the LIBO Rate described in paragraph (a) above, at or about 11:00 a.m., London time, determined two Business Days prior to such date for dollar deposits with a term of one month commencing that day; provided that to the extent that any such rate is below zero, the LIBO Rate described in paragraph (a) above will be deemed to be zero.

"LIBOR Discontinuance Event" means any of the following:

(a) an interest rate is not ascertainable pursuant to the provisions of the definition of "Eurodollar Rate" or "Reference Rate" and the inability to ascertain such rate is unlikely to be temporary;

(b) the regulatory supervisor for the administrator of the LIBOR Screen Rate, the central bank for the currency of LIBO Rate, an insolvency official with jurisdiction over the administrator for LIBO Rate, a resolution authority with jurisdiction over the administrator for LIBO Rate or a court or an entity with similar insolvency or resolution authority over the administrator for LIBO Rate, has made a public statement, or published information, stating that the administrator of LIBO Rate has ceased or will cease to provide LIBO Rate permanently or indefinitely on a specific date, provided that, at that time, there is no successor administrator that will continue to provide LIBO Rate; or

(c) the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent or the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which LIBO Rate or the LIBOR Screen Rate shall no longer be made available, or used for determining the interest rate of loans; provided that, at that time, there is no successor administrator that will continue to provide LIBO Rate (the date of determination or such specific date in the foregoing clauses (a)-(c), the "Scheduled Unavailability Date").

"LIBOR Discontinuance Event Time" means, with respect to any LIBOR Discontinuance Event, (i) in the case of an event under clause (a) of such definition, the Business Day immediately following the date of determination that such interest rate is not ascertainable and such result is unlikely to be temporary and (ii) for purposes of an event under clause (b) or (c) of such definition, on the date on which LIBO Rate ceases to be provided by the administrator of LIBO Rate or is not permitted to be used (or if such statement or information is of a prospective cessation or prohibition, the 90th day prior to the date of such cessation or prohibition (or if such prospective cessation or prohibition is fewer than 90 days later, the date of such statement or announcement).

"LIBOR Replacement Date" means, in respect of any Eurodollar Borrowing, upon the occurrence of a LIBOR Discontinuance Event, the next interest reset date after the relevant amendment in connection therewith becomes effective (unless an alternative date is specified) and all subsequent interest reset dates for which LIBO Rate would have had to be determined.

"Lien" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge in the nature of a security interest or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities; provided that "Lien" shall not include (i) any non-exclusive licenses or covenants not to assert under Intellectual Property that do not (A) interfere in any material respect with the business of the Borrower and the Restricted Subsidiaries, taken as a whole or (B) secure any Indebtedness, (ii) any operating lease or (iii) any interest of a vendor in any inventory of the Borrower or any of its Restricted Subsidiaries arising out of such inventory being subject to a "sale or return" arrangement with such vendor or any consignment by any third party of any inventory to the Borrower or any of its Restricted Subsidiaries.

"Limited Condition Acquisition" means any acquisition by the Borrower and/or any Restricted Subsidiary of all or substantially all of the Equity Interests or assets or business of another Person or assets constituting a business unit, line of business or division of such Person (i) that is permitted by this Agreement and (ii) the consummation of which is not conditioned upon the availability of, or on obtaining, third party financing or in connection with which any fee or expense would be payable by the Borrower or its Restricted Subsidiaries to the seller or target in the event financing to consummate the acquisition is not obtained as contemplated by the definitive acquisition agreement.

"Limited Condition Acquisition Agreement" means, with respect to any Limited Condition Acquisition, the definitive acquisition documentation in respect thereof.

"Loan Documents" means this Agreement, the Security Documents, each Refinancing Amendment, each Incremental Assumption Agreement, each Incremental Term Loan Amendment, each Extension Amendment, any Intercreditor Agreement to the extent then in effect, the Notes, any documents or certificates executed by the Borrower in favor of an Issuing Bank relating to Letters of Credit and any other document designated in writing by the Administrative Agent with Borrower's consent (such consent not to be unreasonably withheld) as a Loan Document.

"Loan Parties" means the Borrower and each Guarantor.

"Loans" means the loans made by the Lenders to the Borrower pursuant to this Agreement.

"Long-Term Indebtedness" means any Indebtedness that, in accordance with GAAP, constitutes (or, when incurred, constituted) a long-term liability.

"Margin Stock" has the meaning assigned to such term in Regulation U.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, property or financial condition of the Borrower and the Restricted Subsidiaries, taken as a whole, or (b) the validity or enforceability of the Loan Documents, taken as a whole, or the rights or remedies of the Agents, the Issuing Banks, or the Lenders thereunder, taken as a whole.

"Material Indebtedness" means Indebtedness (other than the Loans), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Restricted Subsidiaries in an aggregate principal amount exceeding $25,000,000. For purposes of determining Material Indebtedness, the "principal amount" of the obligations of the Borrower or any Restricted Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Restricted Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

"Material Real Property" means (i) the real property owned by any Loan Party identified on Schedule 1.01D, and (ii) any other real estate owned (but not leased) by the Borrower or any Guarantor located in the United States having a value in excess of $10,000,000 (estimated in good faith by the Borrower).

"Material Subsidiary" means all Restricted Subsidiaries other than Immaterial Subsidiaries.

"Maturity Date" means the Term Facility Maturity Date or the Revolving Facility Maturity Date, as applicable.

"Maximum Rate" has the meaning assigned to such term in Section 9.14.

"Moody's" means Moody's Investors Service, Inc.

"Mortgage" means a mortgage or deed of trust encumbering a Mortgaged Property in form and substance reasonably acceptable to the Collateral Agent.

"Mortgage Policy" has the meaning assigned to such term in Section 5.11.

"Mortgaged Property" means any Material Real Property for which a Mortgage is delivered pursuant to Section 4.01(f) or Section 5.11.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Accounts Receivable" means accounts receivable less loss reserves.

"Net Equity Proceeds" means, with respect to any sale or other issuance of Equity Interests (other than Disqualified Stock) by the Borrower, the sum of the cash and the fair market value, as determined in good faith by the Borrower, of Permitted Investments or Permitted Foreign Investments received or deemed received by the Borrower from such sale or issuance, net of (a) all Taxes paid (or reasonably estimated to be payable) by the Borrower or any of its Restricted Subsidiaries to third parties in connection with such sale or issuance and (b) all brokerage commissions and fees, attorneys' fees, accountants' fees, investment banking fees, underwriting discounts and other fees and out-of-pocket expenses incurred in connection with such sale or issuance.

"Net Proceeds" means, with respect to any event, the cash proceeds actually received by the Borrower or any Restricted Subsidiary in respect of such event net of (a) all Taxes paid (or reasonably estimated to be payable) by the Borrower or any of its Restricted Subsidiaries to third parties in connection with such event and the amount of any reserves established by the Borrower and its Restricted Subsidiaries to fund contingent liabilities reasonably estimated to be payable, that are directly attributable to such event (provided that any determination by the Borrower that Taxes estimated to be payable are not payable and any reduction at any time in the amount of any such reserves (other than as a result of payments made in respect thereof) shall be deemed to constitute the receipt by the Borrower at such time of Net Proceeds in the amount of the estimated Taxes not payable or such reduction, as applicable), (b) all brokerage commissions and fees, attorneys' fees, accountants' fees, investment banking fees, underwriting discounts, reasonable incentive bonuses paid to officers and employees and other fees and out-of-pocket expenses (including survey costs, title insurance premiums and related search and recording charges) paid by the Borrower or any of its Restricted Subsidiaries to third parties in connection with such event and (c) in the case of a Disposition of an asset, (w) any funded escrow established pursuant to the documents evidencing any Disposition to secure any indemnification obligations or adjustments to the purchase price associated with any such Disposition, (x) the amount of all payments (including, principal amount, premium, penalties, if any, interest and other amounts) that are permitted hereunder and are made by the Borrower and its Restricted Subsidiaries (or to establish an escrow for the future repayment thereof) as a result of such event to repay Indebtedness (other than the Initial Term A Loans) secured by such asset or otherwise subject to mandatory prepayment as a result of such event, (y) the pro rata portion of net cash proceeds thereof (calculated without regard to this clause (y)) attributable to minority interests and not available for distribution to or for the account of the Borrower and the Restricted Subsidiaries as a result thereof and (z) the amount of any liabilities directly associated with such asset and retained by the Borrower or its Restricted Subsidiaries.

"New Class Loans" has the meaning assigned to such term in Section 9.02(h).

"Non-Consenting Lender" has the meaning assigned to such term in Section 9.02(d).

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Notes" means any promissory notes issued pursuant to Section 2.07(e).

"Obligations" means (a) the due and punctual payment by the Borrower or the applicable Loan Parties of (i) the principal of and premium, if any, and interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, and (ii) all other monetary obligations, including reimbursement amounts drawn on Letters of Credit fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Loan Parties to the Lenders or Issuing Banks under this Agreement and the other Loan Documents and (b) the due and punctual payment and performance of all covenants, agreements, obligations and liabilities of the Loan Parties, monetary or otherwise, under or pursuant to this Agreement and the other Loan Documents; *provided* that the term "Obligations" shall not include any Excluded Swap Obligation.

"OFAC" means Office of Foreign Assets Control of the United States Department of the Treasury.

"Order" means an order, writ, judgment, award, injunction, decree, ruling or decision of any Governmental Authority or arbitrator.

"Organizational Documents" means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

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

"Other Incremental Term Loans" has the meaning assigned to such term in Section 2.17(b)(iii).

"Other Revolving Credit Commitments" means, collectively, (a) Incremental Revolving Credit Commitments to make Incremental Revolving Loans, (b) Extended Revolving Credit Commitments to make Extended Revolving Loans and (c) Replacement Revolving Credit Commitments.

"Other Revolving Loans" means, collectively, (a) Incremental Revolving Loans, (b) Extended Revolving Loans and (c) Replacement Revolving Loans.

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.16(b)).

"Other Term Facilities" means the Other Term Loan Commitments and the Other Term Loans made thereunder.

"Other Term Loan Commitments" means, collectively, (a) Incremental Term Loan Commitments and (b) commitments to make Refinancing Term Loans.

"Other Term Loans" means, collectively, (a) Other Incremental Term Loans, (b) Extended Term Loans and (c) Refinancing Term Loans.

"Participant" has the meaning set forth in Section 9.04(c).

"Participant Register" has the meaning set forth in Section 9.04(c).

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Perfection Certificate" means the Perfection Certificate with respect to the Loan Parties in the form attached hereto as Exhibit D, or such other form as is reasonably satisfactory to the Administrative Agent.

"Permitted Acquisition" has the meaning set forth in Section 6.04(g).

"Permitted Call Spread Option" means any option (for the avoidance of doubt, whether purchased or sold by the Borrower) that is settled (after payment of any premium or any prepayment thereunder) through the delivery of cash and/or of Equity Interests of the Borrower and is entered into concurrently or in connection with the offering of any Convertible Notes, the purpose of which is to mitigate dilution upon conversion of such Convertible Notes or to offset the cost of any option with such purpose (including, but not limited to, any bond hedge transaction, warrant transaction, or capped call transaction), as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Permitted Encumbrances" means:

(a) Liens imposed by law for Taxes that are not yet overdue for a period of more than thirty (30) days or which are being contested in compliance with Section 5.05;

(b) landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 60 days or are being contested in good faith by appropriate actions diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required in accordance with GAAP;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, health, disability, unemployment insurance and other social security laws or regulations (including the amount of pledges or deposits securing liabilities for reimbursement or indemnity arrangements and letters of credit or bank guaranty reimbursement arrangements related thereto);

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds, reimbursement obligations in respect of letters of credit, and other obligations of a like nature, in each case in the ordinary course of business;

(e) Liens arising out of judgments, attachments or awards that do not constitute an Event of Default under clause (j) of Article VII;

(f) easements, zoning restrictions, rights-of-way, covenants, licenses, encroachments, protrusions and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(g) any obligations or duties affecting any of the property of the Borrower or the Restricted Subsidiaries to any municipality or public authority with respect to any franchise, grant, license or permit which do not materially impair the use of such property for the purposes for which it is held;

(h) with respect to any Mortgaged Property, the exceptions included on the applicable Mortgage Policy;

(i) Liens arising from precautionary UCC financing statements regarding operating leases;

(j) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business;

(k) the interests of lessors, sublessors, licensors or sublicensors with respect to leased or licensed property;

(l) any option or other agreement to purchase any asset of the Borrower or any of its Restricted Subsidiaries, the purchase, sale or other disposition of which is not prohibited by this Agreement;

(m) Liens in favor of customs and revenue authorities arising as a matter of law and in the ordinary course of business to secure payment of customs duties in connection with the importation of goods;

(n) licenses of intellectual property in the ordinary course of business (including, intercompany licensing of intellectual property between the Borrower and any Subsidiary and between Subsidiaries in connection with cost-sharing arrangements, distribution, marketing, make-sell or other similar arrangements); and

(o) leases, licenses, subleases, or sublicenses granted to others that do not (A) interfere in any material respect with the business of the Borrower and the Restricted Subsidiaries, taken as a whole or (B) secure any Indebtedness; provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

"Permitted Foreign Investments" means any of the following, to the extent held in the ordinary course of business and not for speculative purposes; (i) investments in certificates of deposit, banker's acceptances and time deposits maturing within 364 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by any office of any commercial bank organized under the laws of any jurisdiction outside of the United States of America, (ii) euros and Sterling, (iii) investments of the type and maturity described in clauses (a) through (g) of the definition of "Permitted Investments" of foreign obligors, which investments are reasonably appropriate in connection with any business conducted by the Borrower or its Subsidiaries (as determined by the Borrower in good faith) and which investments or obligors (or the parent companies of such obligors) have the ratings described in such clauses or equivalent ratings from S&P and Moody's and (iv) other short term investments utilized by the Borrower and its Subsidiaries in accordance with normal investment practices for cash management in such country in investments analogous to the investments described in clauses (a) through (g) of the definition of "Permitted Investments" below and in this paragraph and which are reasonably appropriate in connection with any business conducted by the Borrower or its Subsidiaries in such country (as determined by the Borrower in good faith).

"Permitted Holder" means each of Anthony Wood and Menlo Ventures, in each case, together with (a) in the case of Anthony Wood, (i) his spouse and lineal descendants and spouses of lineal descendants, (ii) his estate or legal representative, (iii) trusts established for his benefit or for the benefit of his spouse or lineal descendants or spouses of his lineal descendants or (iv) any company, partnership, trust, foundation or other entity or investment vehicle solely owned and controlled, directly or indirectly, by him, and the trustees, legal representatives, beneficiaries and/or beneficial owners of such company, partnership, trust, foundation or other entity or investment vehicle and (b) in the case of Menlo Ventures, its affiliated funds.

"Permitted Investments" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within 24 months with an aggregate portfolio weighted-average maturity of 12 months or less from the date of acquisition thereof and having, at such date of acquisition, short-term credit ratings of at least A-1 and P-1 by S&P and Moody's, respectively, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within six months from the date of acquisition;

(c) investments in certificates of deposit, banker's acceptances and time deposits maturing within 365 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000;

(d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(e) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, and (ii) are rated AAA by S&P and Aaa by Moody's or invest solely in the assets described in clauses (a) through (d) above

(f) municipal (tax-exempt) investments with a maximum maturity of 24 months with an aggregate portfolio weighted-average maturity of 12 months or less (for securities where the interest rate is adjusted periodically (e.g. floating rate securities), the interest rate reset date will be used to determine the maturity date);

(g) variable rate notes issued by, or guaranteed by, any state agency, municipality or domestic corporation rated A-1 (or the equivalent thereof) or better by S&P or P-1 (or the equivalent thereof) or better by Moody's and maturing within 24 months with an aggregate portfolio weighted-average maturity of 12 months or less from the date of acquisition (the interest rate reset date will be used to determine the maturity date); and

(h) investments permitted by the Borrower's investment policy as approved by the Borrower's Board of Directors, as in effect on the Closing Date and as may be amended, supplemented or otherwise modified from time to time with the approval of the Borrower's Board of Directors.

"Permitted Junior Intercreditor Agreement" means, with respect to any Liens on Collateral that are intended to be junior to any Liens securing the Secured Obligations, one or more intercreditor agreements, each of which shall be on terms which are consistent with market terms governing security arrangements for the sharing of liens on a junior basis at the time such intercreditor agreement is proposed to be established, as determined by the Borrower and the Collateral Agent in the exercise of reasonable judgment.

"Permitted Pari Passu Intercreditor Agreement" means, with respect to any Liens on Collateral that are intended to be equal and ratable with the Liens securing the Secured Obligations, one or more intercreditor agreements, each of which shall be on terms which are consistent with market terms governing security arrangements for the sharing of liens on a pari passu basis at the time such intercreditor agreement is proposed to be established, as determined by the Borrower and the Collateral Agent in the exercise of reasonable judgment.

"Permitted Refinancing Indebtedness" means, with respect to any Person, any modification, refinancing, refunding, renewal, exchanges, replacements or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed, exchanged, replaced or extended except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees, premiums (including tender premium), penalties and expenses (including any upfront fees and original issue discount) reasonably incurred, in connection with such modification, refinancing, refunding, renewal, exchanges, replacements or extension, (b) Indebtedness (other than purchase money Indebtedness and Capital Lease Obligations) resulting from such modification, refinancing, refunding, renewal, exchanges, replacements or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed, exchanged, replaced or extended, (c) immediately after giving effect thereto, no Event of Default shall have occurred and be continuing, (d) if the Indebtedness being modified, refinanced, refunded, renewed, exchanged, replaced or extended is subordinated in right of payment to the Obligations, the Indebtedness resulting from such modification, refinancing, refunding, renewal, exchange, replacement or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders, taken as a whole, as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed, exchanged, replaced or extended, (e) if the Indebtedness being modified, refinanced, refunded, renewed, exchanged, replaced or extended is secured, (i) the Indebtedness resulting from such modification refinancing, refunding, renewal, extension, replacement or extension shall only be secured on the same basis (including relative priority) as the Indebtedness being modified, refinanced, refunded, renewed, exchanged, replaced or extended and shall be subject to the applicable Intercreditor Agreement, if any, and (ii) no Lien relating thereto shall be expanded to cover any additional property of the Borrower or any Restricted Subsidiary and (f) such Permitted Refinancing Indebtedness is not recourse to any Restricted Subsidiary (other than a Loan Party) that is not an obligor of the Indebtedness being so modified, refinanced, refunded, renewed, exchanged, replaced or extended. For the avoidance of doubt, it is understood that a Permitted Refinancing Indebtedness may constitute a portion of an issuance of Indebtedness in excess of the amount of such Permitted Refinancing Indebtedness; provided that such excess amount is otherwise permitted to be incurred under Section 6.01. In the case of any Indebtedness that otherwise satisfies the requirements of "Permitted Refinancing Indebtedness" with respect to any Convertible Notes, such Indebtedness may be deemed by the Borrower to be Permitted Refinancing Indebtedness even if not incurred contemporaneously with the repayment or repurchase of the related Convertible Notes, but in no event incurred after 90 days following such repayment or repurchase or, if incurred prior to the redemption, repurchase or other repayment of the related Convertible Notes, such Indebtedness shall not qualify as a Permitted Refinancing Indebtedness unless and until (and only to the extent of) the relevant redemption, repurchase or repayment of such Convertible Notes has been consummated. An item of Indebtedness that was originally incurred under and in compliance with another clause of Section 6.01 may, if later qualifying as a Permitted Refinancing Indebtedness under such Section, be reclassified under Section 6.01 upon such qualification as a Permitted Refinancing Indebtedness.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Platform" has the meaning assigned to such term in Section 9.16.

"Pledged Collateral" has the meaning assigned to such term in the Guaranty and Security Agreement.

"Post-Closing Period" has the meaning assigned to such term in Section 2.17.

"Prepayment Event" means:

(a) On or after the Initial Term A Termination Date, any Disposition of any asset of the Borrower or any Restricted Subsidiary, including any sale or issuance to a Person other than the Borrower or any Restricted Subsidiary of Equity Interests in any Subsidiary, other than (i) Dispositions described in clause (a), (c), (d), (e), (f), (g), (h), (i), (j), (l), (m) or (n) of Section 6.05, and (ii) other Dispositions resulting in Net Proceeds not exceeding $5,000,000 for any individual transaction or series of related transactions;

(b) On or after the Initial Term A Termination Date, any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any asset of the Borrower or any Restricted Subsidiary resulting in Net Proceeds of $5,000,000 or more with respect to such event; or

(c) the incurrence by the Borrower or any Restricted Subsidiary of any Indebtedness, other than any Indebtedness permitted to be incurred by Section 6.01 (other than Refinancing Term Loans and Refinancing Notes).

"Pricing Grid" means, with respect to Revolving Loans and Term A Loans, the table set forth below:

Secured Leverage Ratio	**Applicable Margin for ABR Loans**	**Applicable Margin for Eurodollar Loans**	**Initial Revolving Commitment Fee Rate**
Greater than 1.00:1.00	1.00%	2.00%	0.25%
Equal to or less than 1.00:1.00	0.75%	1.75%	0.25%

Each change in the Applicable Margin and Initial Revolving Commitment Fee Rate shall be effective on and after the date of delivery to the Administrative Agent of financial statements pursuant to Section 5.01(a) or Section 5.01(b) and a Compliance Certificate pursuant to Section 5.01(h) evidencing the related change in the Secured Leverage Ratio. The Applicable Margin and Initial Revolving Commitment Fee Rate shall be determined as if the Secured Leverage Ratio were in excess of 1.00:1.00 at any time (i) the Borrower has not submitted to the Administrative Agent the applicable information as and when required under Section 5.01(h) and (ii) the Consolidated EBITDA (as set forth in the most recent Compliance Certificate delivered pursuant to Section 5.01(h)) is not greater than $0. Within three (3) Business Days of receipt of the applicable information under Section 5.01(h), the Administrative Agent shall notify the Lenders of the Applicable Margin and Initial Revolving Commitment Fee Rate in effect from such date. In the event that any financial statement or certificate delivered pursuant to Section 5.01 is shown to be inaccurate at a time when this Agreement is in effect and unpaid Obligations under this Agreement are outstanding (other than indemnities and other contingent obligations not yet due and

payable), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin or Initial Revolving Commitment Fee Rate for any period (an "Applicable Period") than the Applicable Margin or Initial Revolving Commitment Fee Rate actually applied for such Applicable Period, then (i) the Borrower shall promptly deliver to the Administrative Agent a correct certificate required by Section 5.01(h) for such Applicable Period and (ii) (A) the Applicable Margin or Initial Revolving Commitment Fee Rate shall be deemed to be such higher Applicable Margin or Initial Revolving Commitment Fee Rate and (B) the Borrower shall immediately pay to the Administrative Agent the accrued additional interest or fees owing as a result of such increased Applicable Margin or Initial Revolving Commitment Fee Rate for such Applicable Period. Nothing in this paragraph shall limit the right of the Administrative Agent, any Issuing Bank or any Lender under Section 2.07 or Article VII.

"Prime Rate" means the rate of interest per annum from time to time published in the "Money Rates" or successor section of *The Wall Street Journal* as being the "Prime Lending Rate" or, if more than one rate is published as the "Prime Lending Rate", then the highest of such rates (each change in the Prime Rate to be effective as of the date of publication in *The Wall Street Journal* of a "Prime Lending Rate" that is different from that published on the preceding Business Day); provided that in the event that The Wall Street Journal shall, for any reason, fail or cease to publish the "Prime Lending Rate", the Administrative Agent shall choose a reasonably comparable index or source to use as the basis for the "Prime Lending Rate".

"Principal Office" means the Administrative Agent's "Principal Office" as set forth on Schedule 1.01B, or such other office or office of a third party or sub-agent, as appropriate, as the Administrative Agent may from time to time designate in writing to the Borrower and each Lender.

"Pro Forma Basis" means, as to any Person, (a) for all Specified Transactions that occur subsequent to the commencement of an applicable measurement period except as set forth in Section 1.05(a), all calculations of the Secured Leverage Ratio, Consolidated EBITDA and the Total Leverage Ratio will give pro forma effect to such Specified Transactions as if such Specified Transactions occurred on the first day of such measurement period and (b) for purposes of calculating the financial covenant set forth in Section 6.11, the Secured Leverage Ratio, Consolidated EBITDA or Total Leverage Ratio or any other financial ratio or test, such calculation shall be made in accordance with Section 1.05. Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Financial Officer of the Borrower to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Borrower may designate. Whenever any calculation is made on a Pro Forma Basis hereunder, such calculation shall be made in good faith by a Financial Officer; provided that no such calculation shall include cost savings or synergies unless such cost savings and synergies are (i) either (x) in compliance with Regulation S-X under the Securities Act of 1933, as amended or (y) based on actions taken or to be taken within 18 months of the relevant transaction or otherwise consistent with clause (a)(ix) of the definition of "Consolidated EBITDA" and (ii) in an amount for any Test Period, when aggregated with the amount of any increase to Consolidated EBITDA for such Test Period pursuant to clause (a)(ix) of the definition of "Consolidated EBITDA," that does not exceed 20% of Consolidated EBITDA for such Test Period (calculated on a Pro Forma Basis but prior to giving effect to any increase pursuant to this clause (y) or clause (a)(ix) of the definition of "Consolidated EBITDA").

"Pro Rata Extension Offers" has the meaning assigned to such term in Section 2.19(a).

"Proceeding" has the meaning assigned to such term in Section 9.03(b).

"Proposed Change" shall have the meaning assigned to such term in Section 9.02(d).

"Public Lender" has the meaning assigned to such term in Section 9.16.

"Qualified Equity Interests" means any Equity Interest other than Disqualified Stock.

"Quick Assets" is, on any date of determination, Borrower's and Restricted Subsidiaries' Unrestricted Cash, plus Net Accounts Receivable.

"Recipient" means (a) the Administrative Agent; (b) any Lender and (c) any Issuing Bank, as applicable.

"Refinancing" has the meaning assigned to that term in Section 4.01(k).

"Refinancing Amendment" has the meaning assigned to that term in Section 2.20(e).

"Refinancing Effective Date" has the meaning assigned to such term in Section 2.20(a).

"Refinancing Notes" means any secured or unsecured notes or loans issued by the Borrower or any Guarantor (whether under an indenture, a credit agreement or otherwise (other than this Agreement)) and the Indebtedness represented thereby; provided that (a) 100% of the Net Proceeds of such Refinancing Notes are used to permanently repay Term Loans and/or replace Commitments substantially simultaneously with the issuance thereof; (b) the principal amount (or accreted value, if applicable) of such Refinancing Notes does not exceed the principal amount (or accreted value, if applicable) of the aggregate portion of the Term Loans so repaid and/or Commitments so replaced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses); (c) the final maturity date of such Refinancing Notes is on or after the Latest Maturity Date; (d) the Weighted Average Life to Maturity of such Refinancing Notes is greater than or equal to the Weighted Average Life to Maturity of the Term Loans so repaid or the Revolving Credit Commitments so replaced, as applicable; (e) the terms of such Refinancing Notes do not provide for any scheduled repayment, mandatory redemption or sinking fund obligations prior to the Term Facility Maturity Date of the Term Loans so reduced or the Revolving Facility Maturity Date of the Revolving Credit Commitments so replaced, as applicable (other than (x) in the case of Refinancing Notes in the form of notes, customary offers to repurchase or mandatory prepayment provisions upon a change of control, fundamental change, asset sale or event of loss and customary acceleration rights after an event of default and (y) in the case of Refinancing Notes in the form of loans, customary amortization and mandatory and voluntary prepayment provisions which are, when taken as a whole, consistent in all material respects with, or not materially less favorable to the Loan Parties than, those applicable to the Term Loans repaid and/or Commitments replaced, as the case may be, with such Indebtedness to provide that any such mandatory prepayments as a result of asset sales, events of loss, or excess cash flow, shall be allocated on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) with the other Term Loans outstanding pursuant to this Agreement); (f) there shall be no obligor with respect thereto that is not a Loan Party; (g) if such Refinancing Notes are secured, the security agreements relating to such assets shall not extend to any assets not constituting Collateral and shall be no more favorable to the secured party or party, taken as a whole (determined by the Borrower in good faith) than the Security Documents (with such differences as are reasonably satisfactory to the Administrative Agent) and such Refinancing Notes shall be subject to the provisions of a Permitted Pari Passu Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable; and (h) all other terms applicable to such Refinancing Notes other than provisions relating to pricing, rate floors, discounts, fees, interest rate margins, optional prepayment, optional redemption and any other pricing terms (which pricing, rate floors, discounts, fees, interest rate margins, optional prepayment, optional redemption and other pricing terms shall not be subject to the provisions set forth in this clause (h)) taken as a whole shall (as determined by the Borrower in good faith) be substantially similar to, or not materially more favorable to the investors in respect of such Refinancing Notes than, the terms, taken as a whole (determined by the

Borrower in good faith), applicable to the Term Loans so reduced or the Revolving Credit Commitments so replaced (except (i) to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date in effect at the time such Refinancing Notes are issued or are otherwise reasonably acceptable to the Administrative Agent, (ii) to the extent Lenders under the corresponding Term Loans or the Revolving Credit Commitments also receive the benefit of such more favorable terms and (iii) that any such Refinancing Notes may contain any financial maintenance covenants, so long as any such covenant shall not be tighter than (or in addition to) those applicable to the Term Loans or Revolving Credit Commitments then outstanding (unless such covenants are also added for the benefit of the Lenders holding the Term Loans or Revolving Credit Commitments then outstanding, which shall not require consent of the Lenders holding the Term Loans or Revolving Credit Commitments then outstanding and which the Administrative Agent shall add upon the issuance of such Refinancing Notes)).

"Refinancing Term Loans" has the meaning assigned to such term in Section 2.20(a).

"Register" has the meaning set forth in Section 9.04(b)(F)(iv).

"Registered Equivalent Notes" means, with respect to any notes originally issued in an offering pursuant to Rule 144A under the Securities Act of 1933 or other private placement transaction under the Securities Act of 1933, substantially identical notes (having the same guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

"Regulation T" means Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Regulation U" means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Regulation X" means Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Reimbursement Date" has the meaning set forth in Section 2.21(d).

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"Relevant Governmental Sponsor" means any central bank, reserve bank, monetary authority or similar institution (including any committee or working group sponsored thereby) which shall have selected, endorsed or recommended a replacement rate, including relevant additional spreads or other adjustments, for LIBO Rate.

"Replacement Revolving Credit Commitments" has the meaning assigned to such term in Section 2.20(c).

"Replacement Revolving Facility" has the meaning assigned to such term in Section 2.20(c).

"Replacement Revolving Facility Effective Date" has the meaning assigned to such term in Section 2.20(c).

"Replacement Revolving Loans" has the meaning assigned to such term in Section 2.20(c).

"Required Lenders" means, at any time, Lenders having Total Credit Exposure and unfunded Commitments representing greater than 50% of the aggregate amount of the Total Credit Exposure and unused Commitments at such time. The Total Credit Exposure and unused Commitments of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

"Required Revolving Lenders" means, at any time, Revolving Lenders having Revolving Credit Commitments or (if the Revolving Credit Commitments have terminated, Revolving Loans) that, taken together, represent more than 50% of the sum of all Revolving Credit Commitments (or, if the Revolving Credit Commitments have terminated, Revolving Loans at such time). The Revolving Loans and unused Revolving Credit Commitments of any Defaulting Lender shall be disregarded in determining Required Revolving Lenders at any time.

"Requirement of Law" means, as to any Person, any law, treaty, rule, regulation, statute, order, ordinance, decree, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or imposed or entered into or agreed by any Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

"Responsible Officer" of any Loan Party means the chief executive officer, president, vice president, chief financial officer, treasurer, or other similar officer of such Loan Party.

"Restricted Payment" means (x) any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Restricted Subsidiary, or 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 such Equity Interests in the Borrower or any Restricted Subsidiary or any option, warrant or other right to acquire any such Equity Interests in the Borrower and (y) any payment of cash due upon conversion of any Convertible Notes. Notwithstanding the foregoing, and for the avoidance of doubt, (i) any payment of principal (other than upon conversion) of, or any payment of interest with respect to, any Convertible Notes shall not constitute a Restricted Payment, (ii) any delivery of Equity Interests due upon conversion of any Convertible Notes shall not constitute a Restricted Payment and (iii) any payment (including payment of any premium) or delivery with respect to, or early unwind or settlement of, any Permitted Call Spread Option shall not constitute a Restricted Payment.

"Restricted Subsidiary" means any Subsidiary that is not an Unrestricted Subsidiary.

"Revolving Applicable Percentage" means, with respect to any Revolving Lender, the percentage of the total Revolving Credit Commitments represented by such Revolving Lender's Revolving Credit Commitment; *provided* that if any Revolving Lender is a Default Lender at such time, the Revolving Applicable Percentages shall be calculated disregarding such Default Lender's Revolving Credit Commitment (other than with respect to calculating such Defaulting Lender's Revolving Applicable Percentage). If the Revolving Credit Commitments have terminated or expired, the Revolving Applicable Percentages shall be determined based upon the Revolving Credit Commitments most recently in effect, giving effect to any assignments.

"Revolving Availability Period" means (a) with respect to the Initial Revolving Loans, the Initial Revolving Availability Period or (b) with respect to the other Revolving Loans, the "Revolving Availability Period" set forth in any Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment pursuant to which such Lender shall have assumed its Revolving Credit Commitment, as applicable.

"Revolving Borrowing" means a Borrowing comprised of Revolving Loans.

"Revolving Credit Commitment" means, with respect to each Revolving Lender, the Initial Revolving Credit Commitments and of such Revolving Lender, the commitment of such Revolving Lender to make Revolving Loans hereunder, expressed as an amount representing the maximum aggregate amount of such Revolving Lender's Revolving Loans hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06, (b) increased from time to time pursuant to Section 2.17 and (c) reduced or increased from time to time pursuant to assignments by or to such Revolving Lender pursuant to Section 9.04. After the Effective Date, Classes of Revolving Credit Commitments may be added or created pursuant to Extension Amendments, Incremental Assumption Agreements or Refinancing Amendments pursuant to which such Revolving Lender shall have assumed its Revolving Credit Commitment as stated therein, as applicable.

"Revolving Credit Exposure" means, as to any Revolving Lender at any time, an amount equal to (a) the aggregate principal amount of such Revolving Lender's Revolving Loans plus (b) such Revolving Lender's Revolving Applicable Percentage of the Letter of Credit Usage.

"Revolving Facility" means (a) the Initial Revolving Facility and (b) the Revolving Credit Commitments of any Class and the extensions of credit made hereunder by the Revolving Lenders of such Class and, for purposes of Section 9.02(b), shall refer to the Revolving Credit Commitment in clause (a) and (b) as a single Class.

"Revolving Facility Maturity Date" means, as the context may require, (a) with respect to the Initial Revolving Credit Commitments, the Initial Revolving Maturity Date and (b) with respect to any other Class of Revolving Credit Commitments, the maturity date specified therefor in the applicable Extension Amendment, Incremental Assumption Agreement or Refinancing Amendment.

"Revolving Lender" means a Lender with a Revolving Credit Commitment.

"Revolving Loan" means the Initial Revolving Loans and the Other Revolving Loans, as the context shall require.

"Revolving Pro Rata Share" means with respect to all payments, computations and other matters relating to the Revolving Credit Commitments or Revolving Loans of any Revolving Lender or any Letters of Credit issued or participations purchased therein by any Revolving Lender, the percentage obtained by dividing (a) the Revolving Credit Exposure of that Revolving Lender by (b) Total Revolving Credit Exposure.

"S&P" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

"Sanctioned Country" means a country, region or territory that at any time is itself the subject or target of any Sanctions (as of the Effective Date, Crimea, Cuba, Iran, North Korea and Syria).

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the OFAC, the U.S. Department of State, the U.S. Department of Commerce or by the United Nations Security Council, the European Union, any European Union Member State, Canada or Her Majesty's Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Country or (c) any Person directly or indirectly owned or controlled by any such Person or Persons described in the foregoing clause (a) or (b).

"Sanctions" means 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, the U.S. State Department, the U.S. Department of Commerce or the U.S. Department of the Treasury or the United Nations Security Council, the European Union, any European Union Member State, Canada or Her Majesty's Treasury of the United Kingdom.

"SEC" means the Securities and Exchange Commission of the United States of America.

"Secured Cash Management Agreement" means any Cash Management Agreement that is entered into by and between the Borrower or any Restricted Subsidiary and any Cash Management Bank, including any such Cash Management Agreement that is in effect on the Effective Date.

"Secured Hedge Agreement" means any Swap Agreement that is entered into by and between the Borrower or any Restricted Subsidiary and any Hedge Bank, including any such Swap Agreement that is in effect on the Effective Date. Notwithstanding the foregoing, for all purposes of the Loan Documents, any Guarantee of, or grant of any Lien to secure, any obligations in respect of a Secured Hedge Agreement by a Guarantor shall not include any Excluded Swap Obligations with respect to such Guarantor.

"Secured Leverage Ratio" means, as of any date of determination, the ratio of (a) the greater of (i) the aggregate outstanding principal amount of Indebtedness under clauses (a), (b), (g) or (j) of the definition thereof of the Borrower and its Restricted Subsidiaries, on a consolidated basis, that is secured by Liens on property or assets of the Borrower or any of its Restricted Subsidiaries (after giving effect to any incurrence or repayment of any such Indebtedness on such date) minus Unrestricted Cash and (ii) $0 to (b) Consolidated EBITDA for the Test Period ending on such date.

"Secured Obligations" means, collectively, (a) the Obligations, (b) obligations of the Borrower and its Restricted Subsidiaries in respect of any Secured Cash Management Agreement and (c) obligations of the Borrower and its Restricted Subsidiaries in respect of any Secured Hedge Agreement; provided that the Secured Obligations of any Loan Party shall exclude any Excluded Swap Obligations with respect to such Loan Party, including, in the case of clauses (a) through (c), all interest and other monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding.

"Secured Parties" means, collectively, the Administrative Agent, the Collateral Agent, each Lender, each Issuing Bank, each Hedge Bank that is party to any Secured Hedge Agreement, each Cash Management Bank that is party to any Secured Cash Management Agreement, each sub-agent appointed pursuant to Article VIII hereof by the Administrative Agent with respect to matters relating to the Loan Documents or by the Collateral Agent with respect to matters relating to any Security Document and each other Person to which any of the Secured Obligations is owed.

"Security Documents" means the Guaranty and Security Agreement, Mortgage, and each other security document or pledge agreement delivered by any Loan Party pursuant to Section 5.11 to secure any of the Secured Obligations, and all UCC or other financing statements, intellectual property security agreements or instruments of perfection required by this Agreement or any security agreement to be filed with respect to the security interests in personal property created pursuant to the Guaranty and Security Agreement and any other document or instrument utilized to pledge as collateral for the Secured Obligations any property of whatever kind or nature.

"Specified Swap Obligation" means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act or any rules or regulations promulgated thereunder.

"Specified Transaction" means (i) any Disposition and any asset acquisition, Investment (or series of related Investments), in each case, in excess of $20,000,000 (or any similar transaction or transactions), any dividend, distribution or other similar payment, (ii) the designation of any Restricted Subsidiary as an Unrestricted Subsidiary or of any Unrestricted Subsidiary as a Restricted Subsidiary and (iii) any incurrence, repayment, repurchase or redemption of Indebtedness under clauses (a), (b), (g) or (j) of the definition thereof.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve percentage shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which Equity Interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" means any subsidiary of the Borrower.

"Swap Agreement" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies or commodities. For the avoidance of doubt, a Permitted Call Spread Option shall not constitute a Swap Agreement.

"Target Person" has the meaning assigned to such term in the last paragraph of Section 6.04.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority including any interest, additions to tax or penalties applicable thereto.

"Term Facility" means each of the Initial Term A Facility and any Other Term Facility.

"Term Facility Maturity Date" means, as the context may require, (a) with respect to the Initial Term A Facility, the Initial Term A Facility Maturity Date and (b) with respect to any other Class of Term Loans, the maturity dates specified therefor in the applicable Incremental Term Loan Amendment, Extension Amendment or Refinancing Amendment.

"Term Loan" means the Initial Term A Loans and/or any Other Term Loans.

"Term Loan Borrowing" means any Initial Term A Borrowing or any Borrowing of Other Term Loans.

"Term Loan Commitment" means the commitment of a Term Loan Lender to make Term Loans, including Initial Term A Loans and/or Other Term Loans, in each case, as set forth on Schedule 1.01A or the applicable Incremental Term Loan Amendment or Refinancing Amendment.

"Term Loan Credit Exposure" means, as to any Term Loan Lender at any time, an amount equal to the aggregate principal amount of such Term Loan Lender's Term Loans outstanding at such time.

"Term Loan Lender" means a Lender having a Term Loan Commitment or that holds Term Loans.

"Test Period" means each period of four consecutive Fiscal Quarters of the Borrower then last ended (in each case taken as one accounting period).

"Total Credit Exposure" means, as applicable, the Revolving Credit Exposure and/or a Term Loan Credit Exposure.

"Total Leverage Ratio" means, as of any date of determination, the ratio of (a) the greater of (i) the outstanding principal amount of Indebtedness under clauses (a), (b), (g) or (j) of the definition thereof of the Borrower and its Restricted Subsidiaries, on a consolidated basis, as of such date (after giving effect to any incurrence or prepayment of Indebtedness on such date) minus Unrestricted Cash and (ii) $0 to (b) Consolidated EBITDA for the Test Period ending on such date.

"Total Revolving Credit Exposure" means, as at any date of determination, the sum of (a) the aggregate principal amount of all outstanding Revolving Loans and (b) the Letter of Credit Usage.

"Transactions" means the Refinancing and the entering into the Facilities as of the Effective Date.

"Type," when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

"Undisclosed Administration" means, in relation to a Lender or its direct or indirect parent company, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or such parent company is subject to home jurisdiction, if applicable law requires that such appointment not be disclosed.

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

"Unreimbursed Amount" has the meaning set forth in Section 2.21(d).

"Unrestricted Cash" means, as of any date of determination, such cash, Permitted Investments or Permitted Foreign Investments that (a) does not appear (and is not required to appear) as "restricted" on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries (unless such appearance is related to the Liens granted to the Collateral Agent to secure the Obligations, (b) is not subject to any Lien in favor of any Person other than (i) the Collateral Agent for the benefit of the Secured Parties and (ii) Liens permitted under Section 6.02(k) and (c) is otherwise generally available for use by the Borrower and its Restricted Subsidiaries.

"Unrestricted Subsidiary" means (1) any Subsidiary of the Borrower which at the time of determination is an Unrestricted Subsidiary (as designated by the Borrower, as provided below); and (2) any Subsidiary of an Unrestricted Subsidiary. The Borrower may designate: (a) any Subsidiary of the Borrower (including any existing Subsidiary and any Subsidiary acquired or formed after the Effective Date) to be an Unrestricted Subsidiary; provided that: (i) such designation shall be deemed an Investment by the Borrower therein at the date of designation in an amount equal to the fair market value of the

Borrower's (or its Restricted Subsidiaries') Investments therein, which shall be required to be permitted on such date in accordance with Section 6.04 (and not as an Investment permitted thereby in a Restricted Subsidiary); (ii) the Borrower could incur at least $1.00 of additional Indebtedness pursuant to the Total Leverage Ratio test set forth in clause (iv) of Section 6.01(i); and (iii) immediately after giving effect to such designation, no Event of Default will have occurred and be continuing; and (b) any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that: (i) immediately after giving effect to such designation, no Event of Default will have occurred and be continuing; and (ii) the Borrower could incur at least $1.00 of additional Indebtedness pursuant to the Total Leverage Ratio test set forth in clause (iv) of Section 6.01(i). Any such designation by the Borrower will be notified by the Borrower to the Administrative Agent and the Borrower shall promptly provide to the Administrative Agent a certificate of a Responsible Officer certifying that such designation complied with the applicable foregoing provisions. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time.

"USA PATRIOT Act" has the meaning set forth in Section 9.17.

"U.S. Person" means a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning assigned to such term in Section 2.14(f)(ii)(B)(3).

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

"Wholly Owned Subsidiary" means any Subsidiary of the Borrower all the Equity Interests of which (other than directors' qualifying shares and Equity Interests held by other Persons to the extent such Equity Interests are required by applicable law to be held by a Person other than the Borrower or one of its Subsidiaries) is owned by the Borrower or one or more Wholly Owned Subsidiaries.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"Withholding Agent" means any Loan Party and the Administrative Agent.

"Write-down and Conversion Powers" means:

(a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in EU Bail-In Legislation Schedule; and

(b) in relation to any other applicable Bail-In Legislation:

(i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a Person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a Person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that Person or any other Person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under that Bail-In Legislation.

Section 1.02 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.03 Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed and interpreted in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith; provided, further, that if GAAP requires the Borrower subsequent to the Effective Date to cause operating leases to be treated as capitalized leases or otherwise to be reflected on such Person's balance sheet, then such change shall not be given effect hereunder, and those types of leases which were treated as operating leases as of the Effective Date shall continue to be treated as operating leases that would not otherwise be required to be reflected on such Person's balance sheet. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to (i) any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at "fair value," as defined therein and (ii) any treatment of Indebtedness in respect of convertible debt instruments or equity linked securities under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

Section 1.04 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a "Term Loan") or by Type (e.g., a "Eurodollar Loan") or by Class and Type (e.g., a "Eurodollar Term Loan"). Borrowings also may be classified and referred to by Class (e.g., a "Term Loan Borrowing") or by Type (e.g., a "Eurodollar Borrowing") or by Class and Type (e.g., a "Eurodollar Term Loan Borrowing").

Section 1.05 Pro Forma Calculations; Covenant Calculations.

(a) For purposes of any calculation of the Secured Leverage Ratio, Consolidated EBITDA or Total Leverage Ratio, in the event that any Specified Transaction has occurred during the Test Period for which the Secured Leverage Ratio, Consolidated EBITDA or Total Leverage Ratio is being calculated or following the end of such Test Period and on or prior to the date of determination, such calculation shall be made on a Pro Forma Basis.

(b) Notwithstanding anything in this Agreement or any Loan Document to the contrary, when calculating any applicable ratio or determining other compliance with this Agreement (including the determination of compliance with any provision of this Agreement which requires that no Default or Event of Default has occurred, is continuing or would result therefrom) in connection with a Specified Transaction undertaken in connection with the consummation of a Limited Condition Acquisition, the date of determination of such ratio and determination of whether any Default or Event of Default has occurred, is continuing or would result therefrom or other applicable covenant shall, at the option of the Borrower (the Borrower's election to exercise such option in connection with any Limited Condition Acquisition, an "LCA Election"), be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the "LCA Test Date"), and if, after such ratios and other provisions are measured on a Pro Forma Basis after giving effect to such Limited Condition Acquisition and the other Specified Transactions to be entered into in connection therewith (including any incurrence or discharge of Indebtedness and the use of proceeds of such incurrence) as if they occurred at the beginning of the four consecutive fiscal quarter period being used to calculate such financial ratio ending prior to the LCA Test Date, the Borrower could have taken such action on the relevant LCA Test Date in compliance with such ratios and provisions, such provisions shall be deemed to have been complied with. For the avoidance of doubt, (x) if any of such ratios are exceeded as a result of fluctuations in such ratio, basket or amount (including due to fluctuations in Consolidated EBITDA or Total Assets of the Borrower and its Subsidiaries or the target of such Limited Condition Acquisition or any applicable currency exchange rate) at or prior to the consummation of the relevant Limited Condition Acquisition, such ratios, transactions or actions, such baskets, ratios or amounts and other provisions will not be deemed to have been exceeded as a result of such fluctuations solely for purposes of determining whether the Limited Condition Acquisition is permitted hereunder and (y) such ratios, transactions or actions, such baskets, ratios or amounts and other provisions shall not be tested at the time of consummation of such Limited Condition Acquisition or related Specified Transactions. If the Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket availability with respect to any other Specified Transaction on or following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated on a Pro Forma Basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated.

(c) Notwithstanding the foregoing, when calculating (i) the Secured Leverage Ratio for purposes of the definition of "Applicable Margin" and (ii) the Consolidated EBITDA for purposes of Section 6.11, the events described in Section 1.05(b) above that occurred subsequent to the end of the period shall not be made on a Pro Forma Basis.

(d) [Reserved].

(e) Notwithstanding anything to the contrary herein, at any time Consolidated Adjusted EBITDA is less than $0, there shall be no availability under any Secured Leverage Ratio or the Total Leverage Ratio test when determining if the Borrower may take any action permitted hereunder (including any incurrence of Indebtedness).

Section 1.06 Division. for all purposes under the loan documents, 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 equity interests at such time.

ARTICLE II

THE CREDITS

Section 2.01 Commitments.

(a) Subject to the terms and conditions set forth herein, (i) each Initial Revolving Lender holding an Initial Revolving Credit Commitment severally agrees to make Initial Revolving Loans to the Borrower in dollars from time to time during the Initial Revolving Availability Period in an aggregate principal amount that will not result in such Initial Revolving Lender's aggregate Initial Revolving Loans exceeding such Initial Revolving Lender's Initial Revolving Credit Commitment, (ii) each Extending Lender severally agrees to make Extended Revolving Loans to the Borrower in dollars from time to time during the applicable Revolving Availability Period in an aggregate principal amount that will not result in such Extending Lender's aggregate Extended Revolving Loans exceeding such Extending Lender's Extended Revolving Credit Commitment and (iii) each Incremental Revolving Lender severally agrees to make Incremental Revolving Loans to the Borrower in dollars from time to time during the applicable Revolving Availability Period in an aggregate principal amount that will not result in such Incremental Revolving Lender's aggregate Incremental Revolving Loans exceeding such Incremental Revolving Lender's Incremental Revolving Credit Commitment; provided, that after giving effect to the making of any Revolving Loans, in no event shall the Total Revolving Credit Exposure exceed the Revolving Credit Commitments then in effect. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans. Each Revolving Lender's Revolving Credit Commitment shall expire on the applicable Revolving Facility Maturity Date, and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Revolving Credit Commitments shall be paid in full no later than such date.

(b) Subject to the terms and conditions set forth herein (i) each Initial Term A Lender severally agrees to make Initial Term A Loans to the Borrower in dollars during the Initial Term A Availability Period in an amount not to exceed such Initial Term A Lender's Initial Term A Loan Commitment, and (ii) each Incremental Term Loan Lender with an Incremental Term Loan Commitment agrees to make Incremental Term Loans to the Borrower in dollars on the relevant borrowing date or during the relevant availability period in an amount equal to such Lender's applicable Incremental Term Loan Commitment. All such Term Loans shall be made on the applicable date by making immediately available funds available to the Administrative Agent's designated account or to such other account or accounts as may be designated in writing to the Administrative Agent by the Borrower, not later than the time specified by the Administrative Agent. The full amount of the Initial Term A Loan Commitments may be drawn in three separate drawings during the Initial Term A Availability Period. Amounts repaid or prepaid in respect of Term Loans may not be reborrowed. On each date of incurrence of any Initial Term A Loans (and after giving effect to the incurrence thereof), the Initial Term A Loan Commitment of each Initial Term A Lender shall be reduced by the aggregate principal amount of the Initial Term A Loan made by such Initial Term A Lender on such date. In addition, on the last day of the Initial Term A Availability Period (after giving effect to any incurrence of Initial Term A Loans on such day), the Initial Term A Loan Commitment of each Initial Term A Lender shall terminate (to the extent not theretofore terminated).

Section 2.02 Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans under the same Facility and of the same Type made by the Lenders ratably in accordance with their respective Commitments under such Facility. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required hereunder.

(b) Subject to Section 2.11, each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.11, 2.12, 2.13, 2.14, 2.16 and 2.18 shall apply to such Affiliate to the same extent as to such Lender); provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of $500,000 and not less than $1,000,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of $500,000; provided that an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Revolving Credit Commitments. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of twelve Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Eurodollar Borrowing if the Interest Period requested with respect thereto would end after the applicable Maturity Date.

Section 2.03 Requests for Borrowings. To request a Borrowing (other than a continuation or conversion, which is governed by Section 2.05), the Borrower shall notify the Administrative Agent of such request by telephone (or, by e-mail in accordance with Section 9.01): (a) in the case of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three (3) Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 10:00 a.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by e-mail, hand delivery or telecopy to the Administrative Agent of a written Borrowing Request substantially in the form of Exhibit B and signed by the Borrower. Each such telephonic, electronic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) the aggregate amount of the requested Borrowing;

(ii) the date of such Borrowing, which shall be a Business Day;

(iii) the Class of such Borrowing;

(iv) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;

(v) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(vi) the location and number of the Borrower's account or such other account or accounts designated in writing by the Borrower to which funds are to be disbursed, which shall comply with the requirements of Section 2.04(a).

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section 2.03, the Administrative Agent shall advise each applicable Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04 Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 12:00 noon, New York City time, at the Principal Office of the Administrative Agent. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower at the Principal Office designated by the Administrative Agent or to such other account or accounts as may be designated in writing to the Administrative Agent by the Borrower.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section 2.04 and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

Section 2.05 Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section 2.05. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section 2.05, the Borrower shall notify the Administrative Agent of such election by telephone (or, by e-mail in accordance with Section 9.01) by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic (or electronic) Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written Interest Election Request in substantially the form of Exhibit F and signed by the Borrower.

(c) Each telephonic, electronic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof or if outstanding Borrowings are being combined, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each applicable Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be continued as a Eurodollar Borrowing with an Interest Period of one month's duration. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.06 Termination and Reduction of Commitments.

(a) Unless previously terminated in accordance with the terms of this Agreement, (a) the Initial Revolving Credit Commitments shall terminate on the Initial Revolving Maturity Date, (b) the other Revolving Credit Commitments shall terminate on the applicable Revolving Facility Maturity Date, and (c) the Initial Term A Loan Commitments shall terminate on the Initial Term A Termination Date.

(b) The Borrower may at any time terminate or from time to time reduce the Revolving Credit Commitments and/or the Initial Term A Loan Commitments; provided that (i) each partial reduction of such Commitments shall be in an aggregate minimum amount and integral multiples of $5,000,000 and (ii) the Borrower shall only terminate or reduce the Revolving Credit Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.08, the Revolving Credit Commitments would be equal to or exceed the Total Revolving Credit Exposure at the time of such proposed termination or reduction.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section 2.06 at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. A notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or consummation of any other transaction, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of such Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the applicable Lenders in accordance with their respective Commitments.

(d) If, after giving effect to any reduction of the Revolving Credit Commitments, the Letter of Credit Sublimit exceeds the amount of the Revolving Credit Commitments, such sublimit shall be automatically reduced by the amount of such excess (including a corresponding reduction to each Issuing Bank's Letter of Credit Issuer Sublimit (ratably) unless otherwise agreed by the Borrower and each applicable Issuing Bank).

Section 2.07 Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the accounts of the applicable Lenders the then unpaid principal amount of each Borrowing no later than the applicable Maturity Date. Subject to adjustment pursuant to Section 2.08(i), the Borrower shall repay the Initial Term A Loans on each March 31, June 30, September 30 and December 31 to occur during the term of this Agreement (commencing on the last day of the first Fiscal Quarter ending after the date of the initial Borrowing of the Initial Term A Loans) and on the Initial Term A Facility Maturity Date or, if any such date is not a Business Day, on the next succeeding Business Day, in an aggregate principal amount of the then outstanding Initial Term A Loans equal to (i) on each repayment date on or prior to December 31, 2021, 1.25% and (ii) thereafter, 2.50%, in each case, of the aggregate principal amount of such Initial Term A Loans incurred during the Initial Availability Period as of such time, with the balance of all Initial Term A Loans incurred during the Initial Term A Availability Period payable on the Initial Term A Facility Maturity Date. In the event that any Other Term Loans are made, the Borrower shall repay such Other Term Loans on the dates and in the amounts set forth in the related Incremental Term Loan Amendment, Extension Amendment or Refinancing Amendment.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal and interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request by written notice to the Borrower (with a copy to the Administrative Agent) that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender (promptly after the Borrower's receipt of such notice) a promissory note payable to such Lender and its registered assigns and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the payee named therein and its registered assigns.

Section 2.08 Prepayment of Loans.

(a) The Borrower shall have the right at any time and from time to time to prepay (without premium or penalty) any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (d) of this Section 2.08, in a minimum amount equal to $1,000,000 or any integral multiple of $500,000 in excess thereof; provided that the foregoing shall not prohibit prepayment in an amount less than the denominations specified above if the amount of such prepayment constitutes the remaining outstanding balance of the Borrowing being prepaid.

(b) In the event and on each occasion that any Net Proceeds are received by the Borrower or any Restricted Subsidiary in respect of any Prepayment Event, the Borrower shall, within one (1) Business Day of the day such Net Proceeds are received (or, in the case of a Prepayment Event described in clause (a) or (b) of the definition of the term "Prepayment Event," within five (5) Business Days after such Net Proceeds are received by the Borrower or such Restricted Subsidiary), prepay the Initial Term A Loans in an amount equal to 100% of such Net Proceeds; provided that, in the case of any event described in clause (a) or (b) of the definition of the term "Prepayment Event," the Borrower or any Restricted Subsidiary may cause the Net Proceeds from such event (or a portion thereof) to be invested within 18 months after receipt by the Borrower or such Restricted Subsidiary of such Net Proceeds in the business of the Borrower and its Restricted Subsidiaries (including to consummate any Permitted Acquisition (or any other acquisition of all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person) permitted hereunder), in which case no prepayment shall be required pursuant to this paragraph in respect of the Net Proceeds from such event (or such portion of such Net Proceeds so invested) except to the extent of any such Net Proceeds that have not been so invested by the end of such 18-month period (or within a period of 180 days thereafter if by the end of such initial 18-month period the Borrower or one or more Restricted Subsidiaries shall have entered into an agreement or binding commitment to invest such Net Proceeds), at which time a prepayment shall be required in an amount equal to the Net Proceeds that have

not been so invested (and no prepayment shall be required to the extent the aggregate amount of such Net Proceeds that are not reinvested in accordance with this Section 2.08(b) does not exceed $5,000,000 in any fiscal year of Borrower); provided, further, that the Borrower may use a portion of such Net Proceeds to prepay or repurchase any other Indebtedness that is secured by the Collateral on a *pari passu* basis with the Loans to the extent such other Indebtedness and the Liens securing the same are permitted hereunder and the documentation governing such other Indebtedness requires such a prepayment or repurchase thereof with the proceeds of such Prepayment Event, in each case in an amount not to exceed the product of (x) the amount of such Net Proceeds and (y) a fraction, the numerator of which is the outstanding principal amount of such other Indebtedness and the denominator of which is the aggregate outstanding principal amount of Initial Term A Loans and such other Indebtedness.

(c) [Reserved].

(d) [Reserved].

(e) Prior to any optional or mandatory prepayment of Borrowings under this Section 2.08, the Borrower shall, subject to the next sentence, specify the Borrowing or Borrowings to be prepaid in the notice of such prepayment delivered pursuant to paragraph (g) of this Section 2.08. Mandatory prepayments shall be applied without premium or penalty. Notwithstanding the foregoing, any Initial Term A Lender may elect, by notice to the Administrative Agent by telephone (confirmed by hand delivery or facsimile) at least one Business Day (or such shorter period as may be established by the Administrative Agent) prior to the required prepayment date, to decline all or any portion of any prepayment of its Loans pursuant to this Section 2.08 (other than an optional prepayment pursuant to paragraph (a) of this Section 2.08 or a prepayment pursuant to clause (c) of the definition of "Prepayment Event," which may not be declined), in which case the aggregate amount of the payment that would have been applied to prepay Loans but was so declined may be retained by the Borrower.

(f) [Reserved].

(g) If at any time, the Total Revolving Credit Exposure exceeds the aggregate Revolving Credit Commitments then in effect, the Borrower shall forthwith prepay first, Revolving Loans, and second Cash Collateralize the outstanding amount of Letter of Credit Usage at the Agreed L/C Cash Collateral Amount, to the extent necessary so that the Total Revolving Credit Exposure shall not exceed the Revolving Credit Commitments then in effect (or, in the case of Letter of Credit Usage, such amounts are fully Cash Collateralized in compliance with the Agreed L/C Cash Collateral Amount).

(h) If, after giving effect to any prepayment of the Revolving Credit Commitments that results in a reduction of the Revolving Credit Commitments, the Letter of Credit Sublimit exceeds the amount of the Revolving Credit Commitments, such sublimit shall be automatically reduced by the amount of such excess (including a corresponding reduction to each Issuing Bank's Letter of Credit Issuer Sublimit (ratably) unless otherwise agreed by the Borrower and each applicable Issuing Bank).

(i) The Borrower shall notify the Administrative Agent by telephone (or by e-mail in accordance with Section 9.01 and in any event as confirmed by telecopy) of any prepayment of a Borrowing hereunder (i) in the case of prepayment of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three (3) Business Days before the date of such prepayment (or such later time as the Administrative Agent may agree), and (ii) in the case of prepayment of an ABR Borrowing, not later than 11:00 a.m., New York City time, one Business Day before the date of prepayment. Each such notice shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid. If a notice of optional prepayment is conditioned upon the effectiveness of other credit facilities or consummation of any other transaction or the occurrence of any event, then such notice of prepayment may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified

effective date) if such condition is not satisfied and/or such event has not occurred. Promptly following receipt of any such notice, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each prepayment of a Revolving Borrowing shall be applied ratably to the Revolving Loans included in the prepaid Revolving Borrowing and each prepayment of a Term Loan Borrowing pursuant to Section 2.08(a) shall be applied to the remaining scheduled payments of the applicable Term Loans included in the prepaid Term Loan Borrowing in such order as directed by the Borrower, but absent such direction, in direct order of maturity. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.10 and in the case of any prepayment of Eurodollar Loans pursuant to this Section 2.08 on any day prior to the last day of an Interest Period applicable thereto, the Borrower shall, promptly after receipt of a written request by any applicable Lender (which request shall set forth in reasonable detail the basis for requesting such amount) pay to the Administrative Agent for the account of such Lender any amounts required pursuant to Section 2.13. Each prepayment of Initial Term A Loans pursuant to Sections 2.08(b) shall be applied to the remaining scheduled amortization payments of the Initial Term A Loans in direct order of maturity.

(j) Notwithstanding the foregoing, if the Borrower reasonably determines in good faith that the payment of any amounts attributable to Foreign Subsidiaries that are required to be prepaid pursuant to Section 2.08(b) would result in material adverse tax consequences or are prohibited or delayed by any Requirement of Law (including financial assistance and corporate benefit restrictions and fiduciary and statutory duties of the relevant directors) from being repatriated to the Borrower, then the Borrower and its Restricted Subsidiaries shall not be required to prepay such amounts as required under Section 2.08(b) for so long as such material tax consequences exist or the applicable Requirement of Law will not permit repatriation to the Borrower, as applicable.

Section 2.09 Fees.

(a) The Borrower agrees to pay to Revolving Lenders (other than any Defaulting Lender):

(i) unused commitment fees equal to (A) the average of the daily difference between (1) the Revolving Credit Commitments and (2) the aggregate principal amount of (x) all outstanding Revolving Loans plus (y) the Letter of Credit Usage, multiplied by (B) the Applicable Revolving Commitment Fee Rate; and

(ii) a Letter of Credit participation fee equal to the Applicable Margin for Eurodollar Revolving Loans, multiplied by the average daily undrawn amount of the outstanding Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination).

All fees referred to in this Section 2.09(a) shall be paid to the Administrative Agent at its Principal Office and upon receipt, the Administrative Agent shall promptly distribute to each Revolving Lender its Revolving Pro Rata Share thereof.

(b) The Borrower agrees to pay directly to the applicable Issuing Bank, for its own account, the following fees:

(i) With respect to each Letter of Credit issued by such Issuing Bank, a fronting fee equal to a rate of 0.125% per annum, multiplied by the face amount of such Letter of Credit, for the period from the date of issuance of such Letter of Credit to the termination date of such Letter of Credit; and

(ii) such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with the applicable Issuing Bank's standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be.

(c) All fees referred to in Section 2.09(a) and Section 2.09(b) shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day) and shall be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year during the Revolving Availability Period, commencing on the first such date to occur after the Effective Date, and on the Revolving Facility Maturity Date.

(d) The Borrower agrees to pay, or cause to be paid, to the Administrative Agent, for the account of each Initial Term A Lender, an unused commitment fee equal to the amount of the unutilized Initial Term A Loan Commitment multiplied by the Initial Term A Commitment Fee Rate.

(e) All fees referred to in Section 2.09(d) shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day) and shall be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year during the Initial Term A Availability Period, commencing on the Effective Date, and on the Initial Term A Termination Date.

(f) [Reserved].

(g) The Borrower shall pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(h) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, in the case of commitment fees to the Lenders. Fees paid shall not be refundable under any circumstances.

Section 2.10 Interest.

(a) The Revolving Loans comprising each ABR Revolving Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Margin for ABR Revolving Loans. The Initial Term A Loans comprising each ABR Term Loan Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Margin for ABR Initial Term A Loans.

(b) The Revolving Loans comprising each Eurodollar Revolving Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin for Eurodollar Revolving Loans. The Initial Term A Loans comprising each Eurodollar Term Loan Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin for Eurodollar Initial Term A Loans.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs (a) and (b) of this Section 2.10 or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Initial Term A Loans as provided in paragraph (a) of this Section 2.10.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Revolving Credit Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section 2.10 shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Revolving Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

(f) The Borrower agrees to pay to the applicable Issuing Bank, with respect to drawings honored under any Letter of Credit, interest on the amount paid by such Issuing Bank in respect of each such honored drawing from the date such drawing is honored to but excluding the date such amount is reimbursed by or on behalf of the Borrower at a rate equal to (i) for the period from the date such drawing is honored to but excluding the applicable Reimbursement Date, the rate of interest otherwise payable hereunder with respect to ABR Revolving Loans, and (ii) thereafter, a rate which is 2% per annum in excess of the rate of interest otherwise payable hereunder with respect ABR Loans.

(g) Interest payable pursuant to Section 2.10(f) shall be computed on the basis of a 365/366 day year for the actual number of days elapsed in the period during which it accrues, and shall be payable on demand or, if no demand is made, on the date on which the related drawing under a Letter of Credit is reimbursed in full. Promptly upon receipt by the applicable Issuing Bank of any payment of interest pursuant to Section 2.10(f), such Issuing Bank shall distribute to the Administrative Agent, for the account of each Revolving Lender, out of the interest received by such Issuing Bank in respect of the period from the date such drawing is honored to but excluding the date on which such Issuing Bank is reimbursed for the amount of such drawing (including any such reimbursement out of the proceeds of any Loans), the amount that such Lender would have been entitled to receive in respect of the letter of credit fee that would have been payable in respect of such Letter of Credit for such period if no drawing had been honored under such Letter of Credit. In the event an Issuing Bank shall have been reimbursed by the Lenders for all or any portion of such honored drawing, such Issuing Bank shall distribute to the Administrative Agent, for the account of each Revolving Lender which has paid all amounts payable by it under Section 2.21(e) with respect to such honored drawing such Revolving Lender's Revolving Pro Rata Share of any interest received by such Issuing Bank in respect of that portion of such honored drawing so reimbursed by the Revolving Lenders for the period from the date on which such Issuing Bank was so reimbursed by the Revolving Lenders to but excluding the date on which such portion of such honored drawing is reimbursed by the Borrower.

Section 2.11 Alternate Rate of Interest. If at any time (i) the Administrative Agent determines in good faith (which determination shall be conclusive absent manifest error) or (ii) the Borrower or Required Lenders notify the Administrative Agent in writing (with, in the case of the Required Lenders, a copy to Borrower) that the Borrower or Required Lenders (as applicable) have determined that a LIBOR Discontinuance Event has occurred, then, at or promptly after the LIBOR Discontinuance Event Time, the Administrative Agent and Borrower shall endeavor to establish an alternate benchmark rate to replace the LIBO Rate under this Agreement, together with any spread or adjustment to be applied to such alternate benchmark rate to account for the effects of transition from the LIBO Rate to such alternate benchmark rate, giving due consideration to the then prevailing market convention for determining a rate of interest (including the application of a spread and the making of other appropriate adjustments to such alternate benchmark rate and this Agreement to account for the effects of transition from LIBO Rate to such replacement benchmark, including any changes necessary to reflect the available interest periods and timing for determining such alternate benchmark rate) for syndicated leveraged loans of this type in the United States at such time and any recommendations (if any) therefor by a Relevant Governmental Sponsor, *provided* that any such alternate benchmark rate and adjustments shall be required to be commercially practicable for the Administrative Agent to administer (as determined by the Administrative Agent in its sole discretion) (any such rate, the "Successor LIBOR Rate").

After such determination that a LIBOR Discontinuance Event has occurred, promptly following the LIBOR Discontinuance Event Time, the Administrative Agent and the Borrower shall enter into an amendment to this Agreement to reflect such Successor LIBOR Rate and such other related changes to this Agreement as may be necessary or appropriate, as the Administrative Agent may determine in good faith (which determination shall be conclusive absent manifest error), to implement and give effect to the Successor LIBOR Rate under this Agreement on the LIBOR Replacement Date and, notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective for each Class of Loans and Lenders without any further action or consent of any other party to this Agreement on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders do not accept such amendment; *provided*, that if a Successor LIBOR Rate has not been established pursuant to the foregoing, at the option of the Borrower, the Borrower and the Required Lenders may select a different Successor LIBOR Rate that is commercially practicable for the Administrative Agent to administer (as determined by the Administrative Agent in its sole discretion) and, upon not less than 15 Business Days' prior written notice to the Administrative Agent, the Administrative Agent, such Required Lenders and the Borrower shall enter into an amendment to this Agreement to reflect such Successor LIBOR Rate and such other related changes to this Agreement as may be applicable and, notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective without any further action or consent of any other party to this Agreement; provided, further, that if no Successor LIBOR Rate has been determined pursuant to the foregoing and a Scheduled Unavailability Date (as defined in the definition of LIBOR Discontinuance Event) has occurred, the Administrative Agent will promptly so notify the Borrower and each Lender and thereafter, until such Successor LIBOR Rate has been determined pursuant to this paragraph, (i) any request for Borrowing, the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and (ii) all outstanding Borrowings shall be converted to an ABR Borrowing until a Successor LIBOR Rate has been chosen pursuant to this paragraph. Notwithstanding anything else herein, any definition of Successor LIBOR Rate shall provide that in no event shall such Successor LIBOR Rate be less than zero for purposes of this Agreement.

Section 2.12 Increased Costs

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(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate);

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of "Excluded Taxes" and (C) Connection Income Taxes) with respect to its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender; and the result of any of the foregoing shall be to increase the cost to such Lender or to such other Recipient of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender or such other Recipient hereunder (whether of principal, interest or any other amount), then, within 10 days following request of such Lender or such other Recipient, the

Borrower will pay to such Lender or such other Recipient (accompanied by a certificate in accordance with paragraph (c) of this Section 2.12), as the case may be, such additional amount or amounts as will compensate such Lender or other Recipient, as the case may be, for such additional costs incurred or reduction suffered; provided that such Person shall only be entitled to seek such additional amounts if such Person is generally seeking the payment of similar additional amounts from similarly situated borrowers in comparable credit facilities to the extent it is entitled to do so.

(b) If any Lender determines that any Change in Law affecting such Lender or any lending office of such Lender or such Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered within 10 days following request of such Lender (accompanied by a certificate in accordance with paragraph (c) of this Section 2.12); provided that such Person shall only be entitled to seek such additional amounts if such Person is generally seeking the payment of similar additional amounts from similarly situated borrowers in comparable credit facilities to the extent it is entitled to do so.

(c) A certificate of a Lender setting forth in reasonable detail the basis for and computation of the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section 2.12 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 2.12 shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to this Section 2.12 for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.13 Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto, or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.16, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event (but not lost profits) within 10 days following request of such Lender (accompanied by a certificate described below in this Section 2.13). In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that

would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate that such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth in reasonable detail the basis for and computation of any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.13 shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.14 Taxes.

(a) Payments Free of Taxes. All payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable Requirements of Law. If any applicable Requirements of Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Requirements of Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding for Indemnified Taxes has been made (including such deductions and withholdings for Indemnified Taxes applicable to additional sums payable under this Section 2.14) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Loan Parties. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable Requirements of Law, or at the option of the Administrative Agent timely reimburse it for, the payment of Other Taxes.

(c) Indemnification by the Loan Parties. The Loan Parties shall jointly and severally indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.14) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (d).

(e) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.14, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of any applicable withholding Tax with respect to any payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Requirements of Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), an executed copy of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding Tax;

(B) any Foreign Lender shall, to the extent it is legally eligible to do so, deliver to the Borrower and the Administrative Agent on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax;

(2) an executed copy of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit F-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) an executed copy of IRS Form W-8BEN or W-8BEN-E, as applicable; or

(4) to the extent a Foreign Lender is not the beneficial owner (e.g., where the Lender is a partnership or a participating Lender), executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-2 or Exhibit F-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit F-4 on behalf of such direct and indirect partner(s);

(C) any Foreign Lender shall, to the extent it is legally eligible to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Requirements of Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Recipient under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by applicable Requirements of Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Requirements of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (d), "FATCA" shall include any amendments made to FATCA after the Effective Date.

At the time or times reasonably requested by Borrower, the Administrative Agent shall (A) if the Administrative Agent is a U.S. Person, deliver an IRS Form W-9 to Borrower, or (B) if the Administrative Agent is not a U.S. Person, deliver the applicable IRS Form W-8 certifying Administrative Agent's exemption from, or reduction of, U.S. withholding Taxes with respect to amounts payable hereunder.

Each Recipient agrees that if any documentation it previously delivered pursuant to this Section 2.14(f) expires or becomes obsolete or inaccurate in any respect, it shall update such documentation or promptly notify the Borrower and the Administrative Agent in writing of its legal ineligibility to do so.

Each Lender hereby authorizes the Administrative Agent to deliver to the Loan Parties and to any successor Administrative Agent any documentation provided by such Lender pursuant to this Section 2.14(f).

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any of the Loan Parties or with respect to which any Loan Party has paid additional amounts pursuant to this Section 2.14, it shall pay to the indemnifying Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.14 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the indemnifying Loan Party, upon the request of the Administrative Agent or such Lender agrees to repay the amount paid over to indemnifying Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying Loan Party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph (g) shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying Loan Party or any other Person.

(h) Survival. Each party's obligations under this Section 2.14 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(i) Defined Terms. For purposes of this Section 2.14, the term "Lender" includes any Issuing Bank and the term "Requirements of Law" includes FATCA.

Section 2.15 Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or of amounts payable under Section 2.12, 2.13 or 2.14, or otherwise) prior to the time expressly required hereunder for such payment or, if no such time is expressly required, prior to 12:00 noon, New York City time, on the date when due, in immediately available funds, without set-off or counterclaim at the Principal Office of the Administrative Agent for the account of Lenders. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day solely for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at the applicable account specified in Schedule 2.15 or, in any such case, to such other account as the Administrative Agent shall from time to time specify in a notice delivered to the Borrower, except that payments pursuant to Sections 2.12, 2.13, 2.14 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans, resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation. For purposes of subclause (b) of the definition of "Excluded Taxes," a Lender that acquires a participation pursuant to this Section 2.15(c) shall be treated as having acquired such participation on the earlier date(s) on which such Lender acquired the applicable interest(s) in the Commitment(s) and/or Loan(s) to which such participation relates.

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04, 2.15(d) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

(f) Any proceeds of any Collateral securing the Secured Obligations in connection with any enforcement or any bankruptcy or insolvency proceeding shall be applied, subject to any applicable Intercreditor Agreement, ratably first, to pay any fees, indemnities, or expense reimbursements including amounts then due to the Agents from the Loan Parties, second, to pay any fees or expense reimbursements then due to the Lenders from the Loan Parties, third, to pay interest and commitment fees

then due and payable hereunder ratably, fourth, to prepay principal on the Loans and to pay any amounts owing with respect to the Secured Cash Management Agreements and Secured Hedge Agreements, ratably (with amounts applied to any such Term Loans applied to installments of the Term Loans ratably in accordance with the then outstanding amounts thereof), fifth, to the payment of any other Secured Obligation due to any Secured Party, and sixth, after all of the Secured Obligations (other than contingent indemnification obligations not yet due and owing) have been paid in full (including the payment of amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code), to the Borrower.

Notwithstanding the foregoing in this Section 2.15(f), amounts received from any Loan Party shall not be applied to any Excluded Swap Obligation of such Loan Party.

Section 2.16 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.12, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, then such Lender shall (at the request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.12 or 2.14, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower shall pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment within 10 days following request of such Lender (accompanied by reasonable back-up documentation relating thereto).

(b) If any Lender requests compensation under Section 2.12, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with paragraph (a) above, or if any Lender is a Defaulting Lender, a Non-Consenting Lender or any Lender refuses to make an Extension Election pursuant to Section 2.19, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments made pursuant to Sections 2.12 and 2.14) and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent of the Administrative Agent to the extent such consent would be required under Section 9.04(b) for an assignment of the applicable Loans or Commitments, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the Eligible Assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.12 or payments required to be made pursuant to Section 2.14, such assignment will result in a reduction in such compensation or payments and (iv) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable Eligible Assignee shall have consented to the applicable amendment, waiver or consent. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Section 2.17 Incremental Commitments.

(a) At any time prior to the Latest Maturity Date, the Borrower may, by written notice to the Administrative Agent (which the Administrative Agent shall promptly furnish to each Lender), request that one or more Persons (which may include the then-existing Lenders; provided that no Lender shall be obligated to provide such Incremental Commitments and may elect or decline in its sole discretion to provide Incremental Commitments) establish Incremental Revolving Credit Commitments or Incremental Term Loans under this paragraph (a), it being understood that (w) if such Incremental Term Loan Commitment is to be provided by a Person that is not already a Lender, the Administrative Agent shall have consented to such Person being a Lender hereunder to the extent such consent would be required pursuant to Section 9.04(b) in the event of an assignment to such Person (such consent not to be unreasonably withheld), (x) if such Incremental Revolving Credit Commitment is to be provided by a Person that is not already a Revolving Lender, the Administrative Agent and each Issuing Bank shall have consented to such Person being a Lender hereunder to the extent such consent would be required pursuant to Section 9.04(b) in the event of an assignment to such Person (such consent not to be unreasonably withheld) and (y) the Borrower may agree to accept less than the amount of any proposed Incremental Commitment; provided that the minimum aggregate principal amount accepted shall equal the lesser of (i) $10,000,000 or (ii) the aggregate Incremental Commitments proposed to be provided in response to the Borrower's request. The minimum aggregate principal amount of any Incremental Commitment shall be $10,000,000, (or such lesser amount as may be agreed by the Administrative Agent). In no event shall the aggregate amount of all Incremental Commitments pursuant to this paragraph (a) (when taken together with any Incremental Equivalent Debt incurred prior to such date) exceed an amount equal to the sum of: (i) (x) $50,000,000, plus (y) an amount equal to 1.0x of Consolidated EBITDA for the most recently completed four fiscal quarter period for which financial statements are required to be delivered pursuant to Sections 5.01(a) or (b) prior to the date of the incurrence of such Incremental Commitment, plus (z) an amount up to $75,000,000; *provided*, any such amount under this clause (i)(z) is incurred within 90 days following the Effective Date (the "Post-Closing Period"), (ii) the aggregate principal amount of (x) voluntary prepayments of the Term Loans and any Incremental Equivalent Debt and (y) voluntary prepayments of any Revolving Loans to the extent accompanied by a dollar-for-dollar permanent reduction in the Revolving Credit Commitments with respect thereto, in each case under clauses (x) and (y), other than prepayments from proceeds of Long-Term Indebtedness and (iii) any additional amount so long as on the date of incurrence of such Incremental Commitment (subject to the terms of Section 2.17(b) below), in the case of this clause (iii), the Secured Leverage Ratio does not exceed 1.50 to 1.00 on a Pro Forma Basis (assuming the full amount available thereunder and, prior to the Initial Term A Termination Date, any unused Initial Term A Loan Commitments are drawn and without netting the cash proceeds thereof) with any Incremental Equivalent Debt under Section 6.01(h) being deemed to constitute Indebtedness secured on a pari passu basis with the Term Facilities for the purposes of calculating the Secured Leverage Ratio even if unsecured. The Borrower shall be deemed to have utilized the amounts under clause (ii) prior to using the amounts under clause (i) or (iii) and the Borrower shall be deemed to have utilized the amounts under clause (iii) (to the extent compliant therewith) prior to utilization of the amounts under clause (i). The Borrower may arrange for one or more banks or other financial institutions, which may include any Lenders, to extend Revolving Credit Commitments, provide Incremental Term Loans or increase their applicable existing Term Loans in an aggregate amount equal to the amount of the Incremental Commitment. In the event that one or more of such Persons offer to enter into such Revolving Credit Commitments, subject to satisfaction of the other conditions set forth herein, such Persons, each Issuing Bank and the Administrative Agent shall execute and deliver an Incremental Assumption Agreement. Incremental Term Loans may be made hereunder pursuant to an amendment, supplement or amendment and restatement (an "Incremental Term Loan Amendment") of this Agreement and, as appropriate, the other Loan Documents, executed by Loan Parties, each Lender participating in such tranche, each Person joining this Agreement as Lender by participation in such tranche, if any, and the Administrative Agent. Each Incremental Assumption Agreement and each Incremental Term Loan Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Borrower and the Administrative Agent, to effect the provisions of this Section 2.17.

Notwithstanding the foregoing, no Incremental Revolving Credit Commitments or Incremental Term Loans shall become effective under this Section 2.17 unless on the proposed date of the effectiveness of such Incremental Commitment (i) the Administrative Agent shall have received a certificate dated such date and executed by a Responsible Officer of the Borrower that, subject to the proviso set forth below, the conditions set forth in paragraphs (a) and (c) of Section 4.02 shall have been satisfied, (ii) the Administrative Agent shall have received documents from the Borrower consistent with those delivered on the Effective Date as to the organizational power and authority of the Borrower to borrow hereunder after giving effect to such Incremental Commitment and (iii) the Administrative Agent shall have received customary legal opinions or other certificates reasonably requested by the it in connection with any such transaction; provided that, with respect to any Incremental Commitment incurred for the primary purpose of financing a Limited Condition Acquisition ("Acquisition-Related Incremental Commitments"), clause (i) of this sentence shall be deemed to have been satisfied so long as (1) as of the date of effectiveness of the related Limited Condition Acquisition Agreement, no Event of Default or Default is in existence or would result from entry into such Limited Condition Acquisition Agreement, (2) as of the date of the initial borrowing pursuant to such Acquisition-Related Incremental Commitment, no Event of Default under clause (a), (b), (h) or (i) of Section 7.01 is in existence immediately before or immediately after giving effect (including on a Pro Forma Basis) to such borrowing and to any concurrent transactions and any substantially concurrent use of proceeds thereof, (3) the representations and warranties set forth in Article III shall be true and correct in all material respects (or in all respects if qualified by materiality) as of the date of effectiveness of the applicable Limited Condition Acquisition Agreement and (4) as of the date of the initial borrowing pursuant to such Acquisition-Related Incremental Commitment, customary "Sungard" representations and warranties (with such representations and warranties to be reasonably determined by the Administrative Agent and the Borrower) shall be true and correct in all material respects (or in all respects if qualified by materiality) immediately prior to, and immediately after giving effect to, the incurrence of such Acquisition-Related Incremental Commitment. Nothing contained in this Section 2.17 shall constitute, or otherwise be deemed to be, a commitment on the part of any Lender to increase its Revolving Credit Commitment hereunder, or provide Incremental Term Loans, at any time.

(b) The Loan Parties and each Incremental Term Loan Lender and/or Incremental Revolving Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement or Incremental Term Loan Amendment, as applicable, and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Term Loan Commitment of such Incremental Term Loan Lender and/or Incremental Revolving Credit Commitment of such Incremental Revolving Lender. Each Incremental Assumption Agreement or Incremental Term Loan Amendment, as applicable, shall specify the terms of the applicable Incremental Term Loans and/or Incremental Revolving Credit Commitments; provided that:

(i) any commitments to make Incremental Term Loans in the form of additional Initial Term A Loans shall have the same terms as the Initial Term A Loans, and shall form part of the same Class of Initial Term A Loans,

(ii) any commitments to make Incremental Revolving Loans shall have the same terms as the Initial Revolving Loans and shall form part of the same Class of Initial Revolving Loans,

(iii) any commitments to make Term Loans with pricing, maturity, amortization and/or other terms different from the Initial Term A Loans ("Other Incremental Term Loans") shall be subject to compliance with clauses (iv) through (viii) below,

(iv) the Other Incremental Term Loans incurred pursuant to clause (a) of this Section 2.17 shall be secured by Liens that rank equal in priority with the Liens securing the existing Loans,

(v) (i) the final maturity date of any such Other Incremental Term Loans shall be no earlier than the Latest Maturity Date applicable to Term Loans in effect at the date of incurrence of such Other Incremental Term Loans, and, except as to pricing, amortization, final maturity date and ranking as to security (which shall, subject to the other clauses of this proviso, be determined by the Borrower and the Incremental Term Loan Lenders in their sole discretion), the Other Incremental Term Loans shall have terms, to the extent not consistent with the Initial Term A Loans, that are not more favorable, taken as a whole, to the lenders providing such Incremental Term Loans than the terms of the Initial Term A Loans and (ii) for purposes of prepayments, Other Incremental Term Loans shall be treated substantially the same as (and in any event no more favorably than) the Initial Term A Loans,

(vi) the Weighted Average Life to Maturity of any such Other Incremental Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the then outstanding Term Loans with the longest remaining Weighted Average Life to Maturity,

(vii) there shall be no borrower (other than the Borrower) or guarantor (other than the Guarantors) in respect of any Incremental Term Loan Commitments or Incremental Revolving Credit Commitments,

(viii) Other Incremental Term Loans and Incremental Revolving Credit Commitments shall not be secured by any asset of the Borrower or its Subsidiaries other than the Collateral, and

(ix) the interest rate margins and (subject to clause (v) above) amortization schedule applicable to the Loans made pursuant to the Incremental Commitments shall be determined by the Borrower and the applicable Incremental Revolving Lenders or Incremental Term Loan Lenders; provided that in the event that the All-in Yield for any Incremental Term Loan incurred by the Borrower under any Incremental Term Loan Commitment is higher than the All-in Yield for the outstanding Initial Term A Loans hereunder immediately prior to the incurrence of the applicable Incremental Term Loans by more than (x) if such incurrence occurs during the Post-Closing Period, 0 basis points or (y) thereafter, 50 basis points, then the effective interest rate margin for the Initial Term A Loans at the time such Incremental Term Loans are incurred shall be increased to the extent necessary so that the All-in Yield for the Initial Term A Loans is equal to the All-in Yield for such Incremental Term Loans minus (x) if such incurrence occurs during the Post-Closing Period, 0 basis points or (y) thereafter, 50 basis points.

Each party hereto hereby agrees that, upon the effectiveness of any Incremental Assumption Agreement or Incremental Term Loan Amendment, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Loan Commitments and/or Incremental Revolving Credit Commitments evidenced thereby as provided for in Section 9.02. Any amendment to this Agreement or any other Loan Document that is necessary to effect the provisions of this Section 2.17 and any such Collateral and other documentation shall be deemed "Loan Documents" hereunder and may be memorialized in writing by the Administrative Agent with the Borrower's consent (not to be unreasonably withheld) and furnished to the other parties hereto; provided, that, notwithstanding anything to the contrary in this Section 2.17, during the Post-Closing Period, to the extent such terms and documentation are not consistent with the Initial Term A Facility or the Initial Revolving Facility, as the case may be (except to the extent permitted by clauses (v) and (ix)), such terms (if favorable to the Lenders hereunder immediately prior to such incurrence) shall be, in consultation with the Administrative Agent, incorporated into the Loan Documents for the benefit of all Lenders hereunder

immediately prior to such incurrence without further amendment requirements. Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be reasonably necessary to ensure that (i) all Incremental Term Loans (other than Other Incremental Term Loans), when originally made, are included in each Borrowing of the outstanding applicable Class of Term Loans on a pro rata basis, and (ii) all Revolving Loans in respect of Incremental Revolving Credit Commitments, when originally made, are included in each Borrowing of the applicable Class of outstanding Revolving Loans on a pro rata basis.

Notwithstanding anything to the contrary, this Section 2.17 shall supersede any provisions in Section 2.15 or Section 9.02 to the contrary.

Section 2.18 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders."

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *third*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement; *fourth*, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *fifth*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *sixth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans and funded are held by the Lenders pro rata in accordance with the Commitments hereunder. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees. No Defaulting Lender shall be entitled to receive any commitment fee pursuant to Section 2.09(a) or (d) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(b) Letter of Credit Usage. If any Letter of Credit Usage exists at the time a Revolving Lender becomes a Defaulting Lender then:

(i) all or any part of the Letter of Credit Usage of such Defaulting Lender shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Revolving Applicable Percentages but only to the extent that (x) the sum of all Non-Defaulting Lenders' Revolving Credit Exposures plus such Defaulting Lender's Letter of Credit Usage does not exceed the total of all Non-Defaulting Lenders' Revolving Credit Commitments, and (y) the sum of any Non-Defaulting Lender's Revolving Credit Exposure plus its Revolving Pro Rata Share of such Defaulting Lender's Letter of Credit Usage does not exceed such Non-Defaulting Lender's Revolving Credit Commitment; provided, subject to Section 9.19, that no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Revolving Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, within one Business Day following notice by Administrative Agent, Cash Collateralize for the benefit of each applicable Issuing Bank only the Borrower's obligations corresponding to such Defaulting Lender's Letter of Credit Usage (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.21(i) for so long as such Letter of Credit Usage is outstanding;

(iii) if the Borrower Cash Collateralizes any portion of such Defaulting Lender's Letter of Credit Usage pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.09(a) or (d) with respect to such Defaulting Lender's Letter of Credit Usage during the period such Defaulting Lender's Letter of Credit Usage is Cash Collateralized;

(iv) if all or any portion of such Defaulting Lender's Letter of Credit Usage is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.09(a) and (d) shall be adjusted in accordance with such Non-Defaulting Lenders' Revolving Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's Letter of Credit Usage is neither reallocated nor Cash Collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Revolving Lender hereunder, all letter of credit fees payable under Section 2.09(a) with respect to such Defaulting Lender's Letter of Credit Usage that is not so reallocated or Cash Collateralized shall be payable to the applicable Issuing Bank until and to the extent that such Letter of Credit Usage is reallocated and/or Cash Collateralized.

(c) Letter of Credit Issuance. So long as any Revolving Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding Letter of Credit Usage will be 100% covered by the Revolving Credit Commitments of the Non-Defaulting Lenders and/or Cash Collateral will be provided by the Borrower in accordance with Section 2.18(b)(ii), and participating interests in any newly issued or increased Letter of Credit shall be allocated among Non-Defaulting Lenders in a manner consistent with Section 2.18(b)(i) (and such Defaulting Lender shall not participate therein).

(d) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans of the applicable Class to be held pro rata by the Lenders in accordance with the Commitments of such Class, whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(e) Termination of a Defaulting Lender. The Borrower may terminate the unused amount of the Commitment of any Revolving Lender that is a Defaulting Lender upon not less than two (2) Business Days' prior notice to the Administrative Agent (which shall promptly notify the Lenders thereof), and in such event the provisions of Section 2.18(a)(ii) will apply to all amounts thereafter paid by the Borrower for the account of such Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity or other amounts); provided that (i) no Event of Default shall have occurred and be continuing, and (ii) such termination shall not be deemed to be a waiver or release of any claim the Borrower, the Administrative Agent or any Lender may have against such Defaulting Lender.

(f) If (i) a Bankruptcy Event with respect to a holding company of any Revolving Lender shall occur following the date hereof and for so long as such event shall continue or (ii) an Issuing Bank has a good faith belief that any Revolving Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Revolving Lender commits to extend credit, the applicable Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless such Issuing Bank shall have entered into arrangements with the Borrower or such Revolving Lender, reasonably satisfactory to such Issuing Bank to defease any risk to it in respect of such Revolving Lender hereunder.

(g) In the event that the Administrative Agent, the Borrower and each of the Issuing Banks each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Letter of Credit Usage of the Lenders shall be readjusted to reflect the inclusion of such Revolving Lender's Revolving Credit Commitment and on such date such Revolving Lender shall purchase at par such of the Loans of the other Revolving Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Revolving Applicable Percentage.

Section 2.19 Extensions of Loans and Commitments.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers made from time to time by the Borrower to all Lenders of any Class of Term Loans and/or Revolving Credit Commitments on a pro rata basis (based, in the case of an offer to the Lenders under any Class of Term Loans, on the aggregate outstanding Term Loans of such Class and, in the case of an offer to the Lenders under any Revolving Facility, on the aggregate outstanding Revolving Credit Commitments under such Revolving Facility, as applicable), and on the same terms to each such Lender ("Pro Rata Extension Offers"), the Borrower is hereby permitted to consummate transactions with individual Lenders that agree to such transactions from time to time to extend the maturity date of such Lender's Loans and/or Commitments of such Class and to otherwise modify the terms of such Lender's Loans and/or Commitments of such Class pursuant to the terms of the relevant Pro Rata Extension Offer (including, without limitation, increasing the interest rate or fees payable in respect of such Lender's Loans and/or Commitments and/or modifying the amortization schedule in respect of such Lender's Loans); provided that any Lender offered or approached to provide an Extension (as defined below), may elect to or decline in its sole discretion to provide an Extension. For the avoidance of doubt, the reference

to "on the same terms" in the preceding sentence shall mean, (i) in the case of an offer to the Lenders under any Class of Term Loans, that all of the Term Loans of such Class are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same and (ii) in the case of an offer to the Lenders under any Revolving Facility, that all of the Revolving Credit Commitments of such Facility are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same. Any such extension (an "Extension") agreed to between the Borrower and any such Lender (an "Extending Lender") will be established under this Agreement by implementing an Other Term Loan for such Lender if such Lender is extending an existing Term Loan (such extended Term Loan, an "Extended Term Loan") or an Other Revolving Credit Commitment for such Lender if such Lender is extending an existing Revolving Credit Commitment (such extended Revolving Credit Commitment, an "Extended Revolving Credit Commitment," and any Revolving Loan made pursuant to such Extended Revolving Credit Commitment, an "Extended Revolving Loan"). Each Pro Rata Extension Offer shall specify the date on which the Borrower proposes that the Extended Term Loan shall be made or the proposed Extended Revolving Credit Commitment shall become effective (the "Extension Election"), which shall be a date not earlier than five (5) Business Days after the date on which notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion).

(b) The Borrower and each Extending Lender shall execute and deliver to the Administrative Agent an amendment to this Agreement (an "Extension Amendment") and such other documentation as the Administrative Agent shall reasonably specify to evidence the Extended Term Loans and/or Extended Revolving Credit Commitments of such Extending Lender. Each Extension Amendment shall specify the terms of the applicable Extended Term Loans and/or Extended Revolving Credit Commitments; provided, that (i) no Default shall have occurred and be continuing at the time the offering document in respect of a Pro Rata Extension Offer is delivered to the Lenders, (ii) the representations and warranties set forth in Article III shall be true and correct in all material respects (or in all respects if qualified by materiality) as of the date of effectiveness of the Extension Amendment, (iii) except as to interest rates, fees and any other pricing terms, and amortization, final maturity date and participation in prepayments and commitment reductions (which shall, subject to clauses (iv) and (v) of this proviso, be determined by the Borrower and set forth in the Pro Rata Extension Offer), the Extended Term Loans shall have (x) the same terms as the existing Class of Term Loans from which they are extended or (y) such other terms as shall be reasonably satisfactory to the Administrative Agent, (iv) the final maturity date of any Extended Term Loans shall be no earlier than the latest Term Facility Maturity Date in effect on the date of incurrence, (v) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Class of Term Loans to which such offer relates and (vi) except as to interest rates, fees, any other pricing terms and final maturity (which shall be determined by the Borrower and set forth in the Pro Rata Extension Offer), any Extended Revolving Credit Commitment shall have (w) the same terms as the existing Class of Revolving Credit Commitments from which they are extended, (x) have such other terms as shall be reasonably satisfactory to the Administrative Agent (in consultation with the other Revolving Lenders) and (y) require the consent of each Issuing Bank (such consent not to be unreasonably withheld, delayed or conditioned), to the extent the Extension Amendment provides for participations in Letters of Credit expiring on or after the scheduled Revolving Facility Maturity Date in respect of the existing Revolving Loans or existing Revolving Credit Commitments to be reallocated to Revolving Lenders holding Extended Revolving Credit Commitments in accordance with the terms of such Extension Amendment. Upon the effectiveness of any Extension Amendment, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Extended Term Loans and/or Extended Revolving Credit Commitments evidenced thereby as provided for in Section 9.02. Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrower's consent (not to be unreasonably withheld) and furnished to the other parties hereto. In connection with any Extension Amendment, the Administrative Agent shall have received customary legal opinions or other certificates reasonably requested by it in connection with any such transaction.

(c) Upon the effectiveness of any such Extension, the applicable Extending Lender's Term Loan will be automatically designated an Extended Term Loan and/or such Extending Lender's Revolving Credit Commitment will be automatically designated an Extended Revolving Credit Commitment.

(d) Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.19), (i) the aggregate amount of Extended Term Loans and Extended Revolving Credit Commitments will not be included in the calculation of the aggregate amount of all Incremental Commitments pursuant to clause (a) of Section 2.17 to the extent such Loans and Commitments in connection with such Extension Amendment were not incurred thereunder, (ii) no Extended Term Loan or Extended Revolving Credit Commitment is required to be in any minimum amount or any minimum increment, (iii) any Extending Lender may extend all or any portion of its Term Loans and/or Revolving Credit Commitment pursuant to one or more Pro Rata Extension Offers (subject to applicable proration in the case of over participation) (including the extension of any Extended Term Loan and/or Extended Revolving Credit Commitment), (iv) there shall be no condition to any Extension of any Loan or Commitment at any time or from time to time other than notice to the Administrative Agent of such Extension and the terms of the Extended Term Loan or Extended Revolving Credit Commitment implemented thereby, (v) all Extended Term Loans, Extended Revolving Credit Commitments and all obligations in respect thereof shall be Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents that rank equally and ratably in right of security with all other Obligations of the Class being extended and (vi) there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantors) in respect of any such Extended Term Loans or Extended Revolving Credit Commitments.

(e) Each Extension shall be consummated pursuant to procedures set forth in the associated Pro Rata Extension Offer; provided, that the Borrower shall cooperate with the Administrative Agent prior to making any Pro Rata Extension Offer to establish reasonable procedures with respect to mechanical provisions relating to such Extension, including, without limitation, timing, rounding and other adjustments.

Notwithstanding anything to the contrary, this Section 2.19 shall supersede any provisions in Section 2.15 or Section 9.02 to the contrary.

Section 2.20 Refinancing Amendments.

(a) Notwithstanding anything to the contrary in this Agreement, the Borrower may by written notice to the Administrative Agent establish one or more additional tranches of term loans under this Agreement (such loans, "Refinancing Term Loans") or Refinancing Notes pursuant to procedures reasonably specified by the Administrative Agent and reasonably acceptable to the Borrower, all Net Proceeds of which are used to refinance in whole or in part any Class of Term Loans. Each such notice shall specify the date (each, a "Refinancing Effective Date") on which the Borrower proposes that the Refinancing Term Loans or Refinancing Notes shall be made, which shall be a date not earlier than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its sole discretion); provided, that:

(i) immediately before and immediately after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date each of the conditions set forth in Section 4.02 shall be satisfied;

(ii) the final maturity date of the Refinancing Term Loans or Refinancing Notes shall be no earlier than the Term Facility Maturity Date of the refinanced Term Loans;

(iii) the Weighted Average Life to Maturity of such Refinancing Term Loans shall be no shorter than the then-remaining Weighted Average Life to Maturity of the refinanced Term Loans;

(iv) the aggregate principal amount of the Refinancing Term Loans or Refinancing Notes shall not exceed the outstanding principal amount of the refinanced Term Loans plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith;

(v) all other terms applicable to such Refinancing Term Loans or Refinancing Notes (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms and optional prepayment or mandatory prepayment or redemption terms, which shall be as agreed between the Borrower and the Lenders providing such Refinancing Term Loans) taken as a whole shall (as determined by the Borrower in good faith) be substantially similar to, or not materially less favorable to the Borrower and its Subsidiaries than, the terms, taken as a whole, applicable to the Initial Term A Loans (except to the extent such covenants and other terms apply solely to any period after the then applicable Latest Maturity Date or are otherwise reasonably acceptable to the Administrative Agent); provided that any such Refinancing Term Loans or Refinancing Notes may contain any financial maintenance covenants, so long as any such covenant shall not be more restrictive to the Borrower than (or in addition to) those applicable to the Term Loans or Revolving Credit Commitments then outstanding (unless such covenants are also added for the benefit of the Lenders, which shall not require consent of the Lenders holding the Term Loans or Revolving Credit Commitments then outstanding and which the Administrative Agent shall add to this Agreement effective on such Refinancing Effective Date);

(vi) there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantors) in respect of such Refinancing Term Loans and Refinancing Notes;

(vii) Refinancing Term Loans and Refinancing Notes shall not be secured by any asset of the Borrower and its Subsidiaries other than the Collateral; and

(viii) Refinancing Term Loans and Refinancing Notes may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any mandatory prepayments hereunder, as specified in the applicable Refinancing Amendment.

(b) The Borrower may approach any Lender or any other Person that would be a permitted assignee pursuant to Section 9.04 to provide all or a portion of the Refinancing Term Loans or Refinancing Notes; provided, that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans or Refinancing Notes may elect or decline, in its sole discretion, to provide a Refinancing Term Loan or Refinancing Notes. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated an additional Class of Term Loans for all purposes of this Agreement; provided, further, that any Refinancing Term Loans may, to the extent provided in the applicable Refinancing Amendment governing such Refinancing Term Loans, be designated as an increase in any previously established Class of Term Loans made to the Borrower.

(c) Notwithstanding anything to the contrary in this Agreement, the Borrower may by written notice to the Administrative Agent establish one or more additional Facilities ("Replacement Revolving Facilities") providing for revolving commitments ("Replacement Revolving Credit Commitments" and the revolving loans thereunder, "Replacement Revolving Loans"), which replace in whole or in part any Class of Revolving Credit Commitments under this Agreement. Each such notice shall specify the date (each, a "Replacement Revolving Facility Effective Date") on which the Borrower proposes that the Replacement Revolving Credit Commitments shall become effective, which shall be a date not less than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion); provided that (i) immediately before and immediately after giving effect to the establishment

of such Replacement Revolving Credit Commitments on the Replacement Revolving Facility Effective Date, each of the conditions set forth in Section 4.02 shall be satisfied, (ii) after giving effect to the establishment of any Replacement Revolving Credit Commitments and any concurrent reduction in the aggregate amount of any other Revolving Credit Commitments, the aggregate amount of Revolving Credit Commitments shall not exceed the aggregate amount of the Revolving Credit Commitments outstanding immediately prior to the applicable Replacement Revolving Facility Effective Date plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith; (iii) no Replacement Revolving Credit Commitments shall have a final maturity date (or require commitment reductions or amortizations) prior to the Revolving Facility Maturity Date for the Revolving Credit Commitments being replaced; (iv) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to fees, interest rates and other pricing terms) and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the Borrower and the Lenders providing such Replacement Revolving Credit Commitments and taken as a whole shall (as determined by the Borrower in good faith) be substantially similar to, or not materially less favorable to the Borrower and its Subsidiaries than, those, taken as a whole, applicable to the Revolving Credit Commitments so replaced (except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date in effect at the time of incurrence or are otherwise reasonably acceptable to the Administrative Agent); provided that any such Replacement Revolving Facilities may contain any financial maintenance covenants, so long as any such covenant shall not be tighter than (or in addition to) those applicable to the Term Loans or Revolving Credit Commitment then outstanding (unless such covenants are also added for the benefit of the Lenders holding the Term Loans or Revolving Credit Commitments then outstanding, which shall not require consent of the Lenders holding the Term Loans or Revolving Credit Commitments then outstanding and which the Administrative Agent shall add to this Agreement upon the applicable Replacement Revolving Facility Effective Date); (v) there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantor) in respect of such Replacement Revolving Facility; and (vi) Replacement Revolving Credit Commitments and extensions of credit thereunder shall not be secured by any asset of the Borrower and its Subsidiaries other than the Collateral.

(d) The Borrower may approach any Lender or any other Person that would be a permitted assignee of a Revolving Credit Commitment pursuant to Section 9.04 to provide all or a portion of the Replacement Revolving Credit Commitments; provided that any Lender offered or approached to provide all or a portion of the Replacement Revolving Credit Commitments may elect or decline, in its sole discretion, to provide a Replacement Revolving Credit Commitment. Any Replacement Revolving Credit Commitment made on any Replacement Revolving Facility Effective Date shall be designated an additional Class of Revolving Credit Commitments for all purposes of this Agreement; provided that any Replacement Revolving Credit Commitments may, to the extent provided in the applicable Refinancing Amendment, be designated as an increase in any previously established Class of Revolving Credit Commitments.

(e) The Borrower and each Lender providing the applicable Refinancing Term Loans and/or Replacement Revolving Credit Commitments (as applicable) shall execute and deliver to the Administrative Agent an amendment to this Agreement (a "Refinancing Amendment") and such other documentation as the Administrative Agent shall reasonably specify to evidence such Refinancing Term Loans and/or Replacement Revolving Credit Commitments (as applicable). For purposes of this Agreement and the other Loan Documents, (A) if a Lender is providing a Refinancing Term Loan, such Lender will be deemed to have an Other Term Loan having the terms of such Refinancing Term Loan and (B) if a Lender is providing a Replacement Revolving Credit Commitment, such Lender will be deemed to have an Other Revolving Credit Commitment having the terms of such Replacement Revolving Credit Commitment. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.20), (i) the aggregate amount of Extended Term

Loans and Extended Revolving Credit Commitments will not be included in the calculation of the aggregate amount of all Incremental Commitments pursuant to clause (a) of Section 2.17 to the extent such Loans and Commitments in connection with such Extension Amendment were not incurred thereunder, (ii) no Refinancing Term Loan or Replacement Revolving Credit Commitment is required to be in any minimum amount or any minimum increment, (iii) there shall be no condition to any incurrence of any Refinancing Term Loan or Replacement Revolving Credit Commitment at any time or from time to time other than those set forth in clauses (a) or (c) above, as applicable, and (iv) all Refinancing Term Loans, Replacement Revolving Credit Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that rank equally and ratably in right of security with the other Secured Obligations. In connection with any Refinancing Amendment, the Administrative Agent shall have received customary legal opinions or other certificates reasonably requested by the it in connection with any such transaction.

Notwithstanding anything to the contrary, this Section 2.20 shall supersede any provisions in Section 2.15 or Section 9.02 to the contrary.

Section 2.21 Issuance of Letters of Credit and Purchase of Participations Therein.

(a) During the Initial Revolving Availability Period, subject to the terms and conditions hereof, each Issuing Bank agrees to issue Letters of Credit (or amend, renew, increase or extend an outstanding Letter of Credit) at the request and for the account of the Borrower in the aggregate amount up to but not exceeding the Letter of Credit Sublimit; provided that (i) each Letter of Credit shall be denominated in dollars; (ii) the stated amount of each Letter of Credit shall not be less than $100,000 or such lesser amount as is acceptable to such Issuing Bank; (iii) after giving effect to such issuance or increase, in no event shall (x) the Total Revolving Credit Exposure exceed the Revolving Credit Commitments then in effect or (y) any Revolving Lender's Revolving Credit Exposure exceed such Revolving Lender's Revolving Credit Commitment; (iv) after giving effect to such issuance or increase, in no event shall the Letter of Credit Usage exceed the Letter of Credit Sublimit then in effect, (v) after giving effect to such issuance or increase, unless otherwise agreed to by the applicable Issuing Bank in writing, in no event shall the Letter of Credit Usage with respect to the Letters of Credit issued by such Issuing Bank exceed the Letter of Credit Issuer Sublimit of such Issuing Bank then in effect and (vi) in no event shall any Letter of Credit have an expiration date later than the earlier of (A) the fifth Business Day prior to the Initial Revolving Maturity Date and (B) the date which is twelve months from the original date of issuance of such Letter of Credit. Subject to the foregoing, an Issuing Bank may agree that a standby Letter of Credit will automatically be extended for one or more successive periods not to exceed one year each, unless such Issuing Bank elects not to extend for any such additional period and provides notice to that effect to the Borrower; provided that such Issuing Bank is not required to extend any such Letter of Credit if it has received written notice that an Event of Default has occurred and is continuing at the time such Issuing Bank must elect to allow such extension; provided, further, that if any Revolving Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, amend, extend or increase any Letter of Credit unless the applicable Issuing Bank has entered into arrangements satisfactory to it and the Borrower to eliminate such Issuing Bank's risk with respect to the participation in Letters of Credit of the Defaulting Lender, including by Cash Collateralizing such Defaulting Lender's Revolving Applicable Percentage of the Letter of Credit Usage (in an amount equal to the Agreed L/C Cash Collateral Amount with respect thereto) at such time on terms reasonably satisfactory to the applicable Issuing Bank. Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a Letter of Credit is issued, the rules of the ISP 98 shall apply to each Letter of Credit. Notwithstanding anything to the contrary set forth herein, an Issuing Bank shall not be required to issue a Letter of Credit if the issuance of such Letter of Credit would violate any laws binding upon such Issuing Bank and/or the issuance of such Letters of Credit would violate any policies of the Issuing Bank applicable to Letters of Credit generally.

(b) Whenever the Borrower desires the issuance of a Letter of Credit, it shall deliver to each of the Administrative Agent and an Issuing Bank an Issuance Notice and Application no later than 12:00 p.m., New York City time, at least five Business Days in advance of the proposed date of issuance or such shorter period as may be agreed to by such Issuing Bank in any particular instance. Such Application shall be accompanied by documentary and other evidence of the proposed beneficiary's identity as may reasonably be requested by such Issuing Bank to enable such Issuing Bank to verify the beneficiary's identity or to comply with any applicable laws or regulations, including, without limitation, the USA Patriot Act or as otherwise customarily requested by such Issuing Bank. Upon satisfaction or waiver of the conditions set forth in Section 4.02, such Issuing Bank shall issue the requested Letter of Credit only in accordance with such Issuing Bank's standard operating procedures. Upon the issuance of any Letter of Credit or amendment or modification to a Letter of Credit, the applicable Issuing Bank shall promptly notify the Administrative Agent, and the Administrative Agent shall promptly notify each Revolving Lender of such issuance, which notice shall be accompanied by a copy of such Letter of Credit or amendment or modification to a Letter of Credit and the amount of such Lender's respective participation in such Letter of Credit pursuant to Section 2.21(e).

(c) In determining whether to honor any drawing under any Letter of Credit by the beneficiary thereof, an Issuing Bank shall be responsible only to accept the documents delivered under such Letter of Credit that appear on their face to be in accordance with the terms and conditions of such Letter of Credit without responsibility for further investigation, regardless of any notice or information to the contrary. As between the Borrower and each Issuing Bank, the Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued by each Issuing Bank, by the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, the Issuing Banks shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) failure of the beneficiary of any such Letter of Credit to comply fully with any conditions required in order to draw upon such Letter of Credit; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Issuing Banks, including any Governmental Acts; none of the above shall affect or impair, or prevent the vesting of, any of the Issuing Banks' rights or powers hereunder. Without limiting the foregoing and in furtherance thereof, any action taken or omitted by an Issuing Bank under or in connection with the Letters of Credit or any documents and certificates delivered thereunder, if taken or omitted in good faith, shall not give rise to any liability on the part of such Issuing Bank to the Borrower. Notwithstanding anything to the contrary contained in this Section 2.21(c), the Borrower shall retain any and all rights it may have against any Issuing Bank for any liability solely resulting from the gross negligence, bad faith or willful misconduct of such Issuing Bank as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(d) In the event an Issuing Bank has determined to honor a drawing under a Letter of Credit, it shall promptly notify the Borrower and the Administrative Agent, and the Borrower shall reimburse such Issuing Bank on or before the Business Day immediately following the date on which such drawing is honored (the "Reimbursement Date") in an amount in dollars and in same day funds equal to the amount of such honored drawing. If the Borrower fails to timely reimburse an Issuing Bank on the

Reimbursement Date, the Administrative Agent shall promptly notify each Lender of the Reimbursement Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Revolving Lender's Revolving Applicable Percentage thereof. In such event, the Borrower shall be deemed to have requested a Borrowing of ABR Loans to be disbursed on the Reimbursement Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of ABR Loans, but subject to the amount of the unutilized portion of the Revolving Credit Commitments and the conditions set forth in Section 4.02. Any notice given by an Issuing Bank or the Administrative Agent pursuant to this Section 2.21(d) may be given by telephone if promptly confirmed in writing; provided that the lack of such a prompt confirmation shall not affect the conclusiveness or binding effect of such notice. Anything contained herein to the contrary notwithstanding, (i) unless the Borrower shall have notified the Administrative Agent and such Issuing Bank prior to 1:00 p.m., New York City time, on the date such drawing is honored that the Borrower intends to reimburse the applicable Issuing Bank for the amount of such honored drawing with funds other than the proceeds of Loans, the Borrower shall be deemed to have given a timely Borrowing Request to the Administrative Agent requesting the Revolving Lenders to make Revolving Loans that are ABR Loans on the Reimbursement Date in an amount in dollars equal to the amount of such honored drawing, and (ii) subject to satisfaction or waiver of the conditions specified in Section 4.02, the Revolving Lenders shall, on the Reimbursement Date, make Revolving Loans that are ABR Loans in the amount of such honored drawing, the proceeds of which shall be applied directly by the Administrative Agent to reimburse the applicable Issuing Bank for the amount of such honored drawing; and provided, further, if for any reason proceeds of Revolving Loans are not received by such Issuing Bank on the Reimbursement Date in an amount equal to the amount of such honored drawing, the Borrower shall reimburse the applicable Issuing Bank, on demand, in an amount in same day funds equal to the excess of the amount of such honored drawing over the aggregate amount of such Revolving Loans, if any, which are so received. Nothing in this Section 2.21(d) shall be deemed to relieve any Lender from its obligation to make Revolving Loans on the terms and conditions set forth herein, and the Borrower shall retain any and all rights it may have against any such Lender resulting from the failure of such Lender to make such Loans under this Section 2.21(d).

(e) Immediately upon the issuance of each Letter of Credit, each Revolving Lender having a Revolving Credit Commitment shall be deemed to have purchased, and hereby agrees to irrevocably purchase, from the applicable Issuing Bank a participation in such Letter of Credit and any drawings honored thereunder in an amount equal to such Revolving Lender's Revolving Pro Rata Share of the maximum amount which is or at any time may become available to be drawn thereunder. In the event that the Borrower shall fail for any reason to reimburse the applicable Issuing Bank as provided in Section 2.21(d), such Issuing Bank shall promptly notify the Administrative Agent (who, in turn, will promptly notify each Revolving Lender) of the unreimbursed amount of such honored drawing and of such Revolving Lender's respective participation therein based on such Revolving Lender's Revolving Pro Rata Share. Each Lender shall make available to the Administrative Agent, for the account of such Issuing Bank, an amount equal to its respective participation, in dollars and in same day funds, no later than 12:00 p.m., New York City time, on the first Business Day (under the laws of the jurisdiction in which the Principal Office of the Administrative Agent is located) after the date notified by such Issuing Bank. In the event that any Revolving Lender fails to make available to the Administrative Agent on such Business Day the amount of such Revolving Lender's participation in such Letter of Credit as provided in this Section 2.21(e), an Issuing Bank shall be entitled to recover such amount on demand from such Revolving Lender together with interest thereon for three Business Days at the rate customarily used by the applicable Issuing Bank for the correction of errors among banks and thereafter at the Alternate Base Rate. Nothing in this Section 2.21(e) shall be deemed to prejudice the right of any Lender to recover from an Issuing Bank any amounts made available by such Revolving Lender to such Issuing Bank pursuant to this Section 2.21 in the event that the payment with respect to a Letter of Credit in respect of which payment was made by such Revolving Lender constituted gross negligence, bad faith or willful

misconduct (as determined by a final, non-appealable judgment of a court of competent jurisdiction) on the part of such Issuing Bank. In the event an Issuing Bank shall have been reimbursed by other Revolving Lenders pursuant to this Section 2.21(e) for all or any portion of any drawing honored by such Issuing Bank under a Letter of Credit, such Issuing Bank shall distribute to the Administrative Agent (who, in turn, will distribute to each Revolving Lender which has paid all amounts payable by it under this Section 2.21(e) with respect to such honored drawing such Revolving Lender's Revolving Pro Rata Share thereof) all payments subsequently received by such Issuing Bank from the Borrower in reimbursement of such honored drawing when such payments are received. Any such distribution shall be made to a Lender at its primary address set forth below its name on its Administrative Questionnaire or at such other address as such Revolving Lender may request.

(f) The obligation of the Borrower to reimburse each Issuing Bank for drawings honored under the Letters of Credit issued by it and to repay any Revolving Loans made by the Revolving Lenders pursuant to Section 2.21(d) and the obligations of the Revolving Lenders under Section 2.21(e) shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms hereof under all circumstances including any of the following circumstances: (i) any lack of validity or enforceability of any Letter of Credit; (ii) the existence of any claim, set off, defense or other right which the Borrower or any Revolving Lender may have at any time against an actual or purported beneficiary or any actual or purported transferee of any Letter of Credit (or any Persons for whom any such actual or purported transferee may be acting), any Issuing Bank, any Revolving Lender or any other Person or, in the case of a Revolving Lender, against the Borrower or any of its Subsidiaries, whether in connection herewith, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between the Borrower or one of its Subsidiaries and the actual or purported beneficiary for which any Letter of Credit was procured); (iii) any draft or other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (iv) payment by an Issuing Bank under any Letter of Credit against presentation of a draft or other document which does not substantially comply with the terms of such Letter of Credit; (v) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of the Borrower or any Subsidiaries; (vi) any breach hereof or any other Loan Document by any party thereto; (vii) the occurrence or continuance of an Event of Default or a Default or (viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

(g) Without duplication of any obligation of the Borrower under Section 9.03, in addition to amounts payable as provided herein, the Borrower hereby agrees to protect, indemnify, pay and save harmless each Issuing Bank from and against any and all claims, demands, liabilities, damages and losses, and all reasonable and documented costs, charges and out-of-pocket expenses (including reasonable and documented fees, out-of-pocket expenses and disbursements of outside counsel (limited to one outside counsel per applicable jurisdiction and, in the case of a conflict of interest where the person affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of another outside counsel per applicable jurisdiction for such affected person)), which such Issuing Bank may incur or be subject to as a consequence, direct or indirect, of (A) the issuance of any Letter of Credit by an Issuing Bank, other than as a result of the gross negligence, bad faith or willful misconduct of Issuing Bank as determined by a final, non-appealable judgment of a court of competent jurisdiction, (B) the wrongful dishonor by an Issuing Bank of a proper demand for payment made under any Letter of Credit issued by it, or (C) the failure of Issuing Bank to honor a drawing under any such Letter of Credit as a result of any Governmental Act.

(h) An Issuing Bank may resign as an Issuing Bank upon 60 days prior written notice to the Administrative Agent, the Revolving Lenders and the Borrower. An Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank (provided that no consent will be required if the replaced Issuing Bank has no Letters of Credit or reimbursement obligations with respect thereto outstanding) and the successor Issuing Bank. The Administrative Agent shall notify the Revolving Lenders of any such replacement of such Issuing Bank. At the time any such replacement or resignation shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank. From and after the Effective Date of any such replacement or resignation, any successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter. After the replacement or resignation of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto to the extent that Letters of Credit issued by it remain outstanding and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement or resignation, but shall not be required to issue additional Letters of Credit.

(i) If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Revolving Lenders demanding the deposit of Cash Collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to the Agreed L/C Cash Collateral Amount plus any accrued and unpaid interest thereon on or before the Business Day following the day of such demand (or if such demand is given to the Borrower prior to 4:00 p.m. on a Business Day, on such Business Day); provided that the obligation to deposit such Cash Collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 7.01(h) or (i), or if the maturity of the Loans has been accelerated. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse an Issuing Bank for any disbursements under Letters of Credit made by it and for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the Letter of Credit Usage at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Issuing Banks with Letter of Credit Usage representing greater than 50% of the total Letter of Credit Usage), be applied to satisfy the other Obligations. If the Borrower is required to provide an amount of Cash Collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within seven Business Days after all Events of Default have been cured or waived, so long as no other Event of Default occurs prior to the return of such Cash Collateral to the Borrower. Notwithstanding anything to the contrary herein, if as of the expiration date of any Letter of Credit any obligation thereunder remains outstanding, the Borrower shall, at the request of the applicable Issuing Bank, deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Revolving Lenders, an amount in cash equal to the Agreed L/C Cash Collateral Amount plus any accrued and unpaid interest thereon on or before the Business Day following the day of such request (or if such request is given to the Borrower prior to 4:00 p.m. on a Business Day, on such Business Day).

(j) To the extent that any provision of any Application related to any Letter of Credit is inconsistent with the provisions of this Section 2.21, the provisions of this Section 2.21 shall apply.

Section 2.22 Illegality. Notwithstanding any other provision herein, if any Change in Law occurring after the Effective Date shall make it unlawful for any Lender to make or maintain any Eurodollar Loans as contemplated by this Agreement ("Affected Loans"), (a) such Lender shall promptly give written notice of such circumstances to the Borrower and the Administrative Agent (which notice shall be withdrawn whenever such circumstances no longer exist), (b) the commitment of such Lender hereunder to make Affected Loans, continue Affected Loans as such and convert an ABR Loan to an Affected Loan shall forthwith be cancelled and, until such time as it shall no longer be unlawful for such Lender to make or maintain such Affected Loans, such Lender shall then have a commitment only to make an ABR Loan when an Affected Loan is requested and (c) such Lender's Eurodollar Loans then outstanding as Affected Loans, if any, shall be converted automatically to ABR Loans on the respective last days of the then current Interest Periods with respect to such Affected Loans or within such earlier period as required by law. If any such conversion of an Affected Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.13.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lenders and Issuing Banks that:

Section 3.01 Organization. Each of the Borrower and its Restricted Subsidiaries (i) is duly organized, validly existing and in good standing (to the extent such concept exists in the relevant jurisdiction) under the laws of the jurisdiction of its organization or incorporation, and (ii) has the requisite power and authority to conduct its business as it is presently being conducted, except in the case of clause (i) (other than with respect to any Loan Party), where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Borrower and its Restricted Subsidiaries are qualified and licensed in all jurisdictions where they are required to be so qualified or licensed to operate their business and where the failure to so qualify or be licensed, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Section 3.02 Authorization; Enforceability. The execution, delivery and performance by each Loan Party of each Loan Document to which such Loan Party is a party are within such Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational and, if required, stockholder action. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document to which any Loan Party is a party, when executed and delivered by such Loan Party, constitutes, a legal, valid and binding obligation of the Borrower or such Loan Party (as the case may be), enforceable against the Borrower or such other Loan Party, as the case may be, in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.03 Governmental Approvals; No Conflicts. The execution, delivery and performance of the Loan Documents by each Loan Party party thereto (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are (or will so be) in full force and effect, (ii) filings necessary to perfect Liens created under the Loan Documents and (iii) those the failure to obtain or make which, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, (b) will not violate (i) any applicable law or regulation or (ii) any applicable Order of any Governmental Authority, except to the extent such violation would not reasonably be expected to result in a Material

Adverse Effect, (c) will not violate the charter, by-laws or other organizational documents of any Loan Party, (d) will not violate or result in a default under any indenture, agreement or other instrument evidencing Indebtedness binding upon the Borrower or any of its Restricted Subsidiaries or their respective assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any of its Restricted Subsidiaries (other than pursuant to a Loan Document) except to the extent such violation, default or right, as the case may be, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect and (e) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Restricted Subsidiaries, except Liens created under the Loan Documents.

Section 3.04 Financial Statements; No Material Adverse Change.

(a) The Borrower has heretofore furnished to the Lenders (i) its consolidated balance sheet and statements of operations, changes in equity and cash flows as of and for the fiscal year ended December 31, 2017, reported on by Deloitte & Touche LLP, independent certified public accountants, and (ii) its consolidated balance sheet and statements of operations and cash flows as of and for the Fiscal Quarter and the portion of the fiscal year ended September 30, 2018. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) The Borrower has heretofore furnished to the Lenders a pro forma consolidated balance sheet and related pro forma consolidated statement of operations of the Borrower and its consolidated Subsidiaries as of and for the period of 12 consecutive months ended as of the most recently ended Fiscal Quarter for which financial statements are available, prepared giving effect to the Transactions as if the Transactions had occurred on such date, in the case of such balance sheet, or at the beginning of such period, in the case of such statements of operations. Such pro forma consolidated balance sheet and pro forma statements of operations present fairly, in all material respects, the pro forma financial position and results of operations of the Borrower and its consolidated Subsidiaries as of and for the period of 12 consecutive months ended as of the most recently ended Fiscal Quarter for which financial statements are available, as if the Transactions had occurred on such date or at the beginning of such period, as the case may be.

(c) Since December 31, 2017, there has been no event, circumstance or condition that has had or would reasonably be expected to have a material adverse change in the business, assets, property or financial condition of the Borrower and its Restricted Subsidiaries taken as a whole.

Section 3.05 Properties. Each of the Borrower and its Restricted Subsidiaries has good title to, or valid leasehold interests in, or easements or other limited property interests in, all its real and tangible personal property material to its business, subject to Permitted Encumbrances or as otherwise permitted by Section 6.02, except (i) for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes or (ii) as individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.06 Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened in writing against the Borrower or any of its Restricted Subsidiaries that would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except with respect to any other matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Restricted Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received written notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

Section 3.07 Compliance with Laws. Each of the Borrower and its Restricted Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.08 Intellectual Property. The Borrower and each of its Restricted Subsidiaries owns, or is licensed to use, all Intellectual Property reasonably necessary for the conduct of its business as currently conducted, except for those the failure to own or be licensed to use which would not reasonably be expected to result in a Material Adverse Effect. (a) The operation of the Borrower's and its Restricted Subsidiaries' respective businesses, including the use of Intellectual Property, by the Borrower and its Restricted Subsidiaries, does not infringe on or violate the rights of any Person, (b) no Intellectual Property of the Borrower or any of its Restricted Subsidiaries is being infringed upon or violated by any Person in any material respect, and (c) no claim is pending or threatened in writing challenging the ownership, use or the validity of any Intellectual Property of the Borrower or any Restricted Subsidiary, except for infringements, violations and claims referred to in the foregoing clauses (a), (b) and (c) that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.09 Investment Company Status. Neither the Borrower nor any of its Restricted Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 3.10 Taxes. Each of the Borrower and its Restricted Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it (including in its capacity as a withholding agent), except (a) any Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower or such Restricted Subsidiary, as applicable, has set aside on its books adequate reserves (to the extent required by GAAP) or (b) to the extent that the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.11 ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect. Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA. The present value of all accumulated benefit obligations under each Plan and under all Plans in the aggregate (based on the assumption used for purposes of Accounting Standards Codification Topic 715) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair value of the assets of such Plan by an amount that, if required to be paid as of such date by the Borrower and the Subsidiaries would reasonably be expected to have a Material Adverse Effect.

Section 3.12 Labor Matters. On the Effective Date, there are no strikes, lockouts or slowdowns against the Borrower or any of its Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened in writing that would reasonably be expected to have a Material Adverse Effect. The hours worked by and payments made to employees of the Borrower and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other Requirements of Law dealing with

such matters in any manner that would reasonably be expected to have a Material Adverse Effect. All payments due from the Borrower or any Restricted Subsidiary, or for which any claim may be made against any of them, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of the Borrower and its Restricted Subsidiaries except to the extent non-payment or failure to accrue would not reasonably be expected to have a Material Adverse Effect. The consummation of the transactions contemplated by this Agreement will not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which the Borrower or any of its Restricted Subsidiaries is bound that would reasonably be expected to have a Material Adverse Effect.

Section 3.13 Insurance. The properties of the Borrower and each of its Restricted Subsidiaries are insured with insurance companies that the Borrower believes (in the good faith judgment of the management of the Borrower) are financially sound and reputable (after giving effect to any self-insurance which the Borrower believes (in the good faith judgment of management of the Borrower) is reasonable and prudent in light of the size and nature of its business), in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or the applicable Restricted Subsidiary operates.

Section 3.14 Solvency. Immediately following the making of each Loan made on the Effective Date (assuming the full amount of the Initial Term A Loan Commitment is drawn on the Effective Date) and after giving effect to the application of the proceeds of such Loans, (a) the fair value of the assets of the Borrower (on a consolidated basis with its Subsidiaries) will exceed its debts and liabilities, subordinate, contingent or otherwise; (b) the present fair saleable value of the property of the Borrower (on a consolidated basis with its Subsidiaries) will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, as such debts and other liabilities become absolute and matured; (c) the Borrower (on a consolidated basis with its Subsidiaries) will be able to pay its debts and liabilities, subordinate, contingent or otherwise as they become absolute and matured; and (d) the Borrower (on a consolidated basis with its Subsidiaries) will not have unreasonably small capital with which to conduct its business as such business is now conducted and is proposed to be conducted following the Effective Date.

Section 3.15 Subsidiaries. Schedule 3.15 to the Disclosure Letter sets forth, as of the Effective Date, (a) the name, type of organization and jurisdiction of organization of each direct Subsidiary of each Loan Party, (b) the percentage of each class of Equity Interests owned by each Loan Party in each of its direct Subsidiaries and (c) each joint venture in which any Loan Party owns any Equity Interests, and identifies each such direct Subsidiary of a Loan Party that is a Domestic Subsidiary, a Guarantor and a Foreign Subsidiary, in each case as of the Effective Date.

Section 3.16 Disclosure. None of the reports, financial statements, certificates or other written information (other than projections, financial estimates, forecasts and other forward-looking information, and other information of a general economic or industry specific nature) furnished by or on behalf of the Borrower or any of its Subsidiaries to the Administrative Agent, any Issuing Bank or any Lender in connection with the negotiation of this Agreement or any Loan Document or delivered hereunder, when furnished and taken as a whole (as modified or supplemented by other information so furnished) and when taken together with all filings made by the Borrower or its Subsidiaries with the SEC, contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements therein, taken as a whole in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected financial information furnished by or on behalf of the Borrower or any of its Subsidiaries to the Administrative Agent, any Issuing Bank or any Lender in connection with the negotiation of this Agreement or any Loan Document or delivered hereunder, the

Borrower represents only that such information was prepared in good faith based upon assumptions believed by it to be reasonable at the time (it being understood that such projections are as to future events and are not to be viewed as facts and are subject to significant uncertainties and contingencies, many of which are beyond the Borrower's control, and that no assurance can be given that the projections will be realized and actual results during the period or periods covered by any such projections may differ significantly from the projected results and such differences may be material).

Section 3.17 Federal Reserve Regulations. No part of the proceeds of any Loan or Letter of Credit will be used by the Borrower or any Restricted Subsidiary in any manner that would result in a violation of Regulation U or Regulation X. Neither the Borrower nor any Restricted Subsidiary is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock.

Section 3.18 [Reserved].

Section 3.19 Anti-Corruption Laws; Anti-Money Laundering Laws; Sanctions. The Borrower has implemented and maintains in effect policies and procedures designed to provide reasonable assurance of compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions, and the Borrower, its Subsidiaries and their respective directors, officers and employees, and, to the knowledge of the Borrower, its and its Subsidiaries' respective agents, are in compliance with Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions. None of (a) the Borrower, any Subsidiary or, any of their respective directors, officers or, to the knowledge of Borrower, employees, or (b) to the knowledge of the Borrower, any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the Facilities established hereby, is a Sanctioned Person. No Borrowing or proceeds of any Loan or any Letter of Credit will be used in a manner that violates any Anti-Corruption Law, Anti-Money Laundering Laws or applicable Sanctions.

Section 3.20 Security Documents.

(a) Each Security Document is effective to create in favor of the Collateral Agent (for the benefit of the Secured Parties) a legal, valid and enforceable Lien on and security interest in the Collateral described therein to the extent described therein. As of the Effective Date, in the case of the Pledged Collateral described in the Guaranty and Security Agreement, when certificates or promissory notes, as applicable, representing such Pledged Collateral and required to be delivered under the applicable Security Document are delivered to the Collateral Agent, and in the case of the other Collateral described in the Guaranty and Security Agreement when financing statements are filed in the applicable filing offices, the Collateral Agent (for the benefit of the Secured Parties) shall have a fully perfected Lien (subject to all Permitted Encumbrances or as otherwise permitted by Section 6.02) on, and security interest in, all right, title and interest of the Loan Parties in such Collateral to the extent a security interest in such Collateral can be created under the UCC, as security for the Secured Obligations to the extent perfection in such collateral can be obtained by filing Uniform Commercial Code financing statements or possession, in each case prior and superior in right to the Lien of any other Person (except Permitted Encumbrances or as otherwise permitted by Section 6.02).

(b) When the Guaranty and Security Agreement or a short form thereof is filed and recorded in the United States Patent and Trademark Office and/or the United States Copyright Office, as applicable, and, with respect to Collateral in which a security interest cannot be perfected by such filings, upon the proper filing of the financing statements referred to in clause (a) above, the Collateral Agent (for the benefit of the Secured Parties) shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties thereunder in the United States registered trademarks and United States issued patents, United States trademark and patent applications and United States registered

copyrights and exclusive licenses of United States registered copyrights, in each case prior and superior in right to the Lien of any other Person, except for Permitted Encumbrances or as otherwise permitted by Section 6.02 (it being understood that subsequent recordings in the United States Patent and Trademark Office and the United States Copyright Office may be necessary to perfect a Lien on registered trademarks and issued patents, trademark and patent applications and registered copyrights and exclusive licenses of registered copyrights acquired by the Loan Parties after the Effective Date or any U.S. intent-to-use trademark applications that are no longer after the Effective Date, deemed Excluded Property).

Section 3.21 Non-Loan Party Subsidiaries. As of the Effective Date, Purple Tag Productions LLC is an Immaterial Subsidiary.

Section 3.22 Beneficial Ownership Certification. As of the Effective Date, the information included in the Beneficial Ownership Certification, if applicable, is true and correct in all material respects.

ARTICLE IV

CONDITIONS

Section 4.01 Effective Date. The obligations of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit under this Agreement on the Effective Date shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from the Borrower either (i) a counterpart of this Agreement signed on behalf of the Borrower, each other Loan Party and each Lender, (ii) a counterpart of the Disclosure Letter signed on behalf of the Borrower and each other Loan Party or (iii) written evidence satisfactory to the Administrative Agent (which may include telecopy or email transmission of a signed signature page of this Agreement) that the Borrower, each other Loan Party and each Lender has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a written opinion (addressed to the Administrative Agent, the Collateral Agent, the Issuing Banks and the Lenders and dated the Effective Date) of Cooley LLP, counsel for the Borrower, in form and substance reasonably satisfactory to the Administrative Agent. The Borrower hereby requests such counsel to deliver such opinion.

(c) The Administrative Agent shall have received a copy of (i) each Organizational Document of each Loan Party certified, to the extent applicable, as of a recent date by the applicable Governmental Authority, (ii) signature and incumbency certificates of the Responsible Officers of each Loan Party executing the Loan Documents to which it is a party, (iii) resolutions of the Board of Directors and/or similar governing bodies of each Loan Party approving and authorizing the execution, delivery and performance of Loan Documents to which it is a party, certified as of the Effective Date by its secretary, an assistant secretary or a Responsible Officer as being in full force and effect without modification or amendment, and (iv) a good standing certificate (to the extent such concept exists) from the applicable Governmental Authority of each Loan Party's jurisdiction of incorporation, organization or formation.

(d) The Administrative Agent shall have received all fees and other amounts due and payable by the Borrower in connection with this Agreement and that certain Agency Fee Letter, dated as of February 6, 2019 by and among the Borrower and the Administrative Agent, on or prior to the Effective Date, to the extent invoiced at least three (3) Business Days prior to the Effective Date, reimbursement or payment of all reasonable and documented out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder.

(e) The Administrative Agent shall have received promissory notes for each of the Lenders who requested such notes at least three (3) Business Days prior to the Effective Date.

(f) Except for any items referred to on Schedule 5.12 of the Disclosure Schedule, the Collateral and Guarantee Requirement shall have been satisfied; provided the Borrower shall cause the Mortgage and deliverables described in Section 5.11(b) with respect to the Material Real Property described on Schedule 1.01D to be delivered and the Guarantee and Collateral Requirement satisfied with respect thereto within sixty (60) days after the Effective Date.

(g) [Reserved].

(h) The Administrative Agent shall have received (i) a solvency certificate substantially in the form of Exhibit G and signed by a Financial Officer of the Borrower confirming the solvency of the Borrower and its Subsidiaries on a consolidated basis after giving effect to the Transactions to occur on the Effective Date and (ii) a certificate of a Responsible Officer certifying that each of the conditions in Section 4.02(a) and Section 4.02(c) has been satisfied.

(i) The Administrative Agent shall have received, at least three (3) Business Days prior to the Effective Date, all documentation and other information required with respect to the Loan Parties by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act to the extent reasonably requested in writing by the Administrative Agent at least ten (10) days prior to the Effective Date.

(j) The Administrative Agent shall have received the financial statements referred to in Section 3.04(a) and (b).

(k) Substantially concurrently with the initial extension of credit on the Effective Date, the Borrower shall have (i) paid in full all Indebtedness under the Existing Credit Agreement, and all commitments and guaranties in connection therewith have been terminated and released, (ii) delivered to Administrative Agent all documents or instruments necessary to release all Liens securing the Indebtedness under the Existing Credit Agreement or other obligations of Borrower and its Subsidiaries thereunder being repaid on the Effective Date and (iii) made arrangements satisfactory to Administrative Agent with respect to the cancellation, backstopping, or other arrangements of any letters of credit outstanding thereunder (the "Refinancing").

(l) At least two Business Days prior to the Effective Date, if the Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, the Borrower shall deliver, to each Lender that so requests, a Beneficial Ownership Certification.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, the obligations of the Lenders to make Loans hereunder shall not become effective unless each of the foregoing conditions is satisfied (or waived pursuant to Section 9.02).

Section 4.02 Each Credit Event On and After the Effective Date. The obligation of each Lender to make a Loan and of the Issuing Banks to issue Letters of Credit on and after the Effective Date (excluding any Interest Election Request), is subject to the satisfaction of the following conditions:

(a) The representations and warranties of each Loan Party set forth in this Agreement and any other Loan Document shall be true and correct in all material respects (or in all respects to the extent that any representation and warranty is qualified by materiality or Material Adverse Effect) on and as of the date of such Loan, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date.

(b) The Administrative Agent shall have received a request for a Borrowing as required by Section 2.03 or an Issuance Notice as required by Section 2.21, as the case may be.

(c) At the time of and immediately after giving effect to such Loan or Letter of Credit, as the case may be, no Default shall have occurred and be continuing.

(d) On or before the date of issuance of any Letter of Credit, the Administrative Agent and the applicable Issuing Banks shall have received all other information required by the applicable Issuance Notice and Application.

(e) If the Adjusted Quick Ratio, after giving pro forma effect to such Loan or Letter of Credit, is less than 1.25 to 1.00 as of the last day of the most recent Fiscal Quarter of the Borrower, the Borrower's Consolidated EBITDA, tested on the basis of the prior period of four consecutive Fiscal Quarters of the Borrower as of the end of such Fiscal Quarter, shall be greater than or equal to the amount set forth in the table below for such Fiscal Quarter ended:

Fiscal quarter ended	Consolidated EBITDA
March 31, 2019	-$15,000,000
June 30, 2019	-$15,000,000
September 30, 2019	-$15,000,000
December 31, 2019	-$15,000,000
March 31, 2020	-$15,000,000
June 30, 2020	-$15,000,000
September 30, 2020	-$15,000,000
December 31, 2020	$20,000,000
March 31, 2021	$20,000,000
June 30, 2021	$20,000,000
September 30, 2021	$20,000,000
December 31, 2021 and thereafter	$50,000,000

Each Loan made after the Effective Date (excluding any Interest Election Request) shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a), (c) and (e) of this Section 4.02.

ARTICLE V

AFFIRMATIVE COVENANTS

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and the cancellation or expiration or Cash Collateralization of all Letters of Credit on terms reasonably satisfactory to the applicable Issuing Bank in an amount equal to the Agreed L/C Cash Collateral Amount (or other credit support satisfactory to the applicable Issuing Bank has been provided), the Borrower covenants and agrees with the Lenders and the Issuing Banks that:

Section 5.01 Financial Statements and Other Information. The Borrower will furnish to the Administrative Agent, for distribution to each Lender:

(a) within 90 days after the end of each fiscal year of the Borrower, commencing with the fiscal year ending December 31, 2018, the audited consolidated balance sheet and related statements of operations, changes in equity and cash flows as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, of the Borrower and its consolidated Subsidiaries as of such year, all reported on by Deloitte & Touche LLP or other independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit (other than any exception, qualification or explanatory paragraph with respect to or resulting from an upcoming maturity date under this Agreement occurring within one year from the time such opinion is delivered)) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within 45 days after the end of each of the first three Fiscal Quarters of each fiscal year of the Borrower (commencing with the Fiscal Quarter ended March 31, 2019), the consolidated balance sheet and related statements of operations and cash flows as of the end of and for such Fiscal Quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, of the Borrower and the consolidated Subsidiaries, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower (i) certifying as to whether a Default has occurred and is continuing on such date and, if a Default has occurred and is continuing on such date, specifying the details thereof and any action taken or proposed to be taken with respect thereto, and (ii) if the Borrower has any Unrestricted Subsidiaries during the related fiscal period, setting forth in a reasonably detailed schedule, a comparison of the consolidated results under clause (a) or (b) above with the financial condition and results of operations of the Borrower and its consolidated Restricted Subsidiaries;

(d) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by the Borrower or any Restricted Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of the SEC, or with any national securities exchange, as the case may be;

(e) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender or any Issuing Bank through the Administrative Agent may reasonably request in writing;

(f) within 90 days following the end of each fiscal year, commencing with the fiscal year ending December 31, 2018, a forecasted budget in reasonable detail of the Borrower and the Restricted Subsidiaries for such fiscal year; and

(g) promptly following any request thereof, all information and/or documentation relating to the Borrower and its Subsidiaries necessary to comply with the USA PATRIOT Act and the Beneficial Ownership Regulation or for the Administrative Agent or any Lenders or Issuing Banks to confirm compliance with the USA PATRIOT Act and the Beneficial Ownership Regulation in connection with this Agreement; and

(h) commencing with the delivery of the financial statements for the Fiscal Quarter ending March 31, 2019, together with each delivery of financial statements of Borrower and its Restricted Subsidiaries pursuant to Section 5.01(a) and Section 5.01(b), a duly executed and completed Compliance Certificate demonstrating in reasonable detail the calculation of the Secured Leverage Ratio and compliance with the financial covenant set forth in Section 6.11.

Documents required to be delivered pursuant to this Section 5.01 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at www.roku.com (or any other address notified by the Borrower to the Administrative Agent from time to time), (ii) solely with respect to the obligations in paragraphs (a), (b) and (d) of this Section 5.01, on which the Borrower files or furnishes its Annual Report on Form 10-K, Quarterly Report on Form 10-Q, and other reports, proxy statements and other materials, as applicable, with the SEC via the EDGAR filing system or any successor electronic delivery procedures, in each case, within the time periods specified in such paragraphs or (iii) on which such documents are delivered to the Administrative Agent. The Administrative Agent shall post such documents on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that the Borrower shall be obligated to pay for all start-up and on-going maintenance costs associated with such Internet or intranet website pursuant to Section 9.03. The Administrative Agent shall have no obligation to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender and each Issuing Bank shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Section 5.02 Notices of Material Events. Promptly after any Responsible Officer of the Borrower obtains actual knowledge thereof, the Borrower will furnish to the Administrative Agent, for distribution to each Lender and Issuing Bank, written notice of the following:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any of its Restricted Subsidiaries that would reasonably be expected to result in a Material Adverse Effect; and

(c) any other development that results in, or would reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section 5.02 shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 5.03 Information Regarding Collateral. The Borrower will furnish to the Administrative Agent prompt written notice of any change (a) in any Loan Party's legal name, (b) in any Loan Party's type of organization, (c) in any Loan Party's jurisdiction of organization or (d) in any Loan Party's organizational identification number (if any). The Borrower agrees to promptly (and in any event within ten (10) Business Days after request therefor or such longer period as the Administrative Agent shall agree) furnish the Collateral Agent all information requested by the Collateral Agent and required in order to make all filings under the UCC or other applicable U.S. laws and take (or to cause the applicable Loan Party to take) all necessary action to ensure that the Collateral Agent does continue following such change to have a valid, legal and perfected security interest in all the Collateral of such Loan Party, subject to the limitations and exceptions contained in the Loan Documents. The Borrower also agrees promptly to notify the Administrative Agent if any material portion of the Collateral is damaged or destroyed, to the extent not covered by insurance.

Section 5.04 Existence; Conduct of Business. The Borrower will, and will cause each of its Restricted Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03 or any transaction permitted under Section 6.05.

Section 5.05 Payment of Taxes. The Borrower will, and will cause each of its Restricted Subsidiaries to, pay its Tax liabilities, that, if not paid, would reasonably be expected to result in a Material Adverse Effect, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings diligently conducted and (b) the Borrower or such Restricted Subsidiary has set aside on its books adequate reserves with respect thereto to the extent required by GAAP.

Section 5.06 Maintenance of Properties. Except as permitted under Section 6.03 and Section 6.05 the Borrower will, and will cause each of its Restricted Subsidiaries to, (a) keep and maintain all tangible property material to the conduct of its business in good working order and condition, ordinary wear and tear and casualty and condemnation excepted and (b) with respect to Intellectual Property rights owned by the Borrower and its Restricted Subsidiaries, maintain, renew, protect and defend such Intellectual Property, except, in the case of each of the foregoing clauses (a) and (b) where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 5.07 Insurance.

(a) The Borrower will, and will cause each of its Restricted Subsidiaries to, (a) maintain, insurance with insurance companies that the Borrower believes (in the good faith judgment of the management of the Borrower) are financially sound and reputable (after giving effect to any self-insurance which the Borrower believes (in the good faith judgment of management of the Borrower) is reasonable and prudent in light of the size and nature of its business), in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or the applicable Restricted Subsidiary operates, and (b) on the Effective Date, except as otherwise agreed by the Administrative Agent, cause the Collateral Agent to be listed as loss payee on property and casualty policies with respect to tangible personal property and assets constituting Collateral located in the United States of America and as an additional insured on all general liability policies maintained by any Loan Party.

(b) In connection with the covenants set forth in this Section 5.07, it is understood and agreed that: (i) the Administrative Agent, the Collateral Agent, the Lenders, the Issuing Banks and their respective agents or employees shall not be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 5.07, it being understood that the Loan Parties shall look solely to their insurance companies or any other parties other than the aforesaid parties for the recovery of such loss or damage; and (ii) the amount and type of insurance that the Borrower and its Restricted Subsidiaries has in effect as of the Effective Date and the certificates listing the Collateral Agent as loss payee or additional insured, as the case may be, satisfy for all purposes the requirements of this Section 5.07.

(c) If any portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then the Borrower shall, or shall cause the applicable Loan Party to, (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Administrative Agent evidence of such compliance, including, if requested by the Administrative Agent, evidence of annual renewals of such insurance.

Section 5.08 Books and Records; Inspection and Audit Rights. The Borrower will, and will cause each of its Restricted Subsidiaries to, keep proper books of record and account in a manner to allow financial statements of the Borrower and its Restricted Subsidiaries to be prepared in all material respects in conformity with GAAP in respect of all material dealings and transactions in relation to its business and activities. The Borrower will, and will cause each of its Restricted Subsidiaries to, permit any representatives designated by the Administrative Agent (acting on its own behalf or on behalf of the Lenders or the Issuing Banks), upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times during normal business hours and as often as reasonably requested; provided that, only the Administrative Agent on behalf of the Lenders and the Issuing Banks may exercise rights of the Administrative Agent and the Lenders and the Issuing Banks under this Section 5.08 and the Administrative Agent shall not exercise such rights more often than one time during any calendar year and such time shall be at the reasonable expense of the Borrower; provided, further, that when an Event of Default exists, the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent, the Issuing Banks and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent accountants. Notwithstanding anything to the contrary in this Section 5.08, none of the Borrower nor any Restricted Subsidiary shall be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent, any Issuing Bank or any Lender (or their respective representatives or contractors) is prohibited by law or any binding agreement between the Borrower or any of the Restricted Subsidiaries and a Person that is not the Borrower or any of the Restricted Subsidiaries or any other binding agreement not entered into in contemplation of preventing such disclosure, inspection or examination or (iii) is subject to attorney-client or similar privilege or constitutes attorney work-product; provided that the Borrower shall use commercially reasonable efforts to secure the requisite consent to disclose such documents or information and will notify the Administrative Agent that such information is being withheld in reliance on this sentence.

Section 5.09 Compliance with Laws. The Borrower will, and will cause each of its Restricted Subsidiaries to, comply with all Requirements of Laws (including Environmental Laws) and Orders applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions.

Section 5.10 Use of Proceeds. The proceeds of the Loans will be used for working capital and general corporate purposes, including but not limited to mergers and acquisitions, and for any other purpose not prohibited by the Loan Documents. No part of the proceeds of any Loan or Letter of Credit will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulation T, Regulation U and Regulation X.

Section 5.11 Further Assurances.

(a) The Borrower will cause any Person that becomes a Domestic Subsidiary after the Effective Date (other than any Excluded Subsidiary) and any Subsidiary that ceases to be an Excluded Subsidiary after the Effective Date (i) to execute and deliver to the Administrative Agent, within thirty (30) days after such Person first becomes a Domestic Subsidiary or such Subsidiary ceases to be an Excluded Subsidiary, as applicable (or such later date as may be agreed to by the Collateral Agent in its sole discretion), a supplement to the Guaranty and Security Agreement, in the form prescribed therein, guaranteeing the Secured Obligations and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Subsidiary and with respect to any Equity Interest in or Indebtedness of such Subsidiary owned by or on behalf of any Loan Party and (ii) concurrently with the delivery of such supplement and Security Documents, will deliver to the Administrative Agent and the Collateral Agent evidence of action of such Person's Board of Directors or other governing body authorizing the execution, delivery and performance thereof. The Loan Parties will execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, intellectual property security agreements and other documents), that the Collateral Agent may reasonably request (including, without limitation, those required by applicable law), to create, perfect and maintain the Liens and security interests for the benefit of the Secured Parties contemplated by the Loan Documents and to satisfy the Collateral and Guarantee Requirement and to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Loan Parties and provide to the Collateral Agent, from time to time upon reasonable request, evidence reasonably satisfactory to the Collateral Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents, in each case subject to the exceptions and limitations contained in the Loan Documents.

(b) After the Effective Date, in the event any Loan Party acquires any Material Real Property, or an entity that becomes a Loan Party after the Effective Date owns Material Real Property at the time it becomes a Loan Party, Borrower shall promptly provide notice to the Administrative Agent describing such Material Real Property and within 60 days (or such longer period as the Administrative Agent may agree) of such acquisition or the date such entity becomes a Loan Party, as applicable, and with respect to the Material Real Property described on Schedule 1.01D, within the time period set forth in Section 4.01(f), the applicable Loan Party shall execute and/or deliver, or cause to be executed and/or delivered, to the Administrative Agent, a Mortgage, together with

(i) evidence that counterparts of such Mortgage has been duly executed, acknowledged and delivered and are in form suitable for filing or recording in all filing or recording offices that the Collateral Agent may deem reasonably necessary in order to create, except to the extent otherwise provided hereunder, including subject to Liens permitted by Section 6.02, a valid and subsisting perfected Lien on such Material Real Property in favor of the Collateral Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Collateral Agent;

(ii) a fully paid American Land Title Association Lender's Extended Coverage title insurance policy or the equivalent or other form available in the applicable jurisdiction (a "Mortgage Policy") in form and substance, with endorsements available in the applicable jurisdiction (it being agreed that zoning reports from a nationally recognized zoning company shall be acceptable in lieu of zoning endorsements to title policies in any jurisdiction where there is a material difference in the cost of zoning reports and zoning endorsements) and in amounts, reasonably acceptable to the Collateral Agent (not to exceed the fair market value of the real properties covered thereby), issued, coinsured and reinsured by title insurers reasonably acceptable to the Collateral Agent, insuring such Mortgage to be valid subsisting Lien on the property described therein, subject only to Liens permitted by Section 6.02 or such other Liens reasonably satisfactory to the Collateral Agent that do not have a material adverse impact on the use or value of the Mortgaged Properties;

(iii) a customary opinion of counsel for the applicable Loan Party in states in which such Material Real Property is located, with respect to the enforceability and perfection of such Mortgage and any related fixture filings and the due authorization, execution and delivery of the Mortgage, in form and substance reasonably satisfactory to the Collateral Agent;;

(iv) an American Land Title/American Congress on Surveying and Mapping surveys (or, if reasonably acceptable to the Collateral Agent, zip or express maps) for such Material Real Property or existing surveys together with no change affidavits, in each case certified to the Collateral Agent if deemed necessary by the Collateral Agent in its reasonable discretion, sufficient for the title insurance company issuing a Mortgage Policy to remove the standard survey exception and issue standard survey-related endorsements and otherwise reasonably satisfactory to the Collateral Agent;

(v) a completed "Life-of-Loan" Federal Emergency Management Agency standard flood hazard determination with respect to such Mortgaged Property and evidence of flood insurance (if applicable); and

(vi) as promptly as practicable after the reasonable request therefor by the Collateral Agent, environmental assessment reports and reliance letters (if any) that have been prepared in connection with such acquisition, designation or formation of any Material Subsidiary that is a Domestic Subsidiary or acquisition of any Material Real Property; provided that there shall be no obligation to deliver to the Collateral Agent any environmental assessment report whose disclosure to the Collateral Agent would require the consent of a Person other than the Borrower or one of its Subsidiaries, where, despite the commercially reasonable efforts of the Borrower to obtain such consent, such consent cannot be obtained.

Section 5.12 Post-Closing Obligations.

The Borrower shall execute and deliver the documents and complete the tasks set forth on Schedule 5.12 to the Disclosure Letter, in each case within the time limits specified on such schedule subject to extension by the Collateral Agent in its sole discretion.

ARTICLE VI

NEGATIVE COVENANTS

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and the cancellation or expiration or Cash Collateralization of all Letters of Credit on terms reasonably satisfactory to the applicable Issuing Bank in an amount equal to the Agreed L/C Cash Collateral Amount (or other credit support reasonably satisfactory to the applicable Issuing Bank has been provided), the Borrower covenants and agrees with the Lenders and the Issuing Banks that:

Section 6.01 Indebtedness. The Borrower will not, and will not permit any Restricted Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) obligations in respect of performance, bid, customs, government, appeal and surety bonds, performance and completion guaranties, workers' compensation claims, self-insurance obligations, bankers acceptances and similar obligations provided by the Borrower or any of its Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business;

(c) Indebtedness existing on the Effective Date and set forth in Schedule 6.01 to the Disclosure Letter and Permitted Refinancing Indebtedness in respect thereof;

(d) Intercompany Indebtedness (to the extent permitted by Section 6.04);

(e) Guarantees by the Borrower or any Restricted Subsidiary in respect of Indebtedness of the Borrower or any Restricted Subsidiary otherwise permitted under this Section 6.01; provided that in no event shall any Restricted Subsidiary that is not a Loan Party guarantee Indebtedness of a Loan Party pursuant to this clause (e);

(f) Indebtedness of the Borrower or any Restricted Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations, and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and Permitted Refinancing Indebtedness in respect thereof; provided that (i) such Indebtedness (other than Permitted Refinancing Indebtedness in respect thereof) is incurred prior to or within 270 days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness outstanding in reliance on this clause (f) shall not exceed, at the time of incurrence thereof, the greater of (x) $20,000,000 and (y) 15% of Consolidated Total Assets (such that in the case of this clause (f)(ii)(y) at the time of incurrence and after giving effect thereto on a Pro Forma Basis, the Total Leverage Ratio is less than or equal to 2.50 to 1.00) for the most recently ended Test Period as of such time;

(g) (i) Indebtedness of any Person that becomes a Restricted Subsidiary after the Effective Date; provided that (x) such Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary and (y) the aggregate principal amount of Indebtedness outstanding in reliance on this clause (g) shall not exceed, at the time of incurrence thereof, the greater of $50,000,000 and 10% of Consolidated Total Assets for the most recently ended Test Period as of such time and (ii) Permitted Refinancing Indebtedness in respect thereof;

(h) any Refinancing Notes and Incremental Equivalent Debt and any Permitted Refinancing Indebtedness in respect thereof;

(i) other Indebtedness of any Loan Party so long as (i) no portion of such Indebtedness has a scheduled maturity date prior to a date that is later than the Latest Maturity Date at the time of issuance thereof, (ii) the covenants and events of default, taken as a whole, are not materially more restrictive than the terms of this Agreement (as determined in good faith by the Borrower), (iii) such Indebtedness is not subject to any mandatory redemption, repurchase or sinking fund obligation (other than (x) customary offers to repurchase required upon the consummation of an asset sale, change of control, or other fundamental change) prior to the date that is later than the Latest Maturity Date and (iv) at the time of the incurrence thereof on a Pro Forma Basis for the incurrence of such Indebtedness and the use of proceeds therefrom (but without netting the cash proceeds thereof), the Total Leverage Ratio does not exceed 2.50:1.00 in each case, as of the last day of, and for, the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01 or Section 4.01(j);

(j) Indebtedness incurred by Foreign Subsidiaries that are Restricted Subsidiaries and not Guarantors; provided that the aggregate principal amount of Indebtedness outstanding in reliance on this clause (j) shall not exceed, at the time of incurrence thereof, the greater of (i) $15,000,000 and (ii) 15% of Consolidated Total Assets (such that in the case of this clause (j)(ii) at the time of incurrence and after giving effect thereto on a Pro Forma Basis, the Total Leverage Ratio is less than or equal to 2.50 to 1.00) for the most recently ended Test Period as of such time;

(k) Indebtedness of the Borrower or any of its Restricted Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn by the Borrower or such Restricted Subsidiary against insufficient funds, other obligations pursuant to any Cash Management Agreement and other Indebtedness in respect of netting services, overdraft protections, automatic clearinghouse arrangements, arrangements in respect of pooled deposit or sweep accounts, check endorsement guarantees and similar arrangements, in each case, in the ordinary course of business;

(l) (i) Indebtedness of the Borrower or any of its Restricted Subsidiaries in the form of earn-outs, indemnification, incentive, non-compete, consulting or other similar arrangements and other contingent obligations in respect of any Permitted Acquisitions or any other Investments permitted by Section 6.04 (both before and after any liability associated therewith becomes fixed) and (ii) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries arising from agreements providing for indemnification and/or purchase price adjustment obligations related to sales of goods or adjustment of purchase price or similar obligations in any case incurred in connection with the Disposition of any business, assets or Subsidiary;

(m) Indebtedness arising in connection with endorsement of instruments for deposit in the ordinary course of business;

(n) Indebtedness owing to any insurance company in connection with the financing of any insurance premiums permitted by such insurance company in the ordinary course of business;

(o) obligations in respect of Swap Agreements entered into in the ordinary course of business and not for speculative purposes;

(p) other Indebtedness; provided that the aggregate principal amount of Indebtedness outstanding in reliance on this clause (p) shall not exceed, at the time of incurrence thereof, $200,000,000;

(q) Indebtedness in respect of letters of credit issued in the ordinary course of business and outside of this Facility (i) to the extent that the aggregate stated amount of such letters of credit would not exceed $25,000,000 at any time and (ii) (x) the issuance of any such letters of credit would exceed the Letter of Credit Sublimit or (y) such letters of credit could not be issued by an Issuing Bank under this Facility; and

(r) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (q) above.

For purposes of determining compliance with this Section 6.01, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Indebtedness described in clauses (a) through (q) above, the Borrower shall, in its sole discretion, classify and reclassify or later divide, classify or reclassify such item of Indebtedness (or any portion thereof) and will only be required to include the amount and type of such Indebtedness in one or more of the above clauses. For the avoidance of doubt, any Indebtedness incurred in compliance with Section (6.01(f)), (g) or (j) shall continue to be permitted hereunder, regardless of any subsequent decrease in Consolidated Total Assets.

Section 6.02 Liens. The Borrower will not, and will not permit any Restricted Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, except:

(a) Liens created under the Loan Documents and Liens securing Indebtedness permitted under Section 6.01(h);

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of the Borrower or any Restricted Subsidiary existing on the Effective Date and set forth in Schedule 6.02 to the Disclosure Letter; provided that (i) such Lien shall not apply to any other property or asset of the Borrower or any Restricted Subsidiary (other than improvements, accessions, proceeds, dividends or distributions in respect thereof and assets fixed or appurtenant thereto) and (ii) such Lien shall secure only those obligations which it secures on the Effective Date;

(d) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Restricted Subsidiary or existing on any property or asset of any Person that is merged or consolidated with or into the Borrower or any of its Restricted Subsidiaries or becomes a Subsidiary after the Effective Date prior to the time such Person is so merged or consolidated or becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Restricted Subsidiary (other than improvements, accessions, proceeds, dividends or distributions in respect thereof and assets fixed or appurtenant thereto) and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Restricted Subsidiary, as the case may be;

(e) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Restricted Subsidiary, including Liens deemed to exist in respect of assets subject to Capital Lease Obligations; provided that (i) such Liens secure Indebtedness permitted by Section 6.01(f), (ii) such Liens and the Indebtedness secured thereby are incurred prior to or within 270 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such Liens shall not apply to any other property or assets of the Borrower or any Restricted Subsidiary (other than improvements, accessions, proceeds, dividends or distributions in respect thereof and assets fixed or appurtenant thereto); provided, further that individual financings provided by a lender may be cross collateralized to other financings provided by such lender or its affiliates;

(f) Liens securing Intercompany Indebtedness permitted under Section 6.01(d) (other than Liens on Collateral securing Intercompany Indebtedness of the Borrower or a Guarantor owing to a non-Guarantor Restricted Subsidiary);

(g) any Lien with respect to the Permitted Refinancing Indebtedness referred to in clauses (c), (d) and (e) of this Section 6.02;

(h) Liens on insurance policies and proceeds thereof securing the financing of the premiums with respect thereto;

(i) (i) Liens on assets of Restricted Subsidiaries that are not Guarantors securing Indebtedness permitted under Section 6.01(j), and (ii) Liens on the Equity Interests of Unrestricted Subsidiaries;

(j) Liens in favor of a seller solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement with respect to any Permitted Acquisition or other Investment permitted hereunder;

(k) Liens that are contractual, statutory, or common law rights of set-off relating to (i) the establishment of depository relations or securities accounts in the ordinary course of business with banks or financial institutions not given in connection with the issuance of Indebtedness or (ii) pooled deposit or sweep accounts of the Borrower and any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its Restricted Subsidiaries;

(l) (i) Liens of a collection bank arising under Section 4-208 or Section 4-210 of the UCC on items in the course of collection, (ii) bankers' Liens, rights of setoff and other Liens securing cash management obligations, operating account arrangements and any obligations under Cash Management Agreements (that do not constitute Indebtedness) in the ordinary course of business and (iii) cash deposits securing Indebtedness permitted under Sections 6.01(b), (q) (but not in excess of $25,000,000 at any time) or (o) (but not in excess of $10,000,000 at any time); and

(m) Liens securing Indebtedness permitted under Section 6.01(n) and attaching only to the proceeds of the applicable insurance policy;

(n) [reserved];

(o) any interest or title of a lessor under leases (other than leases constituting Capital Lease Obligations) entered into by any of the Borrower or any of the Restricted Subsidiaries in the ordinary course of business;

(p) additional Liens incurred by the Borrower and its Restricted Subsidiaries so long as at the time of incurrence of the obligations secured thereby the aggregate outstanding principal amount of Indebtedness and other obligations secured thereby do not exceed $40,000,000 at any time; and

(q) additional Liens securing Indebtedness if, at the time of and immediately after the creation, incurrence or assumption of each such Lien and the related Indebtedness, the Secured Leverage Ratio on a Pro Forma Basis does not exceed 1.50:1.00, as of the last day of, and for, the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01 or Section 4.01(j); provided that (i) any such Indebtedness secured by a Lien on the Collateral shall be subject to the applicable Intercreditor Agreement, (ii) at the time of incurrence, such Indebtedness shall have a final maturity date equal to or later than the Latest Maturity Date then in effect with respect to, and shall have a

Weighted Average Life to Maturity equal to or longer than, the Weighted Average Life to Maturity of, the Class of outstanding Loans with the then Latest Maturity Date or Weighted Average Life to Maturity, as the case may be, (iii) such Indebtedness shall not be secured by any asset of the Borrower or its Subsidiaries other than the Collateral and (iv) any Indebtedness for borrowed money in the form of term loans secured by such Liens on the Collateral on a pari passu basis with the Facilities shall be subject to the requirements of Section 2.17(b)(ix) as if such term loans were Incremental Term Loans.

For purposes of determining compliance with this Section 6.02, if any Lien (or a portion thereof) would be permitted pursuant to one or more provisions described above and/or one or more of the exceptions contained in the definition of "Permitted Encumbrances," the Borrower may divide and classify such Lien (or a portion thereof) in any manner that complies with this covenant and may later divide and reclassify any such Lien so long as the Lien (as so divided and/or reclassified) would be permitted to be made in reliance on the applicable exception as of the date of such reclassification.

Section 6.03 Fundamental Changes.

(a) The Borrower will not, and will not permit any Restricted Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or Dispose of (in one transaction or in a series of transactions) all or substantially all of its assets, or all or substantially all of the Equity Interests of any of its Restricted Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto, no Event of Default shall have occurred and be continuing:

(i) any Person may merge or be consolidated with or into the Borrower in a transaction in which the Borrower is the continuing or surviving Person;

(ii) any Person may merge or consolidate with or into any Restricted Subsidiary in a transaction; provided that (A) if any party to such merger or consolidation is a Loan Party the surviving Person must also be a Loan Party and must succeed to all the obligations of such Loan Party under the Loan Documents or simultaneously with such merger, the continuing or surviving Person shall become a Loan Party and (B) if any party to such merger or consolidation is a Restricted Subsidiary the surviving Person shall also be a Restricted Subsidiary unless designated as an Unrestricted Subsidiary pursuant to the definition of such term;

(iii) any Restricted Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders;

(iv) any Restricted Subsidiary may merge, consolidate or amalgamate with any other Person in order to effect an Investment permitted pursuant to Section 6.04; provided that the continuing or surviving Person shall be a Restricted Subsidiary, which shall comply with the applicable requirements of Section 5.11, to the extent required thereby; provided further that if such Restricted Subsidiary was a Loan Party the continuing or surviving Person shall be a Loan Party;

(v) none of the foregoing shall prohibit any Disposition permitted by Section 6.05; and

(vi) any Restricted Subsidiary may effect a merger, dissolution, liquidation, consolidation or amalgamation to effect a Disposition permitted pursuant to Section 6.05.

(b) The Borrower and the Restricted Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by them on the Effective Date and other business activities which are extensions thereof or otherwise incidental, complementary, reasonably related or ancillary to any of the foregoing.

Section 6.04 Investments, Loans, Advances, Guarantees and Acquisitions. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, purchase or acquire any Equity Interests in or evidences of Indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of or make any loans or advances to, Guarantee any Indebtedness of any other Person or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person (other than inventory acquired in the ordinary course of business) constituting a business unit division, product line or line of business or all or substantially all of the property and assets or business of another Person (all of the foregoing being collectively called "Investments" and, each individually an "Investment"), except:

(a) Permitted Investments and Permitted Foreign Investments;

(b) Investments existing on, or contractually committed on, the Effective Date and set forth on Schedule 6.04 to the Disclosure Letter;

(c) Investments existing on the Effective Date in Restricted Subsidiaries;

(d) Investments in Persons that, immediately prior to such Investments, are Loan Parties;

(e) Investments (i) by any Restricted Subsidiary that is not a Loan Party in the Borrower or any other Restricted Subsidiary and (ii) by the Borrower or any Restricted Subsidiary that is a Loan Party in any Restricted Subsidiary that is not a Loan Party not to exceed the greater of $50,000,000 and 10% of Consolidated Total Assets for the most recently ended Test Period after giving effect to the making of such Investment on a Pro Forma Basis;

(f) Investments held by any Person acquired in any Permitted Acquisition at the time of such Permitted Acquisition (and not acquired in contemplation of the Permitted Acquisition);

(g) Investments constituting an acquisition of the Equity Interests in a Person that becomes a Restricted Subsidiary or all or substantially all of the assets (or all or substantially all of the assets constituting a business unit, division, product line or line of business) of any Person; provided that (i) no Event of Default shall have occurred and be continuing or would occur as a result thereof, (ii) the Borrower and its Restricted Subsidiaries shall, upon giving effect to such acquisition, be in compliance with Section 5.11 and Section 6.03(b) and (iii) the aggregate amount of all acquisition consideration paid by Loan Parties in connection with Investments and acquisitions made in reliance on this clause (g) attributable to the acquisition of acquired entities that do not become Guarantors shall not exceed (together with Investments made in reliance on Section 6.04(e)) at the time any such Investment is made the greater of $50,0000,000 and 10% of Consolidated Total Assets for the most recently ended Test Period after giving effect to the making of such Investment on a Pro Forma Basis and (iv) the Borrower shall be in compliance on a Pro Forma Basis (immediately after giving effect to any such acquisition or Investment and the incurrence or assumption of any Indebtedness in connection therewith) with the financial covenant set forth in Section 6.11 (each, a "Permitted Acquisition").

(h) Guarantees constituting Indebtedness permitted by Section 6.01; provided that a Loan Party shall not Guarantee any Indebtedness of a Restricted Subsidiary that is not a Loan Party pursuant to this paragraph (h);

(i) Investments (a) received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business and (b) of noncash consideration received by the Borrower or any Restricted Subsidiary in connection with a Disposition of assets otherwise permitted by Section 6.05;

(j) accounts receivable and extensions of trade credit arising in the ordinary course of business;

(k) Investments held by any Restricted Subsidiary at the time it becomes a Subsidiary in a transaction permitted by this Section 6.04;

(l) advances to officers, directors and employees of the Borrower and any Restricted Subsidiary for travel arising in the ordinary course of business;

(m) loans to officers, directors, consultants and employees of the Borrower or any Restricted Subsidiary, not to exceed $3,000,000 in the aggregate at any one time outstanding;

(n) promissory notes and other noncash consideration received by the Borrower and its Restricted Subsidiaries in connection with any Disposition permitted hereunder;

(o) advances in the form of prepayments of expenses, so long as such expenses were incurred in the ordinary course of business and are paid in accordance with customary trade terms of the Borrower or any of its Restricted Subsidiaries;

(p) Guarantees by the Borrower or any of its Restricted Subsidiaries of obligations of any Restricted Subsidiary or the Borrower incurred in the ordinary course of business and not constituting Indebtedness;

(q) Investments consisting of Indebtedness, Liens, fundamental changes, Dispositions and Restricted Payments permitted (other than by reference to this Section 6.04(q)) under Sections 6.01, 6.02, 6.03, 6.05 and 6.08, respectively;

(r) other Investments so long as on the date such Investment is made, (i) no Event of Default shall have occurred and be continuing and (ii) the Total Leverage Ratio as of the last day of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01 or Section 4.01(j) at the time such Investment is made on a Pro Forma Basis is no greater than 2.00 to 1.00;

(s) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers consistent with past practices;

(t) Investments to the extent that payment for such Investments is made with Qualified Equity Interests of the Borrower or with Net Proceeds of any issuance of Qualified Equity Interests of the Borrower;

(u) (i) intercompany advances arising from their cash management, tax and accounting operations and (ii) intercompany loans, advances, or Indebtedness having a term not exceeding 364 days (inclusive of any rollover or extensions of terms) and made in the ordinary course of business;

(v) (i) Investments represented by Swap Agreements permitted under Section 6.01(o) and (ii) the purchase by the Borrower of any forward purchase contract, accelerated share repurchase contract or other derivative in respect of its Equity Interests, *provided* that any repurchase under such contract or derivative shall be permitted by Section 6.06 at the time such contract is entered into or such derivative is purchased;

(w) so long as no Event of Default has occurred and is continuing or would result therefrom, other Investments in an amount not to exceed the Available Amount;

(x) other Investments; provided that at the time any such Investment is made the aggregate amount of Investments made in reliance on this clause (x) shall not exceed the greater of $150,000,000 and 20% of Consolidated Total Assets;

(y) Investments in Joint Ventures, in an aggregate amount not to exceed the greater of $100,000,000 and 15% of Consolidated Total Assets for the most recently ended Test Period as of such time after giving effect to the making of such Investment on a Pro Forma Basis;

(z) [reserved]; and

(aa) the purchase by the Borrower of any Permitted Call Spread Option; *provided* that no Default or Event of Default has occurred and is continuing or would result therefrom.

For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, less any return of capital, without adjustment for subsequent increases or decreases in the value of such Investment. For the avoidance of doubt, the acquisition by the Borrower and its Restricted Subsidiaries of Intellectual Property in the ordinary course of their respective businesses shall not be considered an Investment. To the extent an Investment is permitted to be made by a Loan Party directly in any Restricted Subsidiary or any other Person who is not a Loan Party (each such Restricted Subsidiary or other Person, a "Target Person") under any provision of this Section 6.04, such Investment may be made by advance, contribution or distribution by a Loan Party to a Restricted Subsidiary (and further advanced, contributed or distributed to another Restricted Subsidiary) for purposes of making the relevant Investment in (or effecting an acquisition of) the Target Person without constituting an Investment for purposes of Section 6.04 (it being understood that such Investment must satisfy the requirements of, and shall count towards any thresholds in, a provision of this Section 6.04 as if made by the applicable Loan Party directly in the Target Person). For purposes of determining compliance with this Section 6.04, if any Investment (or a portion thereof) would be permitted pursuant to one or more provisions described above, the Borrower may divide and classify such Investment (or a portion thereof) in any manner that complies with this covenant. For the avoidance of doubt, any Investments in compliance with Section 6.04(e), (g), (x) or (y) shall continue to be permitted hereunder, regardless of any subsequent decrease in Consolidated Total Assets.

Section 6.05 Asset Sales. The Borrower will not, and will not permit any of its Restricted Subsidiaries to make any Dispositions, except:

(a) (i) Dispositions of inventory, used, obsolete, worn-out or surplus tangible property, (ii) leases, subleases, licenses or sales of real property, (iii) leases, subleases, sales, assignments, licenses or sublicenses of personal property (including licenses of Intellectual Property), and (iv) lapse, abandonment or other Disposition of Intellectual Property, that is in the reasonable business judgment of the Borrower, no longer used or useful in the conduct of its business or otherwise uneconomical to prosecute or maintain, in each case with respect to all of the foregoing in the ordinary course of business;

(b) Dispositions of any assets; provided that any Disposition of assets pursuant to this clause (b) shall be for fair market value (as determined by the Borrower in good faith) and for at least 75% cash and/or Permitted Investments;

(c) Dispositions from (i) a Loan Party to another Loan Party or (ii) a Restricted Subsidiary that is not a Loan Party to the Borrower or a Restricted Subsidiary; provided that in the case of this clause (ii) the consideration paid shall be no more than fair market value (as determined by the Borrower in good faith);

(d) Dispositions from any Loan Party to a Restricted Subsidiary that is not a Loan Party; provided that (i) such Dispositions are in the ordinary course of business at prices and on terms and conditions not less favorable to the Borrower or any Loan Party than could be obtained on an arm's length basis from unrelated third parties and (ii) the aggregate consideration received for all such Dispositions shall not exceed the greater of $50,000,000 and 10% of Consolidated Total Assets for the most recently ended Test Period after giving effect to the making of such Investment on a Pro Forma Basis;

(e) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) an amount equal to the Net Proceeds of such Disposition are promptly applied to the purchase price of such replacement property;

(f) Dispositions of accounts receivable in connection with the collection or compromise thereof (excluding factoring arrangements);

(g) Dispositions of property subject to casualty or condemnation events;

(h) Dispositions of Investments in Joint Ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the Joint Venture parties set forth in joint venture arrangements and similar binding arrangements;

(i) the unwinding of Swap Agreements permitted hereunder and Investments permitted under Sections 6.04(v)(ii) or (aa);

(j) Dispositions of other assets (other than transfers of less than 100% of the Equity Interests in any Subsidiary); provided that the aggregate book value of assets Disposed of pursuant to this Section 6.05(j) during any fiscal year of Borrower shall not exceed $20,000,000;

(k) [reserved];

(l) Dispositions permitted by Section 6.03, Investments permitted by Section 6.04 (other than Section 6.04(q)), Restricted Payments permitted by Section 6.08 and Liens permitted by Section 6.02, in each case, other than by reference to this Section 6.05(l);

(m) compromise, settlement, release or surrender of a contract, tort or other litigation claim, arbitration or other disputes;

(n) Dispositions of cash, Permitted Investments and Permitted Foreign Investments, in each case, in the ordinary course and for the fair market value thereof; and

(o) Other Dispositions, provided that the consideration for each such Disposition does not to exceed $5,000,000.

To the extent any Collateral is disposed of as expressly permitted by this Section 6.05 to any Person that is not a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent or the Collateral Agent, as applicable, shall, and shall be authorized to, take any actions deemed appropriate in order to effectuate the foregoing. For the avoidance of doubt, any Asset Sales made in compliance with Section 6.05(d) shall continue to be permitted hereunder, regardless of any subsequent decrease in Consolidated Total Assets.

Section 6.06 Restricted Payments; Certain Payments in Respect of Indebtedness.

(a) The Borrower will not, and will not permit any Restricted Subsidiary to, declare or make, directly or indirectly, any Restricted Payment, except that:

(i) Restricted Subsidiaries may make Restricted Payments ratably with respect to their Equity Interests,

(ii) the Borrower and its Restricted Subsidiaries may declare and pay dividends to holders of any class or series of Disqualified Stock of the Borrower or any Restricted Subsidiary issued or incurred in compliance with Section 6.01,

(iii) if no Event of Default has occurred and is continuing or would occur as a result thereof, the Borrower may make any Restricted Payment if, on the date such Restricted Payment is to be made, after giving effect to such Restricted Payment the Total Leverage Ratio as of the last day of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01 or Section 4.01(j) on a Pro Forma Basis would not be greater than 2.00 to 1.00,

(iv) [Reserved],

(v) the Borrower may make Restricted Payments, not exceeding $20,000,000 in the aggregate for any fiscal year, pursuant to and in accordance with stock option plans or other benefit plans or agreements for directors, officers or employees of the Borrower and its Restricted Subsidiaries,

(vi) so long as no Event of Default has occurred and is continuing or would occur as a result, the Borrower and its Restricted Subsidiaries may make other Restricted Payments in an amount not to exceed the Available Amount; provided that, at the time each Restricted Payment is made (other than in reliance on clause (a) of the definition of "Available Amount"), the Secured Leverage Ratio as of the last day of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01 or Section 4.01(j) on a Pro Forma Basis is no greater than 2.00 to 1.00,

(vii) the Borrower may (i) repurchase Equity Interests in the ordinary course of business in connection with the exercise of stock options, warrants or other convertible or exchangeable securities if such Equity Interests represent a portion of the exercise, conversion or exchange price thereof and (ii) repurchase its Equity Interests in an amount not to exceed $15,000,000 in any fiscal year, any unutilized portion of which may be carried forward to the immediately succeeding fiscal year; provided that at the time of and immediately after giving effect to any such Restricted Payment, no Default shall have occurred and be continuing; provided further that in any given fiscal year any such repurchases shall be deemed first, to reduce the $15,000,000 available for such fiscal year and, second, after such amount is reduced to $0, to reduce any carryover from the prior fiscal year,

(viii) the Borrower may repurchase Equity Interests in connection with the withholding of a portion of the Equity Interests granted or awarded to a current or former officer, director, employee or consultant to pay for the taxes payable by such person upon such grant or award (or upon vesting thereof),

(ix) the Borrower may purchase, redeem, retire or otherwise acquire for value of Equity Interests (and any related stock appreciation rights, plans, equity incentive or achievement plans or any similar plans) in a person being acquired in any Permitted Acquisition in connection with such Permitted Acquisition,

(x) the Borrower may repurchase the Borrower's Equity Interests in connection with the issuance of any Convertible Notes (including through payments under or pursuant to accelerated or forward stock repurchase arrangements or settlement of call spreads entered into at the time of and in connection with such issuance), but in each case under this clause ((x) solely to the extent necessary to repurchase the "delta hedge" of investors in such Convertible Note, determined in accordance with customary practices; *provided* that the aggregate amount of any such repurchases by Borrower of its Equity Interests in connection with the issuance of a Convertible Note shall not exceed 30% of the aggregate amount of the purchase amounts paid by holders of such Convertible Note to Borrower for such issuance;

(xi) the Borrower may make Restricted Payments with the proceeds of, or in exchange for, a substantially contemporaneous issuance of Qualified Equity Interests of the Borrower (other than issuances to a Restricted Subsidiary, the proceeds of any issuance to the extent included in the Available Amount or applied pursuant to Section 6.04(t));

(xii) the Borrower and each Restricted Subsidiary may declare and make dividend payments or other payments or distributions solely in Qualified Equity Interests of such Person;

(xiii) the Borrower may (A) purchase or pay cash in lieu of fractional shares of its Equity Interests arising out of stock dividends, splits, or business combinations or in connection with issuance of Qualified Equity Interests of the Borrower pursuant to mergers, consolidations or other acquisitions permitted by this Agreement, (B) pay cash in lieu of fractional shares upon the exercise of warrants, options or other securities convertible into or exercisable for Qualified Equity Interests of the Borrower, and (C) make payments in connection with the retention of Qualified Equity Interests in payment of withholding Taxes in connection with equity-based compensation plans to the extent that net share settlement arrangements are deemed to be repurchases; and

(xiv) the Borrower may make other Restricted Payments in an aggregate amount not to exceed $30,000,000.

(b) The Borrower will not, and will not permit any Restricted Subsidiary to, make directly or indirectly, any voluntary prepayment or other voluntary distribution (whether in cash, securities or other property) of or in respect of the principal of any subordinated Indebtedness of the Borrower or any of its Restricted Subsidiaries (other than Intercompany Indebtedness) or Indebtedness secured by Liens on the Collateral ranking junior to the Liens securing the Secured Obligations, in each case in a principal amount in excess of $5,000,000 ("Junior Debt"), or any voluntary prepayment or other voluntary distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the voluntary purchase, redemption, retirement, defeasance, cancellation or termination of principal of any Junior Debt (each, a "Junior Debt Prepayment"), except (i) scheduled and other mandatory payments of interest and principal in respect of any Junior Debt, (ii) the conversion of any Junior Debt to Qualified Equity Interests of the Borrower and the payment of cash in lieu of fractional shares in connection therewith, (iii) refinancings and replacements of Junior Debt with proceeds of Indebtedness permitted to be incurred under Section 6.01 or with Net Proceeds of Qualified Equity Interests of the Borrower, (iv) [Reserved], (v) if no Event of Default has occurred and is continuing or would occur as a result thereof, the Borrower or such Restricted Subsidiary may make any Junior Debt Prepayment if, on the date such Junior Debt Prepayment is to be made, after giving effect thereto the Total Leverage Ratio as of the last

day of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01 or Section 4.01(j) on a Pro Forma Basis would not be greater than 2.00 to 1.00, and (vi) so long as no Event of Default has occurred and is continuing or would occur as a result thereof, other Junior Debt Prepayments in an amount not to exceed the Available Amount; provided that, at the time each Junior Debt Prepayment is made (other than in reliance on clause (a) of the definition of "Available Amount"), the Secured Leverage Ratio as of the last day of the most recent Test Period for which financial statements have been delivered pursuant to Section 5.01 or Section 4.01(j) on a Pro Forma Basis is no greater than 2.00 to 1.00.

Notwithstanding anything herein to the contrary, the foregoing provisions of Section 6.06 will not prohibit the payment of any Restricted Payment or the consummation of any irrevocable redemption, purchase, defeasance, distribution or other payment within 60 days after the date of declaration thereof or the giving of such irrevocable notice, as applicable, if at the date of declaration or the giving of such notice such payment would have complied with the provisions of this Agreement, provided that, if at the time thereof and immediately after giving effect thereto, no Events of Default under Section 7.01(a), (b), (h) and (i) and shall have occurred and be continuing.

Section 6.07 Transactions with Affiliates. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) in the ordinary course of business on terms substantially as favorable to the Borrower or such Restricted Subsidiary as could be obtained on an arm's-length basis from unrelated third parties (as determined by the Borrower in good faith), (b) transactions between or among the Borrower and its Restricted Subsidiaries not involving any other Affiliate, (c) issuances of Equity Interests of the Borrower not prohibited by this Agreement, (d) any Restricted Payment permitted by Section 6.06 and any Investment permitted by Section 6.04, (e) transactions involving aggregate payments of less than $1,000,000, (f) any agreement or arrangement in effect on the Effective Date and set forth on Schedule 6.07 of the Disclosure Letter, or any amendment thereto (so long as such amendment is not materially more adverse to the interest of the Lenders when taken as a whole as compared to the applicable agreement as in effect on the Effective Date), (g) transactions pursuant to, as determined by the Borrower, reasonable director, officer and employee compensation (including bonuses) and other benefits (including retirement, health, and stock compensation plans) and indemnification arrangements and performance of such arrangements, (h) any transaction entered into by a Person prior to the time such Person becomes a Restricted Subsidiary or is merged or consolidated with or into the Borrower or a Restricted Subsidiary, so long as such transaction was not consummated solely in contemplation of such Person becoming a Restricted Subsidiary or such merger, (i) any employment agreements entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business and the transactions pursuant thereto and (j) transactions with customers, clients, suppliers, joint venture partners or purchasers or sellers of goods and services, in each case in the ordinary course of business and otherwise not prohibited by the Loan Documents. For the avoidance of doubt, this Section 6.07 shall not apply to employment, bonus, retention and severance arrangements, and similar agreements, with, and payments of compensation or benefits to or for the benefit of, current or former employees, consultants, officers or directors of the Borrower and the Subsidiaries in the ordinary course of business. For purposes of this Section 6.07, such transaction shall be deemed to have satisfied the standard set forth in clause (a) of this Section 6.07 if such transaction is approved by a majority of the Disinterested Directors of the Board of Directors of the Borrower or such Restricted Subsidiary, as applicable, in a resolution certifying that such transaction is on terms substantially as favorable to the Borrower or such Restricted Subsidiary than could be obtained on an arm's-length basis from unrelated third parties. "Disinterested Director" shall mean, with respect to any Person and transaction, a member of the Board of Directors of such Person who does not have any material direct or indirect financial interest in or with respect to such transaction.

Section 6.08 Restrictive Agreements. The Borrower will not, and will not permit any Restricted Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits or restricts (a) the ability of the Borrower or any Restricted Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets to secure the Secured Obligations, or (b) the ability of any Restricted Subsidiary to declare or make dividends or distributions (whether in cash, securities or other property) ratably to holders of Equity Interests in such Restricted Subsidiary; provided that (A) the foregoing shall not apply to prohibitions, restrictions and conditions imposed by any Requirement of Law, Permitted Encumbrances, any subordinated Indebtedness, the documents governing any Liens permitted to be incurred pursuant to Section 6.02(j), the documents governing any Indebtedness permitted to be incurred pursuant to Section 6.01(c), (f) or (g) or by any Loan Document, (B) the foregoing shall not apply to prohibitions, restrictions and conditions existing on the Effective Date identified on Schedule 6.08 to the Disclosure Letter (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition), (C) the foregoing shall not apply to customary prohibitions, restrictions and conditions contained in agreements relating to the Disposition of any assets pending such Disposition, provided such prohibitions, restrictions and conditions apply only to the assets or Restricted Subsidiary that is to be Disposed of and such Disposition is permitted hereunder, (D) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to Indebtedness permitted by this Agreement if such restrictions or conditions either (1) apply only to the property or assets securing such Indebtedness, (2) do not impair the ability of the Loan Parties to perform their obligations under this Agreement or the other Loan Documents, and are not materially more burdensome taken as a whole than that those contained under this Agreement or the other Loan Documents, or (3) are customary restrictions on leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the assets subject thereto, (E) the foregoing shall not apply to customary provisions contained in leases, subleases, licenses and sublicenses and other contracts restricting the assignment, subletting or encumbrance thereof, customary net worth provisions or similar financial maintenance provisions contained therein and other customary provisions contained in leases, subleases, licenses and sublicenses and other contracts entered into in the ordinary course of business, (F) the foregoing shall not apply to prohibitions, restrictions and conditions that are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary, so long as such restrictions were not entered into solely in contemplation of such Person becoming a Restricted Subsidiary, (G) the foregoing shall not apply to customary provisions in joint venture agreements and other similar agreements applicable to Joint Ventures permitted by Section 6.04 and applicable solely to such Joint Venture and entered into in the ordinary course of business; (H) customary restrictions under any arrangement with any Governmental Authority imposed on any Foreign Subsidiary in connection with governmental grants, financial aid, tax holidays or similar benefits or economic interests; and (I) without affecting the Loan Parties' obligations under Section 5.11, customary provisions in partnership agreements, limited liability company organizational governance documents, asset sale and stock sale agreements and other similar agreements entered into in the ordinary course of business that restrict the transfer of ownership interests in such partnership, limited liability company or similar person.

Section 6.09 Change in Fiscal Year. The Borrower will not change the end of its fiscal year to a date other than December 31 unless the Borrower shall have given the Administrative Agent prior written notice. Promptly after receiving such notice, the Borrower and the Administrative Agent shall enter into an amendment to this Agreement (which shall not require the consent of any other party hereto) that, in the reasonable judgment of the Administrative Agent and the Borrower, as nearly as practicable, preserves the rights of the parties hereto that would have happened had no such change in fiscal year occurred.

Section 6.10 Limitation on Amendments. The Borrower will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(a) amend its charter or by-laws or other similar constitutive documents in any manner materially adverse to the rights of the Lenders under this Agreement or any other Loan Document or their ability to enforce the same, except as otherwise permitted pursuant to Section 6.03; or

(b) except as otherwise permitted under any applicable Intercreditor Agreement, amend, supplement, waive or otherwise modify any of the provisions of Junior Debt in a manner that is materially adverse to the Lenders.

Section 6.11 Minimum Adjusted Quick Ratio Commencing with the first Fiscal Quarter ending after the Effective Date, the Borrower shall not permit its Adjusted Quick Ratio on the last day of each Fiscal Quarter of the Borrower on the basis of the prior period of four consecutive Fiscal Quarters of the Borrower to be less than 1.00 to 1.00.

Section 6.12 Use of Proceeds. The Borrower will not request any Borrowing or Letter of Credit and the Borrower shall not use, and shall ensure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (a) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, businesses or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States or any European Union Member State, or (c) in any manner that would directly result in the violation by Borrower or any of its Subsidiaries of any Sanctions or Anti-Money Laundering Laws applicable thereto.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01 Events of Default. If any of the following events ("Events of Default") shall occur:

(a) any Loan Party shall fail to pay (i) any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise or (ii) when due any amount payable to any Issuing Bank in reimbursement of any drawing under any Letter of Credit;

(b) any Loan Party shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Section 7.01) payable under this Agreement or the other Loan Documents, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) Business Days;

(c) any representation or warranty made or deemed made or confirmed by or on behalf of any Loan Party in or in connection with this Agreement or any amendment or modification hereof or waiver hereunder, or in any report, certificate, financial statement, Loan Document or other document furnished pursuant to or in connection with this Agreement, shall prove to have been incorrect in any material respect (or if such representation or warranty is qualified by materiality or reference to Material Adverse Effect, in all respects) when made or deemed made or confirmed;

(d) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in (i) Section 5.02(a) and 5.04 (solely with respect to the existence of the Borrower) or (ii) in Article VI;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clauses (a), (b) or (d) of this Section 7.01) or in any other Loan Document, and such failure shall continue unremedied for a period of thirty (30) days after written notice thereof from the Administrative Agent to the Borrower;

(f) the Borrower or any Restricted Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness (other than the Obligations), when and as the same shall become due and payable after giving effect to any applicable , cure or grace period;

(g) any event or condition (other than, with respect to Indebtedness consisting of a Swap Agreement, termination events or equivalent events pursuant to the terms of such Swap Agreement not arising as a result of a default by the Borrower or any Restricted Subsidiary thereunder) occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (after giving effect to all applicable grace periods) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to (i) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, (ii) any Indebtedness assumed in connection with a Permitted Acquisition or any other Investment permitted under this Agreement to the extent repaid or repurchased substantially concurrently with, or within 45 days after the consummation of such Permitted Acquisition or Investment, (iii) any redemption, repurchase, conversion, exchange, settlement or event with respect to any Convertible Notes pursuant to its terms (or the occurrence of any event that permits such redemption, repurchase, conversion, exchange or settlement) unless such redemption, repurchase, conversion, exchange or settlement results from a default thereunder or an event of the type that constitutes an Event of Default, or (iv) any early payment requirement or unwinding or termination with respect to any Swap Agreement (other than any such payment requirement or termination resulting from a default by the Borrower or any Restricted Subsidiary);

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Restricted Subsidiary that is also a Material Subsidiary or its debts, or of a substantial part of its assets, under any Debtor Relief Laws now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Material Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Restricted Subsidiary that is also a Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Debtor Relief Laws, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Section 7.01, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Restricted Subsidiary that is also a Material Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) one or more final judgments for the payment of money in an aggregate amount in excess of $25,000,000 (to the extent not paid or covered by indemnities or insurance as to which the applicable indemnitor or insurer has been informed in writing and has not denied coverage) shall be rendered against the Borrower, any Restricted Subsidiary that is also a Material Subsidiary or any combination thereof and the same shall remain undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed or bonded pending appeal;

(k) an ERISA Event shall have occurred that, when taken together with all other ERISA Events that have occurred and are continuing, would reasonably be expected to result in a Material Adverse Effect;

(l) any material Loan Document or any material provision thereof shall at any time cease to be in full force and effect (other than in accordance with its terms), or a proceeding shall be commenced by any Loan Party seeking to establish the invalidity or unenforceability thereof (exclusive of questions of interpretation thereof), or any Loan Party shall repudiate or deny that it has any liability or obligation for the payment of principal or interest or other obligations purported to be created under any Loan Document;

(m) any Lien created by any of the Security Documents with respect to any Collateral having a value, individually or in the aggregate, in excess of $1,000,000 shall at any time fail to constitute a valid and (to the extent required by the Loan Documents) perfected Lien on any material portion of the Collateral, securing the obligations purported to be secured thereby, with the priority required by the Loan Documents, or any Loan Party shall so assert in writing, except (i) as a result of the Disposition of the applicable Collateral to a Person that is not a Loan Party in a transaction permitted under the Loan Documents, or (ii) as a result of the Collateral Agent's failure to maintain possession of any stock certificates, promissory notes or other instruments delivered to it under the Security Documents; or

(n) a Change in Control shall occur; then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Section 7.01), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Commitments and the obligations of the Issuing Banks to issue any Letters of Credit, and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived and any and all outstanding Letters of Credit shall be required to be Cash Collateralized in an amount equal to the Agreed L/C Cash Collateral Amount by the Borrower; provided in case of any event with respect to the Borrower described in clause (h) or (i) of this Section 7.01, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower and (iii) exercise any or all of the remedies available to it under the Security Documents, at law or in equity.

ARTICLE VIII

THE AGENTS

Section 8.01 Appointment. Each of the Lenders (including in any Lender's other capacity hereunder) and each of the Issuing Banks (each of the foregoing referred to as the "Lenders" for purposes of this Article VII) hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof, together with such actions and powers as are reasonably incidental thereto.

In furtherance of the foregoing, each Lender on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements or Secured Hedge Agreements hereby appoints and authorizes the Collateral Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Collateral Agent (and any sub agents appointed by the Collateral Agent pursuant hereto for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights or remedies thereunder at the direction of the Collateral Agent) shall be entitled to the benefits of this Article VIII as though the Collateral Agent (and any such sub-agents) were an "Agent" under the Loan Documents, as if set forth in full herein with respect thereto. All rights and protections provided to the Administrative Agent here shall also apply to the Collateral Agent.

The Person serving as the Administrative Agent and/or Collateral Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

Section 8.02 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose it to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law, and (c) except as expressly set forth herein, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible

for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement, (ii) the contents of any certificate, report or other document delivered hereunder or in connection herewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 8.03 Reliance by Agents. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 8.04 Delegation of Duties. The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of Section 8.02 and indemnification provisions of Section 8.05 shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Section 8.05 Indemnification. In addition, each of the Lenders hereby indemnifies the Administrative Agent (to the extent not reimbursed by the Loan Parties), ratably according to their Applicable Percentages, from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Administrative Agent in any way relating to or arising out of this Agreement or any action taken or omitted by the Administrative Agent under this Agreement or the other Loan Documents (including any action taken or omitted under Article II of this Agreement); provided that such indemnity shall not be available to the extent such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of the Administrative Agent. Without limitation of the foregoing, each Lender agrees to reimburse the Administrative Agent promptly upon demand for its respective Applicable Percentage of any out-of-pocket expenses (including reasonable counsel fees) incurred by the Administrative Agent in connection with the preparation, execution, administration or enforcement of, or legal advice in respect of rights or responsibilities under, this Agreement or the other Loan Documents to the extent that the Administrative Agent is not reimbursed for such expenses by the Loan Parties. The provisions of this Article VIII shall survive the termination of this Agreement and the payment of the Obligations.

Section 8.06 Withholding Tax. To the extent required by any applicable Requirements of Law (including for this purpose, pursuant to any agreements entered into with a Governmental Authority), the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If the IRS or any other authority of the United States or other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including, without limitation, because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of, withholding Tax ineffective), such Lender shall indemnify and hold harmless the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by the Loan Parties and without limiting the obligation of the Loan Parties to do so) for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any interest, additions to Tax or penalties thereto, together with all expenses incurred, including legal expenses and any other out-of-pocket expenses, whether or not such Tax was correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by an Administrative Agent shall be deemed presumptively correct absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due the Administrative Agent under this Section 8.06. The agreements in this Section 8.06 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other obligations. Unless required by applicable Requirements of Law, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender any refund of Taxes withheld or deducted from funds paid for the account of such Lender.

Section 8.07 Successor Administrative Agent.

(a) Subject to the appointment and acceptance of a successor Administrative Agent as provided in this Section 8.07, the Administrative Agent may resign at any time by notifying the Lenders and the Borrower; provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Upon any such resignation, the Required Lenders shall have the right, with the consent of Borrower unless an Event of Default under clause (a), (b), (h) or (i) of Section 7.01 has occurred and is continuing, to appoint a successor; provided, that if no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank; provided further that any successor Administrative Agent must be treated as a U.S. Person for U.S. federal income tax purposes.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by Requirement of Law, by notice in writing to the Borrower and such Person remove such Person as Administrative Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) Upon the acceptance of its appointment as Administrative Agent in accordance with this Section 8.07 by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Administrative Agent, and the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Section 8.08 Non-Reliance on Agents and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any related agreement or any document furnished hereunder or thereunder.

Section 8.09 Credit Bidding. The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Secured Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other jurisdictions to which a Loan Party is subject, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Secured Obligations owed to the Secured Parties shall be credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Secured Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles (ii) each of the Secured Parties' ratable interests in the Secured Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative Agent shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Secured Obligations which were credit bid, interests, whether as equity, partnership, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Secured Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Secured Obligations assigned to the acquisition vehicle exceeds the amount of Secured Obligations credit bid by the acquisition vehicle or otherwise), such Secured Obligations shall automatically be reassigned to the Secured Parties pro rata and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Secured Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Secured Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall

execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

Section 8.10 Security Documents and Collateral Agent. Each Lender authorizes the Collateral Agent to enter into the Security Documents and to take all action contemplated thereby. Each Lender agrees that no one (other than the Administrative Agent or the Collateral Agent) shall have the right individually to seek to realize upon the security granted by the Security Documents, it being understood and agreed that such rights and remedies may be exercised solely by the Administrative Agent or the Collateral Agent for the benefit of the Secured Parties upon the terms of the Security Documents. In the event that any collateral is hereafter pledged by any Person as collateral security for the Secured Obligations, each of the Administrative Agent and the Collateral Agent is hereby authorized, and hereby granted a power of attorney, to execute and deliver on behalf of the Secured Parties any Loan Documents necessary or appropriate to grant and perfect a Lien on such collateral in favor of the Administrative Agent or the Collateral Agent on behalf of the Secured Parties.

The Lenders and the other Secured Parties hereby irrevocably authorize and instruct the Collateral Agent to, without any further consent of any Lender or any other Secured Party, enter into (or acknowledge and consent to) or amend, renew, extend, supplement, restate, replace, waive or otherwise modify any Intercreditor Agreement and any other intercreditor or subordination agreement (in form satisfactory to the Collateral Agent and deemed appropriate by it) with the collateral agent or other representative of holders of Indebtedness secured (and permitted to be secured) by a Lien on assets constituting a portion of the Collateral. The Lenders and the other Secured Parties irrevocably agree that (x) the Collateral Agent may rely exclusively on a certificate of a Financial Officer of the Borrower as to whether any such other Liens are permitted hereunder and as to the respective assets constituting Collateral that secure (and are permitted to secure) such Indebtedness hereunder and (y) any Intercreditor Agreement entered into by the Collateral Agent shall be binding on the Secured Parties, and each Lender and the other Secured Parties hereby agrees that it will take no actions contrary to the provisions of, if entered into and if applicable, any Intercreditor Agreement.

Further, each Secured Party hereby irrevocably authorizes the Collateral Agent:

(a) to release any Lien on any property granted to or held by the Collateral Agent under any Loan Document (i) upon satisfaction of any conditions to release specified in any Security Document, (ii) that is disposed of or to be disposed of as part of or in connection with any disposition permitted hereunder or under any other Loan Document to any Person other than an Loan Party, (iii) subject to Section 9.02, if approved, authorized or ratified in writing by the Required Lenders or such other percentage of Lenders required thereby, (iv) owned by a Guarantor upon release of such Guarantor from its obligations under this Agreement, or (v) pursuant to Section 9.15 and as expressly provided in the Security Documents;

(b) to release any Guarantor from its obligations hereunder if such Person ceases to be a Restricted Subsidiary that is a Wholly Owned Subsidiary as a result of a transaction permitted hereunder; and

(c) upon request of the Borrower, to take such actions as shall be required to subordinate any Lien on any property granted to the Collateral Agent to the holder of a Lien permitted by Section 6.02 or to enter into any intercreditor agreement reasonably acceptable to the Required Lenders with the holder of any Lien permitted by Section 6.02.

Upon request by the Collateral Agent at any time, the Required Lenders (or Lenders, as applicable) will confirm in writing the Collateral Agent's authority to release its interest in particular types or items of property, or to release any Guarantor from its obligations hereunder pursuant to this paragraph. In each case as specified in this Article VIII, the Collateral Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted pursuant to the Loan Documents, or to release such Guarantor from its obligations hereunder, in each case in accordance with the terms of this Article VIII.

Section 8.11 No Liability of Lead Arrangers. The entities named as "Lead Arranger" or "Bookrunner" in this Agreement shall not have any duties, responsibilities or liabilities under the Loan Documents in their capacity as such.

ARTICLE IX

MISCELLANEOUS

Section 9.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone or e-mail (and subject to clause (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to any Loan Party, to it, or to it in care of the Borrower:

Roku, Inc.
150 Winchester Circle
Los Gatos, CA 95032
Attention: General Counsel
Email: generalcounsel@roku.com

(ii) if to the Administrative Agent, to

Morgan Stanley Senior Funding, Inc.
1300 Thames Street, 4th floor
Thames Street Wharf
Baltimore, Maryland 21231
Group Hotline: (917) 260-0588
Email for Borrowers: AGENCY.BORROWERS@morganstanley.com
Email for Lenders: MSAGENCY@morganstanley.com
For all Intralinks Postings, please send to: Borrower.Documents@morganstanley.com

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: James A. Florack
Fax No.: 212.701.5165
Email: james.florack@davispolk.com

(iii) if to the Collateral Agent, to
Morgan Stanley Senior Funding, Inc.
1300 Thames Street, 4th floor
Thames Street Wharf
Baltimore, Maryland 21231
GROUP E-MAIL ADDRESS: DOCS4LOANS@morganstanley.com

with a copy to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Attention: James A. Florack
Fax No.: 212.701.5165
Email: james.florack@davispolk.com

(iv) if to an Issuing Bank, to
Morgan Stanley Senior Funding, Inc.
1300 Thames Street, 4th floor
Thames Street Wharf
Baltimore, Maryland 21231
GROUP E-MAIL ADDRESS: MSB.LOC@morganstanley.com
GROUP HOTLINE: (443) 627-4555
GROUP FAX: (212) 507-5010

or

Citibank, N.A.
6400 Las Colinas Boulevard
Irving, Texas 75039
Attention: Tammie Lakey
Telephone No.: (972) 655-5033
Fax No.: (866) 634-5642
Email: CLO.CBGDLO@citi.com

(v) if to any other Lender or Issuing Bank, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders or Issuing Banks hereunder may be delivered or furnished by using Electronic Systems pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender or Issuing Bank. The Administrative Agent or the Borrower 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 the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as

described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other 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.

(c) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

(d) Electronic Systems.

(i) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make Communications (as defined below) available to the Lenders or Issuing Banks by posting the Communications on Debt Domain, Intralinks, Syndtrak, ClearPar or a substantially similar Electronic System.

(ii) Any Electronic System used by the Administrative Agent is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of such Electronic Systems and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or any Electronic System. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrower or the other Loan Parties, any Lender or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Loan Party's or the Administrative Agent's transmission of communications through an Electronic System. "Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent or any Lender by means of electronic communications pursuant to this Section 9.01, including through an Electronic System.

Section 9.02 Waivers; Amendments.

(a) No failure or delay by the Administrative Agent, the Collateral Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Collateral Agent and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by the Loan Parties therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section 9.02, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, the Collateral Agent or any Lender may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders (or by the Administrative Agent with the consent of the Required Lenders) or, in the case of any other Loan Documents, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and/or the Collateral Agent and the Loan Party or Loan Parties that are parties thereto, in each case with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or reduce the rate of interest thereon (other than the application of any default rate of interest pursuant to Section 2.10(c)), or reduce any fees payable hereunder, without the written consent of each Lender directly and adversely affected thereby (it being acknowledged and agreed that amendments or modifications of the Secured Leverage Ratio (and all related definitions) shall not constitute a reduction of the rate of interest or a reduction of fees), (iii) postpone the scheduled date of payment of the principal amount of any Loan, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly and adversely affected thereby or extend the expiration date for any Letter of Credit beyond the Maturity Date, without the written consent of each Issuing Bank directly affected thereby, (iv) change Section 2.15(b), (c) or (f) in a manner that would alter the pro rata sharing of payments required thereby or the order of payments required thereby, without the written consent of each Lender directly and adversely affected thereby, (v) change any of the provisions of this Section 9.02 or the percentage set forth in the definition of "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or thereunder or make any determination or grant any consent hereunder or thereunder, without the written consent of each Lender, (vi) release all or substantially all the Guarantors from their Guarantees under the Guaranty and Security Agreement except as expressly provided in the Guaranty and Security Agreement or Section 9.15, without the written consent of each Lender and each Issuing Bank or (vii) release all or substantially all of the Collateral without the written consent of each Lender and each Issuing Bank, provided, that nothing herein shall prohibit the Administrative Agent and/or Collateral Agent from releasing any Collateral, or require the consent of the other Lenders for such release, in respect of items Disposed of to the extent such Disposition is permitted or not prohibited hereunder; provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Collateral Agent hereunder without the prior written consent of the Administrative Agent or the Collateral Agent, as the case may be. Notwithstanding the foregoing, any provision of this Agreement may be amended by an agreement in writing entered into by the Borrower, the Required Lenders and the Administrative Agent if (i) by the terms of such agreement the Commitment of each Lender not consenting to the amendment provided for therein shall terminate upon the effectiveness of such amendment and (ii) at the time such amendment becomes effective, each Lender not consenting thereto receives payment in full of the principal of and interest accrued on each Loan made by it and all other amounts owing to it or accrued for its account under this Agreement.

(c) Notwithstanding the foregoing, only the consent of the Required Revolving Lenders shall be necessary to amend, waive or modify the terms and provisions of Section 4.02 (solely with respect to Revolving Loans and Letters of Credit), the last paragraph of Section 7.01 (and related definitions as used in such Sections, but not as used in other Sections of this Agreement) and the definition of "Required Revolving Lender," and no such amendment, waiver or modification of any such terms or provisions (and related definitions as used in such Sections, but not as used in other Sections of this Agreement) shall be permitted without the consent of the Required Revolving Lenders.

(d) In connection with any proposed amendment, modification, waiver or termination (a "Proposed Change") requiring the consent of all Lenders (or all Lenders of one or more affected Classes of Lenders), if the consent of the Required Lenders (or the consent of Lenders of the affected Classes holding more than 50% of the Total Credit Exposure of all Lenders of such Classes, taken as a whole) to such Proposed Change is obtained, but the consent to such Proposed Change of other Lenders whose consent is required is not obtained (any such Lender whose consent is so required but not so obtained being referred to as a "Non-Consenting Lender"), then, so long as the Lender that is acting as Administrative Agent is not a Non-Consenting Lender, the Borrower may, at its sole option, expense and effort, upon notice to such Non-Consenting Lenders and the Administrative Agent, require each of the Non-Consenting Lenders to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under this Agreement and each Loan Document to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment) and that shall consent to the Proposed Change, provided that (a) each Non-Consenting Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (in each case to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (b) the Borrower or such assignee shall have paid to the Administrative Agent the processing and recordation fee specified in Section 9.04(b)(ii)(C).

(e) Without the consent of any Lender, the Loan Parties and the Administrative Agent and the Collateral Agent may (in their respective sole discretion, or shall, to the extent required by any Loan Document) enter into any amendment, modification, supplement or waiver of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, to include holders of Liens in the benefit of the Security Documents and to give effect to any Intercreditor Agreement associated therewith, or as required by local law to give effect to, or protect, any security interest for the benefit of the Secured Parties in any property or so that the security interests therein comply with applicable law or this Agreement or in each case to otherwise enhance the rights or benefits of any Lender under any Loan Document.

(f) Notwithstanding the foregoing, this Agreement may also be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (i) to permit additional extensions of credit to be outstanding hereunder from time to time (in addition to any Incremental Commitments, Extended Term Loans, Extended Revolving Loans, Refinancing Term Loans and Replacement Revolving Facilities) and the accrued interest and fees and other obligations in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the Revolving Loans and the accrued interest and fees and other obligations in respect thereof and (ii) to include appropriately the holders of such extensions of credit in any determination of the requisite lenders required hereunder, including the Required Lenders and the Required Revolving Lenders, and for purposes of the relevant provisions of Section 2.15 (it being understood and agreed that any such amendment in connection with any increase pursuant to Section 2.17, maturity extension pursuant to Section 2.19 or refinancing or replacement facility pursuant to Section 2.20 shall, in any such case, require solely the consent of the parties prescribed by such Sections and shall not require the consent of the Required Lenders).

(g) Notwithstanding anything else to the contrary contained in this Section 9.02, (i) if the Administrative Agent and the Borrower shall have jointly identified an ambiguity, mistake, error, defect or inconsistency, in each case, in any provision of the Loan Documents, then the Administrative Agent and the Borrower shall be permitted to amend such provision and (ii) the Administrative Agent and the Borrower shall be permitted to amend any provision of any Loan Document to better implement the intentions of this Agreement, and in each case, such amendments shall become effective without any

further action or consent of any other party to any Loan Document if the same is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof. In addition, technical and conforming modifications to the Loan Documents may be made with the consent of the Borrower and the Administrative Agent (but without the consent of any Lender) to the extent necessary to integrate any Other Term Loan Commitments, Other Revolving Credit Commitments, Other Term Loans and Other Revolving Loans as may be necessary to establish such Other Term Loan Commitments, Other Revolving Credit Commitments, Other Term Loans or Other Revolving Loans as a separate Class or tranche from the existing Term Loan Commitments, Revolving Credit Commitments, Term Loans or Revolving Loans, as applicable, and, in the case of Extended Term Loans, to reduce the amortization schedule of the related existing Class of Term Loans proportionately.

(h) Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be necessary to ensure that all Term Loans established pursuant to Section 2.17 after the Effective Date that will be included in an existing Class of Term Loans outstanding on such date (an "Applicable Date"), when originally made, are included in each Borrowing of outstanding Term Loans of such Class (the "Existing Class Loans"), on a pro rata basis, and/or to ensure that, immediately after giving effect to such new Term Loans (the "New Class Loans" and, together with the Existing Class Loans, the "Class Loans"), each Lender holding Class Loans will be deemed to hold its Pro Rata Share of each Class Loan on the Applicable Date (but without changing the amount of any such Lender's Term Loans), and each such Lender shall be deemed to have effectuated such assignments as shall be required to ensure the foregoing. The "Pro Rata Share" of any Lender on the Applicable Date is the ratio of (1) the sum of such Lender's Existing Class Loans immediately prior to the Applicable Date plus the amount of New Class Loans made by such Lender on the Applicable Date over (2) the aggregate principal amount of all Class Loans on the Applicable Date.

Section 9.03 Expenses; Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable and documented fees, charges and disbursements of one primary counsel and, if reasonably necessary, one special and one local counsel in each relevant jurisdiction for the Administrative Agent and such Affiliates (in each case, excluding allocated costs of in-house counsel), in connection with the syndication of the credit facilities provided for herein, due diligence undertaken by the Administrative Agent with respect to the financing contemplated by this Agreement, the preparation and administration of this Agreement or any amendments, modifications or waivers of the provisions hereof (whether or not the transactions contemplated hereby or thereby shall be consummated); provided that the Borrower's obligations under this clause (i), solely with respect to the preparation, execution and delivery of the Loan Documents on the Effective Date, shall be subject to the limitations provided for in the Engagement Letter and (ii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent or any Lender and any Issuing Bank, including all out-of-pocket expenses and the fees, charges and disbursements of counsel for the Administrative Agent or any Lender, in connection with the enforcement or protection of its rights in connection with this Agreement, including its rights under this Section 9.03, or in connection with the Loans made hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans (but limited to one counsel for the Administrative Agent and the Lenders taken a whole and, if reasonably necessary, one local counsel in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions) and, in the case of an actual or perceived conflict of interest, where the party affected by such conflict, informs the Borrower of such conflict and thereafter retains its own counsel, of another firm of counsel for each such affected Person and, if necessary, one local counsel in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions) (in each case, excluding allocated costs of in-house counsel)).

(b) The Borrower shall indemnify the Administrative Agent, the Collateral Agent, each Issuing Bank, the Lead Arrangers and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses (other than lost profits of such Indemnitees), claims, damages, liabilities and related expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of any claim, litigation, investigation or proceeding (each, a "Proceeding") relating to (i) the execution or delivery of this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby, (ii) any Loan or the use of the proceeds therefrom, or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto and whether or not caused by the ordinary, sole or contributory negligence of any Indemnitee and to reimburse each such Indemnitee within ten (10) Business Days after presentation of a summary statement (together with backup documentation supporting such reimbursement request) for any reasonable and documented out-of-pocket legal or other expenses incurred in connection with investigating or defending any of the foregoing (but limited in the case of legal fees and expenses to a single New York counsel and of one local counsel in each relevant jurisdiction, in each case for all Indemnitees (provided that, in the event of an actual or potential conflict of interest, the Borrower will be required to pay for one additional counsel for each similarly affected group of Indemnitees taken as a whole and of one local counsel in each relevant jurisdiction, for each similarly affected group of Indemnitees taken as a whole)); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (A) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnitee or any of such Indemnitee's controlling Persons or controlled Affiliates, in each case, who are involved in the transactions referenced in clauses (b)(i) or (b)(ii) above (as determined by a court of competent jurisdiction in a final and non-appealable decision), (B) result from a claim brought by any Loan Party against an Indemnitee for material breach of such Indemnitee's obligations hereunder, if such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (C) disputes arising solely between Indemnitees and (1) not involving any action or inaction by any Loan Party or (2) not relating to any action of such Indemnitee in its capacity as Administrative Agent, Collateral Agent or Lead Arranger. The Borrower shall not be liable for any settlement of any Proceedings if such settlement was effected without its consent (which consent shall not be unreasonably withheld or delayed), but if settled with the written consent of the Borrower or if there is a final judgment for the plaintiff in any such Proceedings, the Borrower agrees to indemnify and hold harmless each Indemnitee from and against any and all losses, claims, damages, liabilities and expenses by reason of such settlement or judgment in accordance with the preceding paragraph. The Borrower shall not, without the prior written consent of an Indemnitee (which consent shall not be unreasonably withheld or delayed), effect any settlement of any pending or threatened Proceedings in respect of which indemnity could have been sought hereunder by such Indemnitee unless (x) such settlement includes an unconditional release of such Indemnitee in form and substance reasonably satisfactory to such Indemnitee from all liability on claims that are the subject matter of such Proceedings and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnitee or any injunctive relief or other non-monetary remedy. This Section 9.03(b) shall not apply with respect to Taxes other than Taxes that represent losses, claims or damages arising from any non-Tax claim.

(c) To the extent that the Borrower fails to indefeasibly pay any amount required under paragraph (a) or (b) of this Section 9.03 to be paid by it to the Administrative Agent, the Collateral Agent, each Lender severally agrees to pay to the Administrative Agent or the Collateral Agent, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or the Collateral Agent in its capacity as such.

(d) To the extent permitted by applicable Requirements of Law, each party to this Agreement agrees not to assert, and each such party hereby waives, any claim against any other party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the transactions contemplated by this Agreement or any Loan or the use of the proceeds thereof; provided that nothing in this paragraph (d) shall relieve any Loan Party of any obligation it may have to indemnify an Indemnitee against special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party. No Indemnitee referred to in paragraph (b) above shall be liable for damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby, except to the extent any such damages are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee.

(e) All amounts due under this Section 9.03 shall be payable promptly after written demand therefor.

(f) Each Indemnitee shall promptly refund and return any and all amounts paid by the Borrower to such Indemnitee pursuant to this Section 9.03 to the extent such Indemnitee is not entitled to payment of such amount in accordance with this Section 9.03.

(g) Each party's obligations under this Section 9.03 shall survive the termination of the Loan Documents and payment of the obligations thereunder.

Section 9.04 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and each Issuing Bank and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 9.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person any legal or equitable right, remedy or claim under or by reason of this Agreement, other than rights, remedies or claims in favor of the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section 9.04) and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, the Issuing Banks and the Lenders.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of:

(A) the Borrower, provided that the Borrower shall be deemed to have consented to an assignment unless it shall have objected thereto by written notice to the Administrative Agent within ten (10) Business Days after having received written notice thereof; provided further that no consent of the Borrower shall be required for (i) an assignment of all or a portion of the Term Loans to a Lender, an Affiliate of a Lender or an Approved Fund, (ii) an assignment of all or a portion of any Revolving Credit Commitments or Revolving Loans to a Revolving Lender or an Affiliate of a Revolving Lender, or (iii) an assignment to a Lender or an Affiliate of a Lender or, if an Event of Default has occurred and is continuing, any other assignee;

(B) the Administrative Agent; provided that no such consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) in the case of assignment of a Revolving Credit Commitment or a Revolving Loan, each Issuing Bank; provided that no consent of an Issuing Bank shall be required for an assignment to any Lender or an Affiliate of a Lender.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall be in an amount of an integral multiple of $1,000,000 in the case of Term Loans and $5,000,000 in the case of Revolving Loans unless each of the Borrower and the Administrative Agent otherwise consent, provided that no such consent of the Borrower shall be required if an Event of Default under clause (a), (b), (h) or (i) of Section 7.01 has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with the tax forms required by Section 2.14 and a processing and recordation fee of $3,500;

(D) the Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate level information (which may contain material non-public information about the Loan Parties and their related parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws;

(E) no assignment shall be made to (1) a natural Person, (2) the Borrower or any of its Subsidiaries (except as otherwise provided for herein), or (3) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (3); and

(F) in connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the Eligible Assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent and each other Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans in accordance with its Commitment of the applicable Class; notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section 9.04, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Section 2.12, 2.13, 2.14 and 9.03); provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04(b) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section 9.04.

(iv) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount (and related interest amounts) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender (with respect to such Lender's interest only), at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee, the assignee's completed Administrative Questionnaire and any tax certifications required to be delivered pursuant to Section 2.14(f) (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in this Section 9.04(b) and any written consent to such assignment required by this Section 9.04(b), the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.04(b), 2.15(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) Any Lender may, without the consent of the Borrower, the Administrative Agent or any Issuing Bank, sell participations to any Person (other than any Person described in paragraph (b)(ii)(E) of this Section 9.04) (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.12, 2.13 and 2.14 (subject to the requirements and limitations therein, including the requirements under Section 2.14(f) (it being understood that the documentation required under Section 2.14(f) shall be delivered to solely the participating Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section 9.04; provided that such Participant (i) shall be subject to the provisions of Section 2.16 as if it were an assignee under paragraph (b) of this Section 9.04 and (ii) shall not be entitled to receive any greater payment under Section 2.12 or 2.14, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after

the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.16(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided that such Participant shall be subject to Section 2.15(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and related interest amounts) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 9.04 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) [Reserved].

(f) Notwithstanding anything in this Agreement to the contrary, any Term Loan Lender may, at any time, assign all or a portion of its Term Loans on a non-pro rata basis to the Borrower or any Restricted Subsidiary through (x) Dutch Auctions open to all Term Loan Lenders of a particular Class on a pro rata basis or (y) open market purchases, in each case subject to the following limitations:

(i) the Borrower and each applicable Subsidiary shall either (x) represent and warrant as of the date of any such assignment or purchase, that it does not have any material non-public information with respect to the Borrower and its Subsidiaries or any of their respective securities that has not been disclosed to the assigning Term Loan Lender (unless such assigning Lender does not wish to receive material non-public information with respect to the Borrower or the Subsidiaries or any of their respective securities) prior to such date or (y) disclose that it cannot make the representation and warranty described in clause (x);

(ii) immediately upon the effectiveness of such assignment or purchase of Term Loans from a Lender to the Borrower or any Subsidiary, such Term Loans shall automatically and permanently be cancelled and shall thereafter no longer be outstanding for any purpose hereunder;

(iii) the Borrower or such Subsidiary shall not use the proceeds of a Revolving Loan for any such assignment;

(iv) no Default or Event of Default shall have occurred and be continuing at the time of such assignment or purchase; and

(v) the aggregate principal amount of all Term Loans which may be assigned to the Borrower or any Restricted Subsidiary through open market purchases shall in no event exceed, as calculated at the time of the consummation of such assignment, 25% of the aggregate principal amount of the Term Loans then outstanding.

Section 9.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that any Agent, any Lender or any Issuing Bank may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid (other than with respect to any obligations under Secured Cash Management Agreements and Secured Hedge Agreements) and so long as the Commitments have not expired or terminated. The provisions of Sections 2.12, 2.13, 2.14 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the Letters of Credit, the resignation of the Administrative Agent or the Collateral Agent, the replacement of any Issuing Bank or any Lender or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

Section 9.06 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall be deemed an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Agents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that nothing herein shall require the Administrative Agent to accept electronic signatures in any form or format without its prior written consent.

Section 9.07 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held, and other obligations at any time owing, by such Lender or such Affiliate to or for the credit or the account of the Borrower against any and all of the Obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or its Affiliates, irrespective of whether or not such Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations may be unmatured; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.18 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and its Affiliates under this Section 9.08 are in addition to other rights and remedies (including other rights of setoff) that such Lender or its Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 9.09 Governing Law; Consent to Service of Process.

(a) This Agreement, the other Loan Documents and any claims, controversy, dispute or causes of actions arising therefrom (whether in contract or tort or otherwise) shall be construed in accordance with and governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in the Borough of Manhattan, New York County and of the United States District Court of the Southern District of New York sitting in the Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be binding (subject to appeal as provided by applicable law) and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that any Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(c) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section 9.09. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

Section 9.10 WAIVER OF JURY TRIAL. **EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.10**.

Section 9.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.12 Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors and third party service providers in connection with the transactions contemplated hereby (it being understood that the disclosing Lender or Agent shall be responsible to ensure compliance by such Persons with the confidentiality restrictions set forth herein with respect to such Information), (b) to the extent requested by any Governmental Authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process (in which case the applicable Agent or Lender agrees to inform the Borrower promptly thereof prior to such disclosure to the extent practicable and not prohibited by law, rule or regulation and to only disclose that Information necessary to fulfill such legal requirement), (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 9.12, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, or (ii) to any actual or prospective direct or indirect contractual counterparty (or its Related Parties) in Swap Agreements or such contractual counterparty's professional advisor, (g) with the consent of the Borrower, or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 9.12 or (ii) becomes available to any Agent or any Lender on a nonconfidential basis from a source other than the Borrower (so long as such source is not known to such Agent or such Lender to be bound by confidentiality obligations to the Borrower or any of its Subsidiaries). For the purposes of this Section 9.12, "Information" means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to any Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower (so long as such source is not known to such Agent or such Lender to be bound by confidentiality obligations to the Borrower or any of its Subsidiaries) and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry. Any Person required to maintain the confidentiality of Information as provided in this Section 9.12 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.

Section 9.13 Material Non-Public Information.

(a) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(b) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER AND EACH ISSUING BANK REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

Section 9.14 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section 9.14 shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Section 9.15 Release of Liens and Guarantees. A Subsidiary shall automatically be released from its obligations under the Loan Documents, and all Liens created by the Loan Documents in Collateral owned by such Subsidiary (if applicable) shall be automatically released, upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary ceases to be a Restricted Subsidiary (including pursuant to a merger with a Subsidiary that is not a Loan Party or a designation as an Unrestricted Subsidiary). In the event that the Borrower or any Subsidiary disposes of all or any portion of any of the Equity Interests, assets or property owned by the Borrower or such Subsidiary in a transaction not prohibited by this Agreement, any Liens granted with respect to such Equity Interests, assets or property pursuant to any Loan Document shall automatically and immediately terminate and be released. The Administrative Agent and the Collateral Agent shall promptly (and the Lenders hereby authorize and instruct the Administrative Agent and the Collateral Agent to) take such action and execute any such documents as may be reasonably requested by the Borrower and at the Borrower's expense to evidence any such termination and release described in this Section 9.15. In addition, the Administrative Agent and the Collateral Agent agree to take such actions as are reasonably requested by the Borrower and at the Borrower's expense to terminate the Liens and security interests created by the Loan Documents when all the Obligations (other than contingent obligations for which no

claim has been asserted) have been paid in full and all Commitments terminated. The Lenders authorize the Collateral Agent to release or subordinate any Lien on any property granted to or held by the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(d) or (e) to the extent required by the terms of the obligations secured by such Liens and in each case pursuant to documents reasonably acceptable to the Collateral Agent.

Section 9.16 Platform; Borrower Materials. The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Lead Arrangers will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on Debt Domain, Intralinks, Syndtrak or another substantially similar electronic system (the "Platform"), and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Borrower and its Subsidiaries or any of their respective securities) (each, a "Public Lender"). The Borrower hereby agrees that it will, upon the Administrative Agent's request, identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (i) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof, (ii) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Lead Arrangers and the Lenders to treat such Borrower Materials as solely containing information that is either (A) publicly available information or (B) not material (although it may be sensitive and proprietary) with respect to the Borrower or the Subsidiaries or any of their respective securities for purposes of United States Federal securities laws (provided, however, that such Borrower Materials shall be treated as set forth in Section 9.12, to the extent such Borrower Materials constitute information subject to the terms thereof), (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor", and (iv) the Administrative Agent and the Lead Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor." The Borrower hereby authorizes the Administrative Agent to make the financial statements provided by the Borrower under Section 5.01(a) and (b) above available to Public Lenders. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE ADMINISTRATIVE AGENT, ITS RELATED PARTIES AND THE LEAD ARRANGERS DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT, ANY OR ITS RELATED PARTIES OR THE LEAD ARRANGERS IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM.

Section 9.17 USA PATRIOT Act. Each Lender and each Issuing Bank that is subject to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "USA PATRIOT Act") hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of such Loan Parties and other information that will allow such Lender and such Issuing Bank to identify such Loan Parties in accordance with the USA PATRIOT Act.

Section 9.18 No Advisory or Fiduciary Responsibility. The Administrative Agent, Collateral Agent, each Lead Arranger, each Issuing Bank and each Lender and their respective Affiliates (collectively, solely for purposes of this paragraph, the "Lenders"), may have economic interests that conflict with those of the Loan Parties. The Loan Parties agree that nothing in the Loan Documents will be deemed to create an advisory, fiduciary or agency relationship or other similar implied duty between the Lenders and the Loan Parties. In connection with all aspects of each transaction contemplated hereby

(including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Borrower acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement described herein are arm's-length commercial transactions between the Borrower and its Affiliates, on the one hand, and the Lenders, on the other hand, (B) the Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower or any of its Affiliates, or any other Person and (B) no Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and no Lender has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, the Borrower hereby waives and releases any claims that it may have against any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 9.19 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Contractual Recognition of Bail-In. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction, in full or in part of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

ROKU, INC.

By: /s/ Steve Louden
Name: Steve Louden
Title: Chief Financial Officer

MORGAN STANLEY SENIOR FUNDING, INC.,
individually, as a Lender, Administrative Agent and Collateral Agent

By: /s/ Jonathon Rauen
Name: Jonathon Rauen
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING, N.A.,
individually, as a Lender and Issuing Bank

By: /s/ Jonathon Rauen
Name: Jonathon Rauen
Title: Authorized Signatory

CITIBANK, N.A., individually, as a Lender and Issuing Bank

By: /s/ Sigrid M. Nubla
Name: Sigrid M. Nubla
Title: Director

[ ], individually, as a Lender

By: _____
Name:
Title:

Schedule 1.01A

COMMITMENTS

Initial Revolving Credit Commitments

Morgan Stanley Senior Funding, Inc.	$37,500,000
Citibank, N.A.	$37,500,000
Total	**$75,000,000**

Letter of Credit Issuer Sublimit

Morgan Stanley Senior Funding, Inc.	$25,000,000
Citibank, N.A.	$25,000,000
Total	**$50,000,000**

Initial Term A Loan Commitments

Morgan Stanley Senior Funding, Inc.	$37,500,000
Citibank, N.A.	$37,500,000
Total	**$75,000,000**

Schedule 1.01B

PRINCIPAL OFFICES

Morgan Stanley Senior Funding, Inc.
1300 Thames Street, 4th floor
Thames Street Wharf
Baltimore, Maryland 21231
email: msagency@morganstanley.com

AUCTION PROCEDURES

*This outline is intended to summarize certain basic terms of procedures with respect to Dutch Auctions pursuant to and in accordance with the terms and conditions of Section 9.04(f) of the Credit Agreement to which this Schedule 1.01C is attached. It is not intended to be a definitive list of all of the terms and conditions of a Dutch Auction and all such terms and conditions shall be set forth in the applicable auction procedures documentation set for each Dutch Auction (the "**Offer Documents**"). None of the Administrative Agent, Morgan Stanley Senior Funding, Inc. (or, if Morgan Stanley Senior Funding, Inc. declines to act in such capacity, an investment bank of recognized standing selected by the Borrower) (the "**Auction Manager**") or any of their respective Affiliates makes any recommendation pursuant to the Offer Documents as to whether or not any Lender should sell by assignment any of its Term Loans pursuant to the Offer Documents (including, for the avoidance of doubt, by participating in the Dutch Auction as a Lender) or whether or not the Borrower or any Restricted Subsidiary should purchase by assignment any Term Loans from any Lender pursuant to any Dutch Auction. Each Lender should make its own decision as to whether to sell by assignment any of its Term Loans and, if so, the principal amount of and price to be sought for such Term Loans. In addition, each Lender should consult its own attorney, business advisor or tax advisor as to legal, business, tax and related matters concerning any Dutch Auction and the Offer Documents. Capitalized terms not otherwise defined in this Schedule 1.01C have the meanings assigned to them in the Credit Agreement.*

Summary. The Borrower and any Restricted Subsidiary may purchase (by assignment) Term Loans on a non-pro rata basis by conducting one or more Dutch Auctions pursuant to the procedures described herein; provided that no more than one Dutch Auction may be ongoing at any one time.

Notice Procedures. In connection with each Dutch Auction, the Borrower or the applicable Restricted Subsidiary (as applicable, the "***Offeror***") will provide notification to the Auction Manager (for distribution to the applicable Lenders) of the Term Loans that will be the subject of the Dutch Auction by delivering to the Auction Manager a written notice (an "***Auction Notice***"). Each Auction Notice shall contain (i) the maximum principal amount of Term Loans the Offeror is willing to purchase (by assignment) in the Dutch Auction (the "***Auction Amount***"), which shall be no less than $5,000,000 or an integral multiple of $1,000,000 in excess of thereof, (ii) the range of discounts to par (the "***Discount Range***"), expressed as a range of prices per $1,000, at which the Offeror would be willing to purchase Term Loans in the Dutch Auction and (iii) the date on which the Dutch Auction will conclude, on which date Return Bids (as defined below) will be due at the time provided in the Auction Notice (such time, the "***Expiration Time***"), as such date and time may be extended upon notice by the Offeror to the Auction Manager prior to the then applicable Expiration Time. The Auction Manager will deliver a copy of the Offer Documents to each Lender promptly following completion thereof.

Reply Procedures. In connection with any Dutch Auction, each Lender holding Term Loans that are the subject of such Dutch Auction wishing to participate in such Dutch Auction shall, prior to the Expiration Time, provide the Auction Manager with a notice of participation (the "***Return Bid***", to be included in the Offer Documents) which shall specify (i) a discount to par that must be expressed as a price per $1,000 of Term Loans (the "***Reply Price***") within the Discount Range and (ii) the principal amount of Term Loans, in an amount not less than $1,000,000, that such Lender is willing to offer for sale at its Reply Price (the "***Reply Amount***"); provided, that each Lender may submit a Reply Amount that is less than the minimum amount and incremental amount requirements described above only if the Reply Amount comprises the entire amount of the Term Loans held by such Lender at such time. A Lender may only submit one Return Bid per Dutch Auction, but each Return Bid may contain up to three component bids, each of which may result in a separate Qualifying Bid (as defined below) and each of which will not

be contingent on any other component bid submitted by such Lender resulting in a Qualifying Bid. In addition to the Return Bid, a participating Lender must execute and deliver, to be held by the Auction Manager, an assignment and acceptance in the form included in the Offer Documents which shall be in form and substance reasonably satisfactory to the Auction Manager and the Administrative Agent (the "***Auction Assignment and Acceptance***"). The Offeror will not purchase any Term Loans at a price that is outside of the applicable Discount Range, nor will any Return Bids (including any component bids specified therein) submitted at a price that is outside such applicable Discount Range be considered in any calculation of the Applicable Threshold Price (as defined below).

Acceptance Procedures. Based on the Reply Prices and Reply Amounts received by the Auction Manager, the Auction Manager, in consultation with the Offeror, will calculate the lowest purchase price (the "***Applicable Threshold Price***") for the Dutch Auction within the Discount Range for the Dutch Auction that will allow the Offeror to complete the Dutch Auction by purchasing the full Auction Amount (or such lesser amount of Term Loans for which the Offeror has received Qualifying Bids). Subject to "Proration Procedures" below, the Offeror shall purchase (by assignment) Loans from each Lender whose Return Bid is within the Discount Range and contains a Reply Price that is equal to or less than the Applicable Threshold Price (each, a "***Qualifying Bid***"). All principal amount of Term Loans included in Qualifying Bids received at a Reply Price lower than the Applicable Threshold Price will be purchased at a purchase price equal to the applicable Reply Price and shall not be subject to proration. If a Lender has submitted a Return Bid containing multiple component bids at different Reply Prices, then all Term Loans of such Lender offered in any such component bid that constitutes a Qualifying Bid with a Reply Price lower than the Applicable Threshold Price shall also be purchased at a purchase price equal to the applicable Reply Price and shall not be subject to proration.

Proration Procedures. All Term Loans offered in Return Bids (or, if applicable, any component bid thereof) constituting Qualifying Bids equal to the Applicable Threshold Price will be purchased at a purchase price equal to the Applicable Threshold Price; provided that if the aggregate principal amount of all Term Loans for which Qualifying Bids have been submitted in any given Dutch Auction equal to the Applicable Threshold Price would exceed the remaining portion of the Auction Amount (after deducting all Term Loans purchased below the Applicable Threshold Price), the Offeror shall purchase the Term Loans for which the Qualifying Bids submitted were at the Applicable Threshold Price ratably based on the respective principal amounts offered and in an aggregate amount up to the amount necessary to complete the purchase of the Auction Amount. For the avoidance of doubt, no Return Bids (or any component thereof) will be accepted above the Applicable Threshold Price.

Notification Procedures. The Auction Manager will calculate the Applicable Threshold Price no later than the next Business Day after the date that the Return Bids were due. The Auction Manager will insert the amount of Term Loans to be assigned and the applicable settlement date determined by the Auction Manager in consultation with the Offeror onto each applicable Auction Assignment and Acceptance received in connection with a Qualifying Bid. Upon written request of the submitting Lender, the Auction Manager will promptly return any Auction Assignment and Acceptance received in connection with a Return Bid that is not a Qualifying Bid.

Additional Procedures. Once initiated by an Auction Notice, the Offeror may withdraw a Dutch Auction by written notice to the Auction Manager so long as no Qualifying Bids have been received by the Auction Manager. Any Return Bid (including any component bid thereof) delivered to the Auction Manager may not be modified, revoked, terminated or cancelled; provided that a Lender may modify a Return Bid at any time prior to the Expiration Time solely to reduce the Reply Price included in such Return Bid. However, a Dutch Auction shall become void if the Offeror fails to satisfy one or more of the conditions to the purchase of Term Loans set forth in Section 9.04(f) of the Credit Agreement, as applicable, or to otherwise comply with any of the provisions of such Section 9.04(f). The purchase price

for all Term Loans purchased in a Dutch Auction shall be paid in cash by the Offeror directly to the respective assigning Lender on a settlement date as determined by the Auction Manager in consultation with the Offeror (which shall be no later than ten (10) Business Days after the final date Return Bids are due), along with accrued and unpaid interest (if any) on the applicable Term Loans up to the settlement date. The Offeror shall execute each applicable Auction Assignment and Acceptance received in connection with a Qualifying Bid.

All questions as to the form of documents and validity and eligibility of Term Loans that are the subject of a Dutch Auction will be determined by the Auction Manager and the Offeror, and their determination will be conclusive, absent manifest error. The Auction Manager's and the Offeror's interpretation of the terms and conditions of the Offer Document will be final and binding.

None of the Administrative Agent, the Auction Manager, any other Agent or any of their respective affiliates assumes any responsibility for the accuracy or completeness of the information concerning the Borrower, the Subsidiaries or any of their Affiliates contained in the Offer Documents or otherwise or for any failure to disclose events that may have occurred and may affect the significance or accuracy of such information.

The Auction Manager acting in its capacity as such under a Dutch Auction shall be entitled to the benefits of the provisions of Article VIII and Section 8.05 of the Credit Agreement to the same extent as if each reference therein to the "Administrative Agent" were a reference to the Auction Manager, and the Administrative Agent shall cooperate with the Auction Manager as reasonably requested by the Auction Manager in order to enable it to perform its responsibilities and duties in connection with each Dutch Auction.

This Schedule 1.01C shall not require the Borrower or any Restricted Subsidiary to initiate any Dutch Auction, nor shall any Lender be obligated to participate in any Dutch Auction.

Schedule 1.01D

INITIAL MORTGAGED PROPERTIES

None.

Schedule 2.15

PAYMENT INSTRUCTIONS

USD:	MSSFI USD
TO:	CITIBANK, N.A. NEW YORK, NY 10043
VIA:	ABA # 021-000-089
ACCOUNT NAME:	MORGAN STANLEY SENIOR FUNDING, INC.
ACCOUNT NUMBER:	406-99-776
REF:	YAMA
ATTN:	AGENCY TEAM

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement Nos. 333-223379 and 333-220701 on Form S-8 of our reports dated March 1, 2019, relating to the consolidated financial statements of Roku, Inc. and subsidiaries (the "Company") (which expresses an unqualified opinion and includes an explanatory paragraph related to the Company's change in method of accounting for revenue in fiscal year 2018 due to the adoption of ASC 606), and the effectiveness of the Company's internal control over financial reporting, appearing in the Annual Report on Form 10-K of the Company for the year ended December 31, 2018.

/s/ DELOITTE & TOUCHE LLP
San Jose, California

March 1, 2019

Exhibit 24.1

POWER OF ATTORNEY

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

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this Annual Report has been signed below by the following persons on behalf of the Registrant in the capacities and on the dates indicated.

Name	Title	Date
/s/ ANTHONY WOOD Anthony Wood	President, Chief Executive Officer and Chairman (Principal Executive Officer)	March 1, 2019
/s/ STEVE LOUDEN Steve Louden	Chief Financial Officer (Principal Financial Officer)	March 1, 2019
/s/ RAVI AHUJA Ravi Ahuja	Director	March 1, 2019
/s/ MAI FYFIELD Mai Fyfield	Director	March 1, 2019
/s/ JEFFREY HASTINGS Jeffrey Hastings	Director	March 1, 2019
/s/ ALAN HENRICKS Alan Henricks	Director	March 1, 2019
/s/ NEIL HUNT Neil Hunt	Director	March 1, 2019
/s/ RAY ROTHROCK Ray Rothrock	Director	March 1, 2019

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Anthony Wood, certify that:

1. I have reviewed this Annual Report on Form 10-K of Roku, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 1, 2019

/s/ Anthony Wood

Anthony Wood
President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Steve Louden, certify that:

1. I have reviewed this Annual Report on Form 10-K of Roku, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 1, 2019

/s/ Steve Louden

Steve Louden
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

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

I, Anthony Wood, do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

The Annual Report on Form 10-K of Roku, Inc. for the year ended December 31, 2018, as filed with the Securities and Exchange Commission (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

The information contained in such Annual Report on Form 10-K fairly presents in all material respects, the financial condition and results of operations of Roku, Inc.

Date: March 1, 2019

/s/ Anthony Wood

Anthony Wood
President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

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

I, Steve Louden, do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

The Annual Report on Form 10-K of Roku, Inc. for the year ended December 31, 2018, as filed with the Securities and Exchange Commission (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

The information contained in such Annual Report on Form 10-K fairly presents in all material respects, the financial condition and results of operations of Roku, Inc.

Date: March 1, 2019

/s/ Steve Louden

Steve Louden
Chief Financial Officer
(Principal Financial Officer)