UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934
Date of Report (Date of earliest event reported): October 24, 2023

Shenandoah Telecommunications Company

(Exact name of registrant as specified in its charter)

Virginia	**000-9881**	**54-1162807**
(State or other jurisdiction of incorporation)	(Commission File Number)	(IRS Employer Identification No.)

500 Shentel Way
P.O. Box 459
Edinburg, Virginia 22824
(Address of principal executive offices) (Zip Code)

(540) 984-4141
(Registrant's telephone number, including area code)

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

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

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock (No Par Value)	SHEN	NASDAQ Global Select Market

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

Emerging growth company ☐

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

Item 1.01. Entry Into a Material Definitive Agreement.

Merger Agreement

On October 24, 2023, Shenandoah Telecommunications Company ("Shentel") entered into an Agreement and Plan of Merger (the "Merger Agreement"), with Horizon Acquisition Parent LLC, a Delaware limited liability company ("Horizon"), Fox Merger Sub I Inc., a Delaware corporation and wholly-owned subsidiary of Shentel ("Merger Sub I"), Fox Merger Sub II, a Delaware limited liability company and wholly-owned subsidiary of Shentel ("Merger Sub II"), the sellers set forth on the signature pages thereto (each, a "Seller" and collectively, the "Sellers") and Novacap TMT V, L.P., as representative of the Sellers (the "Seller Representative"). Pursuant to, and subject to the terms and conditions set forth in, the Merger Agreement, on the closing date (the "Closing Date"), (i) Merger Sub I will be merged with and into Horizon ("Merger I"), with Horizon surviving Merger I as a direct, wholly-owned subsidiary of Shentel, and (ii) immediately following the consummation of Merger I, Horizon, as the surviving entity in Merger I, will merge with and into Merger Sub II ("Merger II" and, together with Merger I, the "Mergers"), with Merger Sub II surviving Merger II as a direct, wholly-owned subsidiary of Shentel.

Subject to the terms and conditions of the Merger Agreement, on the Closing Date, Shentel will acquire 100% of the outstanding equity interests of Horizon in exchange for (i) issuing approximately 4.08 million shares of common stock, no par value, of Shentel ("Common Stock") to an investment fund managed by affiliates of GCM Grosvenor ("GCM"), which is one of the Sellers; and (ii) $305 million in cash payable to the other Sellers, subject to customary and other adjustments as of the Closing Date. In addition, Shentel will pay certain Sellers an additional amount in cash based on Horizon's capital expenditures funded by capital contributions of such Sellers between July 1, 2023 and the Closing Date, plus interest in the amount of 6.00% per annum, not to exceed $65 million in the aggregate.

The Merger Agreement contains customary and other representations and warranties as well as covenants by each of the parties. The representations and warranties contained in the Merger Agreement generally will not survive the closing, and Shentel's primary recourse with respect to damages resulting from a breach of such representations and warranties of the Sellers or the Company will be against a representations and warranties insurance policy to be issued to Shentel in connection with the consummation of the Mergers.

The obligation of each party to consummate the Mergers is subject to a number of conditions, including, among others, (a) the receipt of the required regulatory approvals without the imposition of a Burdensome Condition (as such term is defined in the Merger Agreement), (b) the continued listing on the NASDAQ Stock Exchange of the Common Stock, (c) the absence of a Material Adverse Change (as such term is defined in the Merger Agreement) with respect to Horizon and (d) the execution and delivery of the Investor Rights Agreement (as defined below) with GCM.

The Merger Agreement contains certain termination rights for both Shentel and Horizon, including if there is a failure to complete the Mergers on or before May 1, 2024 (the "End Date"); provided, that if on May 1, 2024, (i) all of the conditions to the closing, other than the receipt of one or more Required Regulatory Approvals and actions that by their nature are to be performed or waived at the closing have been satisfied or (ii) Shentel has exercised its right to delay the closing in accordance with the terms and conditions of the Merger Agreement, then the End Date shall automatically be extended to and shall be deemed to be July 1, 2024. In the event that the Closing Date otherwise would occur on a date that is not the first business day of a calendar month, Shentel has the right to delay the closing until the first business day of the next calendar month or, in certain circumstances, the first business day of the next calendar quarter.

The foregoing description of the Merger Agreement and the transactions contemplated thereby does not purport to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement, which is filed as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference.

GCM Investor Rights Agreement

In connection with the consummation of the transactions contemplated by the Merger Agreement, on the Closing Date, Shentel will enter into an Investor Rights Agreement (the "Investor Rights Agreement") with GCM. Subject to the terms and conditions set forth in the Investor Rights Agreement, on the Closing Date, the board of directors of Shentel (the "Board") will appoint a director designated by GCM to the Board as a member of the director class expiring in 2025 (or, in certain circumstances, GCM will have the right to designate a non-voting Board observer until such time as the GCM's designee is seated on the Board).

So long as GCM holds at least 5.0% of Shentel's outstanding Common Stock, GCM will have the right to nominate a director to the Board and will be subject to certain standstill provisions and voting covenants. GCM also will be subject to certain transfer restrictions, including a lock-up on transfer of the shares of Common Stock until the first anniversary of the Closing Date. GCM will also have customary demand and piggy-back registration rights, and certain other rights, including, among others, preemptive and information rights. The demand and piggy-back registration rights will be subject to blackout periods and certain additional conditions.

The foregoing description of the Investor Rights Agreement and the transactions contemplated thereby does not purport to be complete and is qualified in its entirety by reference to the full text of the Form of Investor Rights Agreement attached as Exhibit B to the Merger Agreement filed as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated herein by reference.

ECP Investment Agreement

Contemporaneously with the execution of the Merger Agreement, Shentel and Shentel Broadband Holding Inc., a wholly-owned subsidiary of Shentel ("Shentel Broadband"), entered into an investment agreement (the "Investment Agreement") with ECP Fiber Holdings, LP, a Delaware limited partnership ("ECP Investor"), and, solely for the limited purposes set forth therein, Hill City Holdings, LP, a Delaware limited partnership affiliated with ECP Investor ("Hill City"). Subject to the terms and conditions set forth in the Investment Agreement, on the Closing Date, Shentel Broadband will issue to ECP Investor 81,000 shares of Shentel Broadband's 7% Series A Participating Exchangeable Perpetual Preferred Stock, par value $0.01 per share (the "Series A Preferred Stock"), at a purchase price of $1,000 per share in exchange for $81 million in cash. The Series A Preferred Stock will be exchangeable in certain circumstances for shares of Common Stock.

Dividends on the Series A Preferred Stock will accrue at 7% per annum compounded and payable quarterly in arrears, and, at Shentel's option, may be paid in cash or in kind (such dividends paid in kind, "PIK Dividends"). The PIK Dividend rate is subject to increase to 8.5% and 10% after the fifth and seventh anniversaries of the Closing Date, respectively, to the extent any dividends accrued during the period from and including such anniversary dates are paid in the form of PIK Dividends.

Beginning two years after the Closing Date, Shentel may require ECP Investor to exchange the Series A Preferred Stock for shares of Common Stock if the price per share of the Common Stock exceeds 125% of the Exchange Price (as such term is defined in the Investment Agreement), subject to certain conditions. After five years, Shentel also may redeem all of the Series A Preferred Stock for the greater of (i) $1,000 per share, plus (a) any accrued PIK Dividend amount and (b) accrued and unpaid dividends to, but excluding the redemption date (to the extent such accrued and unpaid dividends are not included in such PIK Dividend amount), and (ii) the value of the shares of Common Stock for which such Series A Preferred Stock are exchangeable.

Prior to the Closing Date, Shentel will file a certificate of designations with the Secretary of State of the State of Delaware setting forth the powers, designations, preferences, rights, qualifications, limitations and restrictions of the Series A Preferred Stock, including the foregoing (the "Certificate of Designations").

Under the terms of the Investment Agreement, ECP Investor will have the right to nominate a director (the "ECP Investor Director") to the Board so long as ECP Investor holds at least 7.5% of Shentel's outstanding Common Stock (including on an as exchanged basis with respect to the Series A Preferred Stock). At the first annual meeting of Shentel's shareholders following the execution of the Investment Agreement, Shentel will seek shareholder approval of an amendment to its articles of incorporation to increase the size of the Board to permit the ECP Investor Director to be seated. In the event that the ECP Investor Director is not seated on the Board, ECP Investor will have the right to designate a non-voting Board observer until such time as the ECP Investor Director is seated on the Board. Additionally, if the ECP Investor Director is not seated on the Board after the next annual meeting of Shentel's shareholders, the dividend rate on the Series A Preferred Stock will increase by 100 basis points until the ECP Investor Director is seated.

So long as ECP Investor holds at least 7.5% of Shentel's outstanding Common Stock (including on an as exchanged basis with respect to the Series A Preferred Stock), ECP Investor will be subject to certain standstill provisions and voting covenants and will have certain other rights with respect to the shares of Series A Preferred Stock, including, among others, pre-emptive, information and participation rights. The shares of Series A Preferred Stock will be subject to a lock-up until the first anniversary of the Closing Date and will be subject to certain other transfer restrictions.

Pursuant to a Registration Rights Agreement, to be entered into on the Closing Date, by and among Shentel, Shentel Broadband, ECP Investor and Hill City (the "Registration Rights Agreement"), ECP Investor will have customary demand and piggy-back registration rights with respect to the shares of Common Stock issuable upon exchange of the Series A Preferred Stock. The demand and piggy-back registration rights will be subject to blackout periods and certain additional conditions.

The obligation of each party to consummate the Investment Agreement and the transactions contemplated therein is subject to a number of conditions, including, among others, (a) the consummation of the Mergers in accordance with the terms of the Merger Agreement, (b) the satisfaction of certain regulatory requirements, as further described in the Investment Agreement, (c) the completion of a corporate reorganization of Shentel's subsidiaries (the "Reorganization"), and (d) the absence of a Material Adverse Effect with respect to Shentel and its Subsidiaries (as such terms are defined in the Investment Agreement). Upon completion of the Reorganization, Shentel Broadband, directly or through its subsidiaries, will hold all of the operating assets of Shentel, except for any Holding Company Assets (as defined in the Investment Agreement).

Each of the Merger Agreement and the Investment Agreement contain customary and other representations, warranties and covenants by the parties. The representations and warranties of the parties in each agreement are subject to certain important qualifications and limitations set forth in confidential disclosure schedules delivered by one party to the other parties to the agreement, and were made solely for purposes of the Merger Agreement or the Investment Agreement. The representations and warranties are subject to a contractual standard of materiality that may be different from what may be viewed as material to stockholders, and the representations and warranties are primarily intended to establish circumstances in which either of the parties may not be obligated to consummate the Mergers or the transactions contemplated by the Investment Agreement, rather than establishing matters as facts. In addition, the Merger Agreement, with respect to Horizon, and the Investment Agreement, with respect to Shentel, provides that each party will, until the applicable Closing Date, use commercially reasonable efforts to operate its respective businesses in all material respects in the ordinary course. Each of Shentel and Horizon is subject to restrictions, as specified in the Merger Agreement, and with respect to Shentel only, as specified in the Investment Agreement, on certain actions such company may take prior to the Closing Date, including related to amending organizational documents, issuing or repurchasing capital stock, engaging in certain business transactions and incurring indebtedness.

The foregoing description of the Investment Agreement, the Certificate of Designation, the Registration Rights Agreement and the transactions contemplated thereby do not purport to be complete and are qualified in their entirety by reference to the full text of the Investment Agreement, and the Form of Certificate of Designations and the Form of Registration Rights Agreement, attached to Investment Agreement as Exhibit A and Exhibit D, respectively, which are filed as Exhibit 2.2 and attached to the Merger Agreement filed as Exhibit 2.1, to this Current Report on Form 8-K and are incorporated herein by reference.

Amendment No. 2 to Credit Agreement

On October 24, 2023, Shentel entered into the Consent and Amendment No. 2 to Credit Agreement (the "Second Amendment") to its existing Credit Agreement, dated as of July 1, 2021, with various financial institutions party thereto (the "Lenders") and CoBank, ACB, as administrative agent for the Lenders (as previously amended by the Amendment No. 1 to Credit Agreement, dated as of May 17, 2023, the "Credit Agreement").

The Second Amendment provides for, among other things, an increase in the maximum permitted incremental term loans permitted to be incurred under the Credit Agreement to $275,000,000, and the flexibility to use up to $50,000,000 of this amount to increase the revolving commitments under the Credit Agreement (the "Incremental Financing").

In connection with the Second Amendment, Shentel and Shentel Broadband also entered into a commitment letter (the "Commitment Letter"), dated October 24, 2023, with CoBank, ACB, Citizens Bank, N.A., Bank of America, N.A. and Fifth Third Bank, National Association (the "Commitment Parties"), pursuant to which the Commitment Parties have provided their commitments to fund the full amount of the Incremental Financing, the proceeds of which are to be used, in part, to finance the Mergers.

The foregoing description of the Second Amendment and the Commitment Letter does not purport to be complete and is qualified in its entirety by reference to the full text of the Second Amendment and the Commitment Letter, copies of which are attached to this Current Report on Form 8-K as Exhibits 10.1 and 10.2, respectively, and are incorporated herein by reference.

Item 3.02. Unregistered Sales of Equity Securities.

The information set forth above under the headings "*ECP Investment Agreement*" and "*GCM Investor Rights Agreement*" in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
2.1	Agreement and Plan of Merger, dated October 24, 2023, by and among Shenandoah Telecommunications Company, Fox Merger Sub I Inc., Fox Merger Sub II LLC, Horizon Acquisition Parent LLC, Novacap TMT V, L.P. and the Sellers set forth on the signature pages thereto.*
2.2	Investment Agreement, dated October 24, 2023, by and among Shenandoah Telecommunications Company, Shentel Broadband Holding Inc., ECP Fiber Holdings, LP and, solely for the limited purposes specified therein, Hill City Holdings, LP.*
10.1	Consent and Amendment No. 2 to Credit Agreement, dated October 24, 2023, by and among Shenandoah Telecommunications Company, certain of its subsidiaries, CoBank ACB, as administrative agent, and the lenders party thereto.
10.2	Commitment Letter, dated October 24, 2023, by and among Shenandoah Telecommunications Company, certain of its subsidiaries, CoBank ACB, Citizens Bank, N.A., Bank of America, N.A. and Fifth Third Bank, National Association.*
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. Shentel agrees to furnish supplementally to the SEC a copy of any omitted schedule upon request by the SEC.

Forward-Looking Statements

This communication contains forward-looking statements about Shentel within the meaning of the Private Securities Litigation Reform Act of 1995 (set forth in Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended) regarding, among other things, its business strategy, its prospects and its financial position. These statements can be identified by the use of forward-looking terminology such as "believes," "estimates," "expects," "intends," "may," "will," "plans," "should," "could," or "anticipates" or the negative or other variation of these or similar words, or by discussions of strategy or risks and uncertainties. The forward-looking statements are based upon management's beliefs, assumptions and current expectations and may include comments as to Shentel's beliefs and expectations as to future events and trends affecting its business that are necessarily subject to uncertainties, many of which are outside Shentel's control. Although management believes that the expectations reflected in the forward-looking statements are reasonable, forward-looking statements are not, and should not be relied upon as, a guarantee of future performance or results, nor will they necessarily prove to be accurate indications of the times at which such performance or results will be achieved, and actual results may differ materially from those contained in or implied by the forward-looking statements as a result of various factors. A discussion of other factors that may cause actual results to differ from management's projections, forecasts, estimates and expectations is available in Shentel's filings with the Securities and Exchange Commission, including our Annual Report on Form 10-K for the year ended December 31, 2022 and our Quarterly Reports on Form 10-Q. Those factors may include, among others, the ability to obtain the required regulatory approvals and satisfy the closing conditions required for the Mergers and the other transactions contemplated therein or in connection therewith (collectively, the "Transaction"), Shentel's ability to obtain the financing for the Transaction, the closing of the Transaction may not occur on time or at all, the expected savings and synergies from the Transaction may not be realized or may take longer or cost more than expected to realize, changes in overall economic conditions including rising inflation, regulatory requirements, changes in technologies, changes in competition, demand for our products and services, availability of labor resources and capital, natural disasters, pandemics and outbreaks of contagious diseases and other adverse public health developments, such as COVID-19, and other conditions. The forward-looking statements included are made only as of the date of the statement. Shentel undertakes no obligation to revise or update such statements to reflect current events or circumstances after the date hereof, or to reflect the occurrence of unanticipated events, except as required by law.

SIGNATURES

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

SHENANDOAH TELECOMMUNICATIONS COMPANY

Dated: October 26, 2023

/s/ James J. Volk

James J. Volk
Senior Vice President – Chief Financial Officer

Exhibit 2.1

AGREEMENT AND PLAN OF MERGER

AMONG

SHENANDOAH TELECOMMUNICATIONS COMPANY,

FOX MERGER SUB I INC.,

FOX MERGER SUB II LLC,

HORIZON ACQUISITION PARENT LLC,

THE SELLERS NAMED HEREIN

AND

THE SELLER REPRESENTATIVE NAMED HEREIN

DATED OCTOBER 24, 2023

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AGREEMENT AND PLAN OF MERGER

This **AGREEMENT AND PLAN OF MERGER** (this "**Agreement**") is made and entered into as of October 24, 2023 (the "**Agreement Date**"), by and among Shenandoah Telecommunications Company, a Virginia corporation ("**Parent**"), Fox Merger Sub I Inc., a Delaware corporation ("**Merger Sub I**"), and Fox Merger Sub II LLC, a Delaware limited liability company ("**Merger Sub II**"), on the one hand; and Horizon Acquisition Parent LLC, a Delaware limited liability company (the "**Company**"), the holders set forth on the signature pages hereto (each, a "**Seller**" and collectively, the "**Sellers**"), and Novacap TMT V, L.P., as the Seller Representative, on the other hand, and Parent, Merger Sub I, Merger Sub II, the Company and the Sellers collectively, the "**Parties**". The meanings of capitalized terms used in this Agreement and not otherwise defined, and rules of interpretation, are set forth in Exhibit A.

WITNESSETH:

WHEREAS, upon the terms and subject to the conditions set forth in this Agreement, at the First Effective Time, Merger Sub I will be merged with and into the Company, with the Company surviving such merger ("**Merger I**") as a direct, wholly-owned subsidiary of Parent, in accordance with the Delaware General Corporation Law (the "**DGCL**") and the Delaware Limited Liability Company Act (the "**DLLCA**" and, together with the DGCL, "**Delaware Law**");

WHEREAS, immediately after the First Effective Time, in accordance with Section 1.2, Parent will cause the Company, as the surviving entity in Merger I, to merge with and into Merger Sub II, with Merger Sub II surviving such merger ("**Merger II**" and, together with Merger I, the "**Mergers**") as a direct, wholly-owned subsidiary of Parent, in accordance with Delaware Law;

WHEREAS, it is intended that the Mergers, taken together, shall qualify as a single integrated transaction as described in Rev. Rul. 2001-46, 2001-2 C.B. 321 that qualifies as a "reorganization" within the meaning of Section 368(a) of the Code for federal income Tax purposes (and applicable state and local income Tax purposes), and this Agreement is intended to be, and by executing this Agreement is adopted as, a plan of reorganization within the meaning of Treasury Regulations Sections 1.368-2(g) and 1.368-3(a) for purposes of Sections 354, 356, and 361 of the Code (and any comparable provision of state or local Law) for federal income Tax purposes (and applicable state and local income Tax purposes);

WHEREAS, each of the board of directors of the Company, the board of directors of Parent, the board of directors of Merger Sub I and the board of managers of Merger Sub II has unanimously approved and declared advisable this Agreement and the Contemplated Transactions, including the Mergers;

WHEREAS, (a) the board of directors of Merger Sub I has recommended that Parent, in its capacity as the sole stockholder of Merger Sub I, adopt this Agreement and has directed that this Agreement be submitted to Parent for adoption; (b) Parent, in its capacity as the sole member of Merger Sub II has executed a written consent adopting this Agreement; and (c) all of the Sellers have executed a written consent adopting this Agreement;

WHEREAS, each of Merger Sub I and Merger Sub II is a direct, wholly-owned subsidiary of Parent, the common stock, no par value per share, of which is listed for trading on the NASDAQ Stock Exchange under the symbol "SHEN" ("**Parent Stock**"), and certain of the Merger Consideration shall consist of shares of Parent Stock;

WHEREAS, the shares of Parent Stock issued pursuant to this Agreement will be subject to the rights and restrictions set forth in the Investor Rights Agreement, substantially in the form of Exhibit B attached hereto, to be entered into at the Closing by Parent and the Rollover Sellers (the "**Investor Rights Agreement**"); and

WHEREAS, concurrently with the execution of this Agreement, Parent has delivered to the Sellers an executed Debt Commitment Letter (as defined below) from the Debt Financing Sources (as defined below), pursuant to which the Debt Financing Sources have committed to provide Parent with Debt Financing for the Contemplated Transactions in the aggregate amount set forth therein.

NOW THEREFORE, in consideration of the premises and the mutual representations, warranties, covenants and agreements in this Agreement, intending to be legally bound, the Parties agree as follows:

ARTICLE I
THE MERGERS

1.1 Merger I.

(a) On the terms and subject to the conditions set forth in this Agreement, and in accordance with Delaware Law, Merger Sub I shall be merged with and into the Company at the First Effective Time. The separate corporate existence of Merger Sub I shall cease and the Company shall continue as the surviving entity (the "**Merger I Surviving Entity**"). Merger I shall have the effects set forth in this Agreement and Delaware Law. Without limiting the generality of the foregoing and subject thereto, at the First Effective Time, the Merger I Surviving Entity will possess all of the rights, powers, privileges and franchises and be subject to all of the obligations, liabilities, restrictions, disabilities and duties of the Company and Merger Sub I, to the fullest extent provided under Delaware Law.

(b) At the First Effective Time, (i) the certificate of formation of the Company as in effect immediately prior to the First Effective Time shall be the certificate of formation of the Merger I Surviving Entity until thereafter amended in accordance with the provisions thereof and applicable Law and (ii) the limited liability company agreement in a form agreed among the Parties prior to Closing shall be the limited liability company agreement of the Merger I Surviving Entity until thereafter amended in accordance with the provisions thereof and applicable Law.

(c) The directors of Merger Sub I immediately prior to the First Effective Time shall, from and after the First Effective Time, be the managers of the Merger I Surviving Entity, and the officers of Merger Sub I immediately prior to the First Effective Time shall, from and after the First Effective Time, be the officers of the Merger I Surviving Entity, in each case until their respective successors shall have been duly elected or appointed and qualified, or until their earlier death, resignation or removal in accordance with the Merger I Surviving Entity's certificate of formation, limited liability company agreement and applicable Law.

1.2 Merger II.

(a) Immediately after the First Effective Time, Parent will cause the Merger I Surviving Entity to merge with and into Merger Sub II, the separate limited liability company existence of the Merger I Surviving Entity shall cease, and Merger Sub II shall continue as the surviving entity (the "**Ultimate Surviving Entity**"). Merger II shall have the effects set forth in this Agreement and Delaware Law. Without limiting the generality of the foregoing and subject thereto, at the Second Effective Time, the Ultimate Surviving Entity will possess all of the rights, powers, privileges and franchises and be subject to all of the obligations, liabilities, restrictions, disabilities and duties of the Merger I Surviving Entity and Merger Sub II, to the fullest extent provided under Delaware Law.

(b) At the Second Effective Time, the certificate of formation and limited liability company agreement of Merger Sub II as in effect immediately prior to the Second Effective Time shall be the certificate of formation and limited liability company agreement of the Ultimate Surviving Entity until thereafter amended in accordance with the provisions thereof and applicable Law, except that references to Merger Sub II's name shall be replaced by references to "Horizon Acquisition Parent LLC".

(c) The managers of Merger Sub II immediately prior to the Second Effective Time shall, from and after the Second Effective Time, be the managers of the Ultimate Surviving Entity, and the officers of Merger Sub II immediately prior to the Second Effective Time shall, from and after the Second Effective Time, be the officers of the Ultimate Surviving Entity, in each case until their respective successors shall have been duly elected or appointed and qualified, or until their earlier death, resignation or removal in accordance with the Ultimate Surviving Entity's certificate of formation, limited liability company agreement and applicable Law.

1.3 First Effective Time; Second Effective Time.

(a) Effective Time. Upon the terms and subject to the conditions set forth in this Agreement, concurrently with the Closing, the Company and Merger Sub I shall file with the Secretary of State of the State of Delaware a certificate of merger ("**Certificate of Merger I**") executed in accordance with, and containing such information as is required by, the relevant provisions of Delaware Law, and will make all other filings, recordings or publications required under Delaware Law in connection with Merger I. Merger I shall become effective at the time Certificate of Merger I shall have been duly filed with, and accepted by, the Secretary of State of the State of Delaware or such later date and time as is agreed upon by the Parties and specified in Certificate of Merger I (such date and time, the "**First Effective Time**").

(b) Second Effective Time. Upon the terms and subject to the conditions set forth in this Agreement, immediately following the First Effective Time, and as part of an integrated transaction, the Merger I Surviving Entity and Merger Sub II shall file with the Secretary of State of the State of Delaware a certificate of merger ("**Certificate of Merger II**") executed in accordance with, and containing such information as is required by, the relevant provisions of Delaware Law, and will make all other filings, recordings or publications required under Delaware Law in connection with Merger II. Merger II shall become effective at the time Certificate of Merger II shall have been duly filed with, and accepted by, the Secretary of State of the State of Delaware or such later date and time as is agreed upon by the Parties and specified in Certificate of Merger II (such date and time, the "**Second Effective Time**").

1.4 Effect on Company Units.

(a) Company Units. At the First Effective Time, by virtue of Merger I and without any action on the part of Parent, Merger Sub I, the Company, any holder of Company Units or any other Person:

(i) *Class A Units*. (A) Each issued and outstanding Class A Unit held by the Rollover Sellers shall be converted into the right to receive the Per Unit Parent Stock Merger Consideration and (B) each issued and outstanding Class A Unit held by the Cash Sellers shall be converted into the right to receive the Per Unit Cash Merger Consideration plus each Seller's applicable portion of the Aggregate Cash Adjustment Consideration as determined pursuant to Section 1.6(b) (if any). All Class A Units shall be cancelled automatically and shall cease to exist, and the holders of Class A Units shall cease to have any rights with respect thereto, other than the right to receive the Per Unit Parent Stock Merger Consideration or the Per Unit Cash Merger Consideration, as applicable, plus each Seller's applicable portion of the Aggregate Cash Adjustment Consideration as determined pursuant to Section 1.6(b) (if any), in each case, without interest.

(ii) *Class B Units*. Each issued and outstanding Class B Unit shall be converted into the right to receive the Per Unit Cash Merger Consideration plus each Seller's applicable portion of the Aggregate Cash Adjustment Consideration as determined pursuant to Section 1.6(b) (if any). All Class B Units shall be cancelled automatically and shall cease to exist, and the holders of Class B Units shall cease to have any rights with respect thereto, other than the right to receive the Per Unit Cash Merger Consideration plus each Seller's applicable portion of the Aggregate Cash Adjustment Consideration as determined pursuant to Section 1.6(b) (if any), without interest.

(iii) *Preferred Units*. Each issued and outstanding Preferred Unit shall be converted into the right to receive the Preferred Unit Merger Consideration plus each Seller's applicable portion of the Aggregate Preferred Adjustment Consideration as determined pursuant to Section 1.6(b) (if any). All Preferred Units shall be cancelled automatically and shall cease to exist, and the holders of Preferred Units shall cease to have any rights with respect thereto, other than the right to receive the Preferred Unit Merger Consideration plus each Seller's applicable portion of the Aggregate Preferred Adjustment Consideration as determined pursuant to Section 1.6(b) (if any), without interest.

(b) Common Stock of Merger Sub I. At the First Effective Time, by virtue of Merger I and without any action on the part of Parent, Merger Sub I, the Company, any holder of Company Units or any other Person, each share of common stock of Merger Sub I issued and outstanding immediately prior to the First Effective Time shall be converted into and become one unit of the Merger I Surviving Entity with the rights, powers and privileges set forth in the certificate of formation and limited liability company agreement of the Merger I Surviving Entity.

(c) Units of Merger I Surviving Entity. At the Second Effective Time, by virtue of Merger II and without any action on the part of Parent, Merger Sub II, the Merger I Surviving Entity or any other Person, each unit of the Merger I Surviving Entity issued and outstanding immediately prior to the Second Effective Time shall be cancelled automatically and shall cease to exist, and no consideration will be delivered in exchange therefor.

(d) Units of Merger Sub II. At the Second Effective Time, by virtue of Merger II and without any action on the part of Parent, Merger Sub II, the Merger I Surviving Entity or any other Person, each unit of Merger Sub II outstanding immediately prior to the Second Effective Time shall remain unchanged and continue to remain outstanding as a unit of the Ultimate Surviving Entity with the rights, powers and privileges set forth in the certificate of formation and limited liability company agreement of the Ultimate Surviving Entity.

1.5 **Merger Consideration**. The aggregate merger consideration (the "**Merger Consideration**") will consist of:

(a) a number of shares of Parent Stock equal to the sum of (i) 4,081,633, plus (ii) the quotient of (A) the Cash Dividend Adjustment Amount, divided by (B) the Parent Stock Price (the "**Aggregate Parent Stock Consideration**"); and

(b) an amount in cash calculated as follows, subject to adjustment pursuant to Section 1.8 (the "**Aggregate Cash Consideration**"):

(i) $305,000,000;

(ii) *plus* the Cash Amount;

(iii) *minus* the Indebtedness Amount;

(iv) *plus* or *minus* the Working Capital Overage or the Working Capital Underage, as applicable;

(v) *minus* the aggregate amount of all Transaction Expenses;

(vi) *minus* the Escrow Amount; and

(vii) *minus* the Representative Holdback Amount;

(c) an amount in cash equal to the Reimbursable Amount plus the Preferred Return with respect thereto, subject to post-Closing adjustment pursuant to Section 1.8 (the "**Aggregate Preferred Unit Consideration**");

(d) an amount in cash equal to the remaining portion of the Cash Adjustment Escrow Amount or the Representative Holdback Amount, as applicable, if and when the Cash Adjustment Escrow Amount or the Representative Holdback Amount (or a portion thereof) becomes payable to the Seller Representative for further distribution to the Cash Sellers in accordance with the Closing Allocation Schedule (the "**Aggregate Cash Adjustment Consideration**"); and

(e) an amount in cash equal to the remaining portion of the Preferred Adjustment Escrow Amount, if and when the Preferred Adjustment Escrow Amount (or a portion thereof) becomes payable to the Seller Representative for further distribution to the Cash Sellers in accordance with the Closing Allocation Schedule (the "**Aggregate Preferred Adjustment Consideration**").

1.6 **Deliveries Prior to the Closing Date**. At least seven (7) Business Days before the anticipated Closing Date, the Company or the Sellers, as applicable, will deliver to Parent:

(a) An estimated consolidated balance sheet of the Acquired Companies as of the Adjustment Time, prepared in accordance with GAAP, and a schedule (the "**Closing Payment Schedule**"), containing the Company's good faith calculation (prepared in accordance with the Accounting Principles, if applicable, and this Agreement and accompanied by supporting documentation for the estimates and calculations contained therein) of the Aggregate Cash Consideration (the "**Estimated Aggregate Cash Consideration**") and the Aggregate Preferred Unit Consideration (the "**Estimated Aggregate Preferred Unit Consideration**"), as well as good faith estimates of (i) the Cash Amount, (ii) the Indebtedness Amount, (iii) the Closing Working Capital and the Working Capital Overage or the Working Capital Underage, as applicable, (iv) the Transaction Expenses and (v) the Reimbursable Amount, and the date and Principal Amount of each Interim Period Capital Contribution and the Preferred Return with respect thereto. As promptly as practicable but not later than two (2) Business Day prior to the Closing Date, Parent shall identify any adjustments that it believes are required to the Closing Payment Schedule delivered by the Company. Parent and the Company shall use commercially reasonable efforts to agree upon any such adjustments, after which the Company shall re-deliver to Parent the Closing Payment Schedule, with such adjustments as the Parties have agreed are appropriate. If the Parties cannot agree on any such adjustments to the Closing Payment Schedule, then either Party may accept the position of the other without waiving its rights to challenge such position pursuant to Section 1.8 (and, provided, further, for the avoidance of doubt, that (i) if any such adjustment is not agreed on, the re-delivered Closing Payment Schedule shall be the basis for the calculation of any and all amounts in connection with the Closing, and (ii) any such absence of agreement shall not suspend or otherwise delay the Closing in any respect).

(b) A schedule (the "**Closing Allocation Schedule**"), which shall set forth with respect to each Seller, as of immediately prior to the First Effective Time, (A) the number and class of Company Units held by such Seller, (B) the portion of the Merger Consideration to be received by such Seller, including the aggregate number of shares of Parent Stock to be issued to such Seller and the aggregate amount of cash to be received by such Seller, as applicable, and (C) the percentage of the Cash Adjustment Escrow Amount, Preferred Adjustment Escrow Amount, Indemnification Escrow Amount and the Representative Holdback Amount to be received by such Seller (the "**Closing Percentage**"), if and when any such amounts become payable to the Seller Representative for further distribution to the Sellers. The Company shall update the Closing Allocation Schedule immediately upon the receipt of any information which would reasonably be expected to result in any change thereto. As promptly as practicable but not later than one Business Day prior to the Closing Date, Parent shall identify any adjustments that it believes are required to the Closing Allocation Schedule delivered by the Company. Parent and the Company shall agree upon any such adjustments prior to the Closing Date, after which the Company shall re-deliver to Parent the Closing Allocation Schedule, with such adjustments as the Parties have agreed are appropriate.

(c) Duly executed Payoff Letters.

(d) Instructions in form and substance reasonably satisfactory to Parent with respect to the payment of the Transaction Expenses, including the names of each Person to which each such Transaction Expense is owed, the amounts owed to such Person and wire instructions for the payment of such amounts together with invoices and IRS Forms W-8 or W-9 (or other applicable form) from each such Person.

1.7 **Deliveries at the Closing**. At the Closing:

(a) Parent Deliveries. Parent shall deliver, or cause to be delivered:

(i) to each Rollover Seller, in accordance with Section 1.10(f), the number of shares of Parent Stock set forth on the Closing Allocation Schedule; provided, that to the extent any Rollover Seller has not completed, executed and delivered to Parent the documents required by Section 1.7(c), no shares of Parent Stock shall be issued to such Rollover Seller until such Rollover Seller has executed and delivered such documents, at which time Parent shall promptly issue to such Rollover Seller, in accordance with Section 1.10(f), such withheld shares of Parent Stock;

(ii) to each Cash Seller and each holder of Preferred Units, the aggregate amount of cash set forth on the Closing Allocation Schedule; provided, that to the extent any Cash Seller or holder of Preferred Units has not completed, executed and delivered to Parent a Letter of Transmittal, Parent shall not make any payments to such Cash Seller or holder of Preferred Units until such Cash Seller or holder of Preferred Units has completed, executed and delivered to Parent such Letter of Transmittal, at which time Parent shall promptly pay to such Cash Seller or holder of Preferred Units such withheld payments;

(iii) to the parties designated in the Payoff Letters, the amounts set forth in the Payoff Letters (the "**Payoff Amounts**");

(iv) to the parties to whom any Transaction Expenses are payable pursuant to the instructions delivered pursuant to Section 1.6(d), the applicable amounts set forth therein;

(v) to the Escrow Agent, for deposit in an escrow account (the "**Escrow Account**") designated in the Escrow Agreement, an amount in cash equal to the Escrow Amount, to be held by the Escrow Agent and distributed by the Escrow Agent in accordance with the terms of the Escrow Agreement and the applicable provisions of this Agreement;

(vi) to the Seller Representative, for deposit in an account established for the benefit of the Seller Representative (the "**Representative Holdback Account**") and designated in writing by the Seller Representative at least two (2) Business Days prior to the Closing Date, an amount in cash equal to the Representative Holdback Amount, to be held by the Seller Representative in a separate account for purposes of satisfying fees, costs and expenses incurred in its capacity as the Seller Representative and otherwise in accordance with this Agreement (provided that, for Tax purposes, the Representative Holdback Amount shall be treated by the Parties as having been received and voluntarily set aside by the Cash Sellers at the Closing);

(vii) to the Seller Representative, the Escrow Agreement duly executed by Parent;

(viii) to the Rollover Sellers, the Investor Rights Agreement duly executed by Parent;

(ix) to the Seller Representative, evidence reasonably satisfactory to the Seller Representative that Parent has obtained and bound the R&W Insurance Policy in accordance with the terms of this Agreement; and

(x) to the Seller Representative, a certificate from Parent, duly executed by an officer of Parent, certifying that each of the conditions set forth in Sections 7.3(a), 7.3(b) and 7.3(c) have been satisfied.

(b) Company Deliveries. The Company shall deliver (or cause to be delivered) to Parent:

(i) the Escrow Agreement, duly executed by the Seller Representative and the Escrow Agent;

(ii) a certificate from the state of formation of each Acquired Company as to the good standing of the Acquired Company, dated within ten days of the Closing Date;

(iii) the Closing Payment Schedule, as it may be adjusted pursuant to Section 1.6(a), duly executed by an officer of the Company;

(iv) the Closing Allocation Schedule, as it may be adjusted pursuant to Section 1.6(b), duly executed by an officer of the Company and an authorized representative of each Seller;

(v) duly executed agreements terminating all Contracts between any Seller or any officer, director, manager, member, partner, shareholder, direct or indirect equityholder or Affiliate of such Seller, on the one hand, and any Acquired Company, on the other hand;

(vi) evidence reasonably satisfactory to Parent that each of the consents, waivers, estoppels, certifications and other documents set forth on Schedule 1.7(b)(vi) has been executed by the applicable counterparty, and that each of the notices set forth on Schedule 1.7(b)(vi) has been delivered to the applicable recipient by the Company;

(vii) the Option Termination Agreements, duly executed by the Company, on the one hand, and each holder of a Company Option, on the other hand;

(viii) duly executed letters of resignation from each of the directors, managers and officers of each of the Acquired Companies (in such capacity) effective as of the Closing Date;

(ix) a certificate from the Company, duly executed by an officer of the Company, certifying that each of the conditions set forth in Sections 7.2(a), 7.2(b) and 7.2(c) have been satisfied;

(x) a certificate from the Company conforming with the requirements of Treasury Regulations Sections 1.897-2(h) and 1.1445-2(c)(3) certifying that the equity interests in the Company do not constitute "United States real property interests" under Section 897(c) of the Code, together with a notice to the IRS (which shall be filed by Parent with the IRS following the Closing) in accordance with the Treasury Regulations Section 1.897-2(h)(2); and

(xi) three USB drives, each containing a copy of the entire contents of the Data Room as of the Closing Date.

(c) Seller Deliveries. Each Seller shall deliver (or cause to be delivered) to Parent:

(i) a properly completed and duly executed letter of transmittal, in form and substance reasonably satisfactory to Parent (a "**Letter of Transmittal**"); and

(ii) in the case of any Rollover Seller, the Investor Rights Agreement duly executed by such Rollover Seller.

1.8 Adjustments.

(a) As soon as practicable, but no later than 120 days after the Closing Date, Parent will prepare and deliver to the Seller Representative a copy of the consolidated balance sheet of the Acquired Companies as of the Adjustment Time, prepared in accordance with GAAP, and a statement (the "**Closing Statement**"), setting forth Parent's good faith calculation of (i) the Cash Amount (the "**Final Cash Amount**"), (ii) the Indebtedness Amount (the "**Final Indebtedness Amount**"), (iii) the Closing Working Capital (the "**Final Working Capital**") and the Working Capital Overage or the Working Capital Underage, as applicable, (iv) the Transaction Expenses (the "**Final Transaction Expenses**"), (v) the Aggregate Cash Consideration, as determined by reference to the relevant provisions of this Agreement, with each component calculated in accordance with the Accounting Principles, if applicable, and this Agreement (the "**Final Aggregate Cash Consideration**"), and the Aggregate Preferred Unit Consideration (the "**Final Aggregate Preferred Unit Consideration**"). For the avoidance of doubt, the Parties acknowledge and agree that the purpose of preparing the consolidated balance sheet referred to above and making the calculations in the Closing Statement and the components thereof is solely to assess the accuracy of the amounts set forth in the Closing Payment Schedule, and such processes are not intended to permit the introduction of judgments, accounting methods, policies, principles, practices, procedures, reserves classifications or estimation methodologies for the purpose of calculating the Closing Statement that differ from the Accounting Principles.

(b) The Seller Representative may object to the Closing Statement by delivering to Parent written notice (a "**Consideration Dispute Notice**") within the period ending on the 30th day after the Seller Representative's receipt of the Closing Statement (the "**Review Period**"). During the Review Period, the Seller Representative and its representatives will be provided, upon reasonable advance notice and during normal business hours and upon receipt from the Seller Representative of customary access letters and non-disclosure agreements, with such access to the financial books, records, information and work papers of the Company and Parent as is reasonably necessary to enable them to evaluate the Closing Statement, the Final Cash Amount, the Final Indebtedness Amount, the Final Working Capital, the Final Transaction Expenses and the Final Aggregate Preferred Unit Consideration. The Consideration Dispute Notice must set forth the Seller Representative's objections to the Closing Statement in reasonable detail and the Seller Representative's determination of any disputed amount set forth in the Closing Statement (including its proposed calculations thereof).

(c) If the Seller does not deliver a Consideration Dispute Notice to Parent prior to the expiration of the Review Period, the Closing Statement, and all calculations set forth therein, shall be deemed final and binding on Parent and the Seller Representative for all purposes of this Agreement.

(d) If the Seller Representative timely delivers a Consideration Dispute Notice to Parent, then Parent and the Seller Representative will use commercially reasonable efforts to resolve any objections set forth in the Consideration Dispute Notice in good faith during the 30-day period commencing on the date Parent receives the Consideration Dispute Notice. Rule 408 of the Federal Rules of Evidence will apply to all communications between Parent and the Seller Representative and their respective representatives. If Parent and the Seller Representative are able to resolve by written agreement (the "**Agreed Adjustments**") all such disputed items set forth in the Consideration Dispute Notice, then the Closing Statement, as adjusted by the Agreed Adjustments, shall be final and binding for all purposes of this Agreement. If Parent and the Seller Representative are unable to reach agreement on all such differences within such 30-day period (or such longer period as Parent and the Seller Representative may agree in writing), then the Parties shall submit all remaining objections to PricewaterhouseCoopers LLP (such firm, or any successor thereto, being referred to herein as the "**Designated Firm**"). In the event that the Designated Firm is unwilling to act as the Designated Firm, each of the Parties shall promptly select an accounting firm and cause such two accounting firms promptly to mutually select a third nationally recognized independent accounting firm that does not have a material relationship with either Parent, any Seller or the Seller Representative to act as the Designated Firm. The Designated Firm shall be directed by Parent and the Seller Representative to resolve the unresolved objections as promptly as reasonably practicable in accordance with the definitions and methodologies contained in this Agreement, and, in any event, within 30 days of such referral, and, upon reaching such determination, to deliver a copy of its calculations (the "**Expert Calculations**") to Parent and the Seller Representative. In connection with the resolution of any such dispute by the Designated Firm, each of Parent, the Seller Representative and their respective advisors and accountants shall have a reasonable opportunity to meet with the Designated Firm to provide their respective views as to any disputed items set forth in the Closing Statement; provided, however, there shall be no *ex parte* communications between any Party or its Affiliates (or its and their respective representatives) and the Designated Firm with respect to any such disputed items in the Closing Statement. The determination of the Designated Firm shall be final and binding on Parent and the Seller Representative for all purposes of this Agreement, absent fraud or manifest error. In making any such determination, the Designated Firm shall be limited to addressing only the particular disputes referred to in the Consideration Dispute Notice that are identified as being items and amounts to which Parent and the Seller Representative have been unable to agree. The Expert Calculations (i) shall reflect in detail the resolution and calculation of any disputed items set forth in the Closing Statement, and (ii) with respect to any specific discrepancy or disagreement, shall be no greater than the higher amount calculated by Parent or the Seller Representative, as the case may be, and no lower than the lower amount calculated by Parent or the Seller Representative as the case may be. The fees and expenses of the Designated Firm shall be borne by Parent and the Seller Representative, based on the inverse of the percentage that the Designated Firm's determination bears to the total amount of the total items in dispute as originally submitted to the Designated Firm by Parent and the Seller Representative. For example, should the items in dispute total in amount to $1,000 and the Designated Firm awards $600 in favor of the Seller Representative's position, 60% of the costs and expenses of its review would be borne by Parent and 40% of the costs and expenses would be borne by the Seller Representative. It is the intent of the Parties that any final determination by the Designated Firm proceed in an expeditious manner; provided, however, any deadline or time period contained herein may be extended or modified by the written agreement of Parent and the Seller Representative and the Parties agree that the failure of the Designated Firm to strictly conform to any deadline or time period contained herein shall not be a basis for seeking to overturn any determination rendered by the Designated Firm which otherwise conforms to the terms of this Section 1.8(c).

(e) Within five (5) Business Days after the date on which the Closing Statement is finally determined pursuant to Sections 1.8(a) - (d):

(i) If the Final Aggregate Cash Consideration is greater than the Estimated Aggregate Cash Consideration (as calculated, the "**Parent Underpayment**"), then (A) Parent will pay to the Seller Representative, for further distribution to the Cash Sellers in accordance with their respective Closing Percentages, an amount equal to the Parent Underpayment and (B) Parent and the Seller Representative will execute and deliver to the Escrow Agent a joint written instruction to promptly release to the Seller Representative, for further distribution to the Cash Sellers in accordance with their respective Closing Percentages, the Cash Adjustment Escrow Amount.

(ii) If the Final Aggregate Cash Consideration is less than the Estimated Aggregate Cash Consideration (as calculated, the "**Parent Overpayment**"), then the Seller Representative, on behalf of the Cash Sellers, and Parent will execute and deliver to the Escrow Agent a joint written instruction to promptly release (A) to Parent, from the Cash Adjustment Escrow Amount, the Parent Overpayment and (B) to the Seller Representative, for further distribution to the Cash Sellers in accordance with their respective Closing Percentages, any remaining balance of the Cash Adjustment Escrow Amount following release of the Parent Overpayment to Parent.

(iii) If the Final Aggregate Preferred Unit Consideration is greater than the Estimated Aggregate Preferred Unit Consideration (as calculated, the "**Preferred Underpayment**"), then (A) Parent will pay to the Seller Representative, for further distribution to the Cash Sellers in accordance with the Closing Allocation Schedule, an amount equal to the Preferred Underpayment and (B) Parent and the Seller Representative will execute and deliver to the Escrow Agent a joint written instruction to promptly release to the Seller Representative, for further distribution to the Cash Sellers in accordance with the Closing Allocation Schedule, the Preferred Adjustment Escrow Amount.

(iv) If the Final Aggregate Preferred Unit Consideration is less than the Estimated Aggregate Preferred Unit Consideration (as calculated, the "**Preferred Overpayment**"), then the Seller Representative, on behalf of the Cash Sellers, and Parent will execute and deliver to the Escrow Agent a joint written instruction to promptly release (A) to Parent, from the Preferred Adjustment Escrow Amount, the Preferred Overpayment and (B) to the Seller Representative, for further distribution to the Cash Sellers in accordance with the Closing Allocation Schedule, any remaining balance of the Preferred Adjustment Escrow Amount following release of the Preferred Overpayment to Parent.

(v) The Parties acknowledge and agree that, notwithstanding anything in any Transaction Document to the contrary, the amount in the Cash Adjustment Escrow Account shall be Parent's only source from which to recover the Parent Overpayment and the amount in the Preferred Adjustment Escrow Account shall be Parent's only source from which to recover the Preferred Overpayment, and, in the event that the Parent Overpayment exceeds the Cash Adjustment Escrow Amount or the Preferred Overpayment exceeds the Preferred Adjustment Escrow Amount, as the case may be, then neither the Sellers, the Seller Representative nor any of their respective Affiliates or representatives shall be responsible (jointly, severally or otherwise) for, or have any obligation to pay or cause to be paid to Parent, all or any portion of the amount by which the Parent Overpayment exceeds the Cash Adjustment Escrow Amount or the Preferred Overpayment exceeds the Preferred Adjustment Escrow Amount, as the case may be.

(f) Any payments made in accordance with this Section 1.8 shall be treated by the Parties as an adjustment to the Aggregate Cash Consideration for Tax purposes, except as otherwise required by a "determination" (within the meaning of Section 1313(a) of the Code).

(g) Notwithstanding any provision set forth in this Section 1.8 or elsewhere in this Agreement to the contrary, there is no general agreement among the Parties to submit disputes under this Agreement to arbitration.

1.9 Company Options.

(a) Company Options. At the Closing, the Company shall cause each outstanding option to acquire Company Units (collectively, "**Company Options**") to be cancelled, and each holder of an in-the-money Company Option (if any) shall, following delivery of a duly executed option termination agreement (collectively, the "**Option Termination Agreements**") in a form approved by Parent and the Company, be entitled to receive in respect of each Company Option, an amount in cash equal to (i)(A) the fair market value of the Company Units as reasonably determined by the board of directors of the Company in accordance with the Employee Option Plan and to be provided by the Company no later than five (5) Business Days prior to the Closing Date, multiplied by (B) the number of Company Units subject to such Company Option, minus (ii) the aggregate exercise price for such Company Option; provided, however, that if the exercise price per Company Unit of a Company Option exceeds the Per Unit Cash Merger Consideration, such Company Option shall be canceled without payment and the holder thereof shall have no further rights under or with respect to such Company Option.

(b) All payments to holders of Company Options (if any) shall be paid in accordance with the Company's customary payroll policies and procedures and shall be subject to applicable withholding.

(c) All amounts received by holders of Company Options pursuant to this Section 1.10 shall be considered Transaction Expenses and shall be included in the calculation of Transaction Expenses.

1.10 Payment and Exchange Procedures.

(a) No Other Rights. Until the delivery to Parent of the applicable documents required by Section 1.8(c), each Company Unit shall be deemed, from and after the First Effective Time, to represent only the right to receive upon execution and delivery of such documents, the Merger Consideration payable with respect to such Company Unit in accordance with the terms and conditions of this Agreement. Payment of the Merger Consideration in accordance with the terms and conditions of this Agreement upon the delivery of the applicable duly completed and validly executed documents shall be deemed payment in full satisfaction of all rights pertaining to such Company Unit.

(b) No Further Transfers. At the First Effective Time, the transfer books of the Company shall be closed and there shall be no further registration of transfers of Company Units that were outstanding immediately prior to the First Effective Time. If, after the First Effective Time, Company Units are presented to the Ultimate Surviving Entity for any reason, they shall be cancelled and exchanged as provided in this Agreement.

(c) Unregistered Transferees. If any Merger Consideration is to be paid to a Person other than the Person in whose name a Company Unit is registered, then such Merger Consideration may be paid to such a transferee so long as (i) the applicable Seller's Letter of Transmittal is accompanied by documents reasonably satisfactory to Parent to evidence and effect that transfer and (ii) the Person requesting such payment (A) pays any applicable Transfer Taxes or (B) establishes to the satisfaction of Parent that any such Taxes have already been paid or are not applicable.

(d) No Fractional Shares. No fractional shares of Parent Stock shall be issued in exchange for Company Units, and such fractional share interests shall not entitle the owner thereof to vote or to any other rights of a stockholder of Parent. Each holder of Company Units converted pursuant to Merger I who would otherwise have been entitled to receive a fraction of a share of Parent Stock shall receive, in lieu thereof, cash (without interest and subject to applicable Tax withholding) in an amount equal to (i) such fractional part of a share of Parent Stock multiplied by (ii) the Parent Stock Price.

(e) Equitable Adjustments. If, between the Agreement Date and the First Effective Time, the outstanding Equity Securities of the Company shall have been changed into a different number of units or a different class of units by reason of any dividend, subdivision, reorganization, reclassification, recapitalization, split, reverse split, combination or exchange, or any similar event shall have occurred, then the Merger Consideration shall be equitably adjusted, without duplication, to proportionally reflect such change. If, between the Agreement Date and the First Effective Time, the outstanding shares of Parent Stock shall have been changed into a different number of shares or a different class of shares by reason of any stock dividend, subdivision, reorganization, reclassification, recapitalization, stock split, reverse stock split, combination or exchange of shares, or any similar event shall have occurred, then the Parent Stock Price shall be equitably adjusted, without duplication, to proportionally reflect such change. Nothing in this Section 1.12(e) shall be construed to permit the Company or Parent to take any action with respect to its Equity Securities that is prohibited by the terms of this Agreement.

(f) Book Entry. Notwithstanding anything in this Agreement to the contrary, unless Parent determines otherwise in its sole discretion, all shares of Parent Stock issuable pursuant to this Agreement shall not be certificated and shall be registered in the name of the applicable Rollover Seller by book entry in the stock transfer books of Parent. Promptly after the issuance of any shares of Parent Stock pursuant to this Agreement, Parent shall, or shall cause its transfer agent to, deliver evidence thereof to each Rollover Seller.

(g) Payments by Wire Transfer. Except as set forth in Section 1.10(f) and Section 1.9(b), all payments under this Agreement will be delivered by wire transfer in immediately available funds to the account or accounts designated by the recipient.

1.11 Tax Treatment.

(a) The Parties intend that the Mergers, taken together, shall qualify as a single integrated transaction as described in Rev. Rul. 2001-46, 2001-2 C.B. 321 that qualifies as a "reorganization" within the meaning of Section 368(a) of the Code for federal income Tax purposes (and applicable state and local income Tax purposes), and this Agreement is intended to be, and by executing this Agreement is adopted as, a plan of reorganization within the meaning of Treasury Regulations Sections 1.368-2(g) and 1.368-3(a) for purposes of Sections 354, 356, and 361 of the Code (and any comparable provision of state or local Law) for federal income Tax purposes (and applicable state and local income Tax purposes). This Agreement shall be interpreted consistent with that intent, unless otherwise required by applicable Law. No Party shall take or cause to be taken (or permit any of its Affiliates to take or cause to be taken) any action, or fail to take or cause to be taken (or permit any of its Affiliates to fail to take or cause to be taken) any action, in each case, which would reasonably be expected to prevent the Mergers, taken together, from qualifying as a reorganization within the meaning of Section 368(a) of the Code (and any comparable provision of state or local Law). Each Party shall cause all Tax Returns to be prepared and filed on the basis of treating the Mergers, taken together, as a "reorganization" within the meaning of Section 368(a) of the Code and shall not (or permit any of its Affiliates to) take any position inconsistent therewith in any Tax filing or Action, except as otherwise required by a "determination" (within the meaning of Section 1313(a) of the Code).

(b) Notwithstanding anything in this Agreement to the contrary, in the event that any adjustment to the Merger Consideration (pursuant to this Article I or otherwise) results in the Merger Consideration consisting of a cash amount that is greater than 60% of the value of the Merger Consideration determined within the meaning of Treasury Regulations Section 1.368-1(e), then the Merger Consideration shall be adjusted (and, if necessary, additional shares of Parent Stock shall be issued) so that the Merger Consideration will be comprised of 40% Parent Stock and 60% cash; provided, that nothing in this Section 1.11(b) shall require (i) Parent to increase the aggregate amount of the Merger Consideration or (ii) any Cash Seller to accept any shares of Parent Stock.

(c) Notwithstanding anything to the contrary contained in this Agreement, before the Closing, the Parties may (but shall not be obligated to) mutually agree that the structure of the Contemplated Transactions be revised, and the Parties will use their commercially reasonable efforts (but shall not be obligated) to enter into such alternative transactions as the Parties may determine to effect the purposes of this Agreement so long as (i) there are no material adverse Tax consequences to any Party as a result of such modifications and (ii) such modification will not be likely to materially delay or jeopardize receipt of any Required Regulatory Approvals or materially delay the Closing.

(d) For the avoidance of doubt, the Sellers acknowledge and agree that (i) the Closing shall not be conditioned upon the Mergers qualifying as a "reorganization" within the meaning of Section 368(a) of the Code for federal income Tax purposes and (ii) neither Parent nor any other Person shall have any liability to the Sellers or any other Person in the event that the Mergers do not so qualify.

1.12 **Withholding**. Parent and the Escrow Agent, as applicable, will be entitled to deduct and withhold from the amounts otherwise payable pursuant to this Agreement or the Escrow Agreement to any Person all amounts required under the Code or any applicable provision of any state, local or foreign Tax Law to be deducted and withheld, and to collect any necessary Tax forms, including IRS Forms W-8 or W-9, as applicable, or any similar information, from any recipient of such payments. Except with respect to withholding pursuant to Section 1445 of the Code, Parent and the Escrow Agent shall use commercially reasonable efforts to provide the applicable payee with a written notice of any intention to withhold or deduct such amounts at least five (5) Business Days prior to any such withholding or deduction, and the Parties shall use commercially reasonable efforts to minimize any such withholding or deduction (including by providing any applicable Tax forms). To the extent that any such amount is so deducted and withheld by Parent or the Escrow Agent, as applicable, and timely remitted to the appropriate Government Agency, such amount shall be treated for all purposes of this Agreement and the Escrow Agreement as having been paid to the Person who otherwise would have been entitled to receive such amount.

1.13 **No Liability**. Notwithstanding anything in this Agreement to the contrary, the Parties agree that Parent shall be entitled to rely conclusively on the information set forth in the Closing Allocation Schedule, and any amounts delivered by Parent to a Seller (or to the Seller Representative for further distribution to the Sellers) in accordance with the Closing Allocation Schedule shall be deemed for all purposes to have been delivered to the applicable Seller in full satisfaction of the obligations of Parent under this Agreement, and Parent shall not be responsible or liable for the information or calculations or the determinations regarding such information or calculations set forth therein.

1.14 **The Closing**. Subject to the terms and conditions of this Agreement, the closing of the Contemplated Transactions will take place at a closing (the "**Closing**") to be held at 9:00 a.m., Eastern Time, no later than five (5) Business Days after the last of the conditions to Closing set forth in Article VII have been satisfied or waived (other than conditions which, by their nature, are to be satisfied on the Closing Date), remotely by exchange of documents and signatures (or their electronic counterparts), or at such other time or on such other date or at such other place as the Seller Representative and Parent may mutually agree upon in writing (the day on which the Closing takes place being the "**Closing Date**"); provided, however, that if such date is not the first Business Day of a calendar month, then Parent may elect to have the Closing take place on the first Business Day of the next calendar month; provided, further, that if the Closing Date (including as a result of the preceding proviso) would be the first Business Day of the third calendar month of a calendar quarter, Parent may elect to have the Closing take place on the first Business Day of the next calendar quarter. Notwithstanding the foregoing, Parent shall not have the right to make such an election if it would result in the Closing Date occurring after the End Date.

ARTICLE II
REPRESENTATIONS AND WARRANTIES OF THE SELLERS

Each Seller, severally and not jointly and as to itself only, represents and warrants to Parent, as of the Agreement Date (except where a representation or warranty is made herein as of a specified date, in which case as of such date), as follows, except as set forth in the Schedules:

2.1 **Organization of Seller**. Such Seller (a) is an entity duly formed, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation (as applicable) and (b) has all requisite corporate or limited liability company, as applicable, power and authority to own, lease and operate its properties and assets and to conduct its business as it is now being conducted, except where the failure to have such power or authority would not, individually or in the aggregate, reasonably be expected to prevent, prohibit or delay the consummation of any of the Contemplated Transactions.

2.2 **Authority and Enforceability**. Such Seller has all requisite power and authority to enter into the Transaction Documents to which it is a party and to consummate the transactions contemplated in such Transaction Documents. The execution and delivery by such Seller of the Transaction Documents to which it is a party, and the consummation by such Seller of the transactions contemplated in such Transaction Documents, have been duly authorized by all necessary action on the part of such Seller. This Agreement has been duly executed and delivered by such Seller and (assuming that this Agreement constitutes the valid and binding agreement of the other Parties) constitutes the valid and binding obligations of such Seller, enforceable against it in accordance with its terms, except as enforceability may be limited by the Enforceability Exceptions.

2.3 **Title to Company Units**. Such Seller is the record and beneficial owner of the Company Units indicated on Schedule 3.4(a), and has good and valid title to such Company Units, free and clear of any Liens, except for Liens as are imposed by applicable securities Laws. Such Company Units have been duly authorized and validly issued and are fully paid and non-assessable, and there are no options, warrants, or other rights, agreements, or commitments of any character, including without limitation, voting or subscription agreements, granting rights to purchase or otherwise acquire any of such Company Units or obligating such Seller to transfer any of such Company Units. The Company Units and Company Options set forth on Schedule 3.4(a) constitute all of the Equity Securities of the Company.

2.4 Consents and Approvals.

(a) Except as identified on Schedule 2.4(a), the execution, delivery and performance by such Seller of the Transaction Documents to which such Seller is a party and the consummation by such Seller of the transactions contemplated in such Transaction Documents do not and will not (i) violate or result in a breach of, or default under, any provision of such Seller's Governing Documents, (ii) require the consent, notice, or other action by any Person under, violate, conflict with or result in a breach of, constitute a default under or result in the termination, cancellation or acceleration (whether after the giving of notice or the lapse of time or both) under any Contract to which such Seller is a party or is bound, (iii) violate any Order or Law to which such Seller is subject or (iv) result in the creation or imposition of any Lien (other than Permitted Exceptions) on any assets of such Seller, other than in the case of clauses (ii), (iii) and (iv), such conflicts, breaches, violations, defaults, consents, terminations, cancellations or Liens that would not, individually or in the aggregate, reasonably be expected to prevent, prohibit or delay in any material respect the consummation of any of the Contemplated Transactions or result in any material liability to or obligation of Parent or the Acquired Companies.

(b) Except as identified on Schedule 2.4(b), no material notice to, filing with, or authorization, consent, Order or approval of any Government Agency is necessary for the execution, delivery and performance by such Seller of the Transaction Documents to which such Seller is a party and the consummation by such Seller of the transactions contemplated in such Transaction Documents.

2.5 Litigation. There are no Actions pending or threatened in writing against or affecting such Seller or the properties or assets of such Seller, at law or in equity, or before or by any Government Agency, and such Seller is not bound by any Order, in each case that would prevent, adversely affect, delay, make illegal, impose any obligations or conditions on or otherwise interfere with such Seller's performance under any Transaction Documents to which it is a party, or the consummation by such Seller of the transactions contemplated in such Transaction Documents.

2.6 Affiliate Transactions. Except as set forth on Schedule 2.6, neither such Seller nor any officer, director, manager, member, partner, shareholder, direct or indirect equityholder or Affiliate of such Seller (a) is a party to, or has an economic interest in, any Contract with any Acquired Company, (b) has an interest in any asset or property owned or used by any Acquired Company, (c) has any claim or cause of action against any Acquired Company, (d) owes any money to any Acquired Company or is owed any money from any Acquired Company, (e) provides services or resources to any Acquired Company, (f) has an interest, directly or indirectly, in any vendor, supplier, distributor, customer or other business relationship of any Acquired Company, or (g) has an interest, directly or indirectly, in any business (regardless of form or structure), which is in competition with any Acquired Company.

2.7 Investment Representations.

(a) Such Seller, if such Seller is a Rollover Seller, acknowledges and agrees that (i) the shares of Parent Stock issuable pursuant to this Agreement have not been registered under the Securities Act or the securities laws of any state and that, owing to certain requirements arising under the Securities Act and applicable state securities laws, such shares of Parent Stock must be held indefinitely unless subsequently registered under the Securities Act and any applicable state law, or unless an exemption from registration is otherwise available, and (ii) if an exemption from registration or qualification is available, it may be conditioned on various requirements, including the time and manner of sale and the holding period for such shares of Parent Stock.

(b) Such Seller, if such Seller is a Rollover Seller, is a sophisticated buyer with respect to the shares of Parent Stock issuable pursuant to this Agreement, has knowledge and experience in financial and business matters, has legal and other advisers who are capable of evaluating the merits and risks of its purchase of such Shares of Parent Stock and has been represented or has had the opportunity to be represented by legal counsel, tax advisers, and financial advisers of its own choice with respect to all aspects of such Seller's investment decision. Such Seller is aware that the acquisition of such shares of Parent Stock involves a high degree of risk and has sufficient economic resources to bear the economic risk of the complete loss of its investment in such shares of Parent Stock. Such Seller has conducted such examination of Parent's business, financial condition, results of operations and other relevant matters as such Seller deems appropriate and has adequate information concerning Parent, its financial condition, and its business to make an informed and knowledgeable decision to acquire such shares of Parent Stock. Such Seller has independently and without reliance upon Parent or any its representatives (other than the representations and warranties set forth in this Agreement and the other Transaction Documents), and based on such information as such Seller has deemed appropriate in its independent judgment, made its own analysis and decision to enter into this Agreement and the Contemplated Transactions. Such Seller acknowledges and agrees that neither Parent nor any other Person has made any representation or warranty as to Parent or this Agreement except as expressly set forth in this Agreement (including the related portions of the Parent Schedules) and the other Transaction Documents.

(c) Such Seller, if such Seller is a Rollover Seller, is an "accredited investor" within the meaning of Rule 501 of Regulation D under the Securities Act and is acquiring shares of Parent Stock for its own account and not with a view to distribution in violation of any securities Laws.

2.8 **Interim Period Capital Contributions**. Such Seller has, as of the Agreement Date, sufficient cash on hand or other sources of available financing to enable such Seller to make the Interim Period Capital Contributions contemplated by the Interim Period CapX Plan, and such Seller is not aware of any fact or occurrence that, with or without notice, lapse of time or both, would reasonably be expected to cause it to be unable to timely make any such Interim Period Capital Contributions.

2.9 **Broker and Finder Fees**. Other than Bank Street Group LLC and Houlihan Lokey Capital, Inc. (the fees of which will be included in the Transaction Expenses), there is no broker, finder or other Person who has any claim against such Seller for a commission, finders' fee, brokerage fee or other similar fee in connection with this Agreement or the Contemplated Transactions by virtue of any actions taken by on or behalf of such Seller or its Affiliates.

ARTICLE III
Representations and Warranties of the Company

The Company represents and warrants to Parent, as of the Agreement Date (except where a representation or warranty is made herein as of a specified date, in which case as of such date), as follows, except as set forth in the Schedules:

3.1 **Organization of the Acquired Companies**. Each Acquired Company (a) is an entity duly formed, validly existing and in good standing under the laws of its jurisdiction of incorporation or formation (as applicable) and (b) has all requisite corporate or limited liability company, as applicable, power and authority to own, lease and operate its properties and assets and to conduct its business as it is now being conducted. Each Acquired Company is qualified or licensed to do business and is in good standing as a foreign entity in each jurisdiction in which the ownership, use, licensing or leasing of its assets and properties, or the conduct or nature of its business, makes such qualification, licensing or admission necessary, except where any Acquired Company's failure to be so qualified or licensed in any jurisdiction would not be material, individually or in the aggregate, to such Acquired Company.

3.2 **Authority and Enforceability**. Each Acquired Company has all requisite entity power and authority to enter into the Transaction Documents to which it is a party and to consummate the transactions contemplated in such Transaction Documents. The execution and delivery by each Acquired Company of the Transaction Documents to which it is a party, and the consummation by each Acquired Company of the transactions contemplated in such Transaction Documents, have been duly authorized by all requisite corporate action on the part of such Acquired Company. This Agreement has been duly executed and delivered by the Company and (assuming that this Agreement constitutes the valid and binding agreement of the other Parties to this Agreement) constitutes the valid and binding obligation of the Company, enforceable against it in accordance with its terms, except as enforceability may be limited by the Enforceability Exceptions.

3.3 **Consents and Approvals**.

(a) Except as set forth in Schedule 3.3(a), the execution, delivery and performance by the Company of the Transaction Documents to which the Company is a party and the consummation by the Company of the transactions contemplated in such Transaction Documents do not and will not (i) violate or result in a breach of, or default under, any provision of any Governing Documents of any of the Acquired Companies, (ii) violate any Order or Law to which any Acquired Company is subject, (iii) require the consent, notice, or other action by any Person under, violate, conflict with or result in a breach of, constitute a default under or result in the termination, cancellation or acceleration (whether after the giving of notice or the lapse of time or both) under any Material Contract or (iv) result in the creation or imposition of any Lien (other than Permitted Exceptions) on any assets of any Acquired Company; except, in the cases of clauses (iii) and (iv), where the violation, conflict, breach, default, termination, cancellation, acceleration or failure to obtain consent or give notice or resulting Lien would not reasonably be expected to be material, individually or in the aggregate, to the Acquired Companies, taken as a whole.

(b) Except as identified on Schedule 3.3(b), no material notice to, filing with, or authorization, consent, Order or approval of any Government Agency is necessary for the execution, delivery and performance by the Company of this Agreement, the Transaction Documents or the consummation by any Acquired Company of the Contemplated Transactions.

3.4 **Capitalization**.

(a) As of the Agreement Date, the authorized Equity Securities of the Company consist of (i) Class A Units, of which 122.9926777 are issued and outstanding, (ii) Class B Units, of which 0.2292766 are issued and outstanding, (iii) Series A Preferred Units, of which 26,200,000 are issued and outstanding (such Preferred Units and the Class A Units and Class B Units referred to in (i) and (ii) above, collectively, the "**Company Units**") and (iv) 0.2292766 Class B Units underlying the Company Options, which will be terminated at the Closing pursuant to the Option Termination Agreements. The Company Units and the Company Options were duly authorized and were validly issued, and the Company Units are fully paid and non-assessable. Schedule 3.4(a) sets forth a true and complete list of the issued and outstanding Company Units and Company Options, the names of the record holders thereof, the number of Company Units and Company Options held by each such holder as of the Agreement Date, and the exercise price of each Company Option. Except for the Company Units and the Company Options or as set forth on Schedule 3.4(b), there are no outstanding Equity Securities of the Company or any rights of any kind to acquire from the Company, or obligations of the Company to issue, any Equity Securities of the Company or any securities convertible into or exercisable or exchangeable for, any Equity Securities of the Company. Except with respect to the Company's Governing Documents, there are no agreements to which the Company is a party with respect to the voting of any Equity Securities. There are no outstanding contractual obligations of the Company to repurchase, redeem or otherwise acquire any Company Units, other equity interests or any other securities of the Company.

(b) Schedule 3.4(b) sets forth a true, complete and correct list, as of the Agreement Date, of each Contract providing for any Interim Period Capital Contribution, the Principal Amount of such Interim Period Capital Contribution. All Contracts in effect as of the Agreement Date providing for an Interim Period Capital Contribution have been made available. The Company did not issue any Preferred Units prior to July 1, 2023.

(c) As of the Closing Date, the Closing Allocation Schedule, including the Closing Percentages set forth therein and any adjustments made pursuant to Section 1.6(b), will be true, correct and complete in all respects.

(d) All Company Options may, by their terms or the terms of the Employee Option Plan, be treated in accordance with Section 1.9.

3.5 Subsidiaries and Other Business Interests. Schedule 3.5 sets forth, with respect to each Subsidiary of the Company, the number of authorized, issued and outstanding shares for each class of its capital stock or other Equity Securities and the holder(s) thereof. All of the issued and outstanding shares of capital stock or other Equity Securities of each Subsidiary have been duly authorized and validly issued and are fully paid and nonassessable. Except as set forth on Schedule 3.5, the Company or one or more of its Subsidiaries holds of record and owns beneficially all of the outstanding shares or other Equity Securities of each Subsidiary, free and clear of any Liens (other than Permitted Exceptions), there are no outstanding Equity Securities of any Subsidiary or any rights of any kind to acquire from any such Subsidiary, or obligations of such Subsidiary to issue, any Equity Securities of such Subsidiary or any securities convertible into or exercisable or exchangeable for, any Equity Securities of such Subsidiary. Except as set forth on Schedule 3.5, neither the Company nor any of its Subsidiaries owns any Equity Securities of, controls directly or indirectly or has any direct or indirect equity participation in, or has any obligation to contribute to the capital of, any entity that is not a Subsidiary.

3.6 Governing Documents. True, correct and complete copies of the Governing Documents of each of the Acquired Companies in effect as of the Agreement Date have been made available, including any amendments, supplements, waivers or other modifications thereto.

3.7 Financial Statements.

(a) Copies of the following (the "**Financial Statements**") have been made available: (i) the audited, consolidated financial statements of (A) the Company and its Subsidiaries and (B) Horizon Telcom, Inc., and its Subsidiaries as at December 31, 2021 and 2022, and (ii) the unaudited, un-reviewed, internally-prepared, consolidated balance sheet of (A) the Company and its Subsidiaries and (B) Horizon Telcom, Inc., and its Subsidiaries as at June 30, 2023, and the related statement of income for the six-month period then ended (the "**Interim Financial Statements**").

(b) Except as expressly set forth in the notes thereto, each of the Financial Statements were prepared in accordance with GAAP, consistently applied throughout the periods covered. The Financial Statements present fairly, in all material respects, the financial position of the Acquired Companies as of such dates and the results of their operations for the fiscal periods indicated therein. Notwithstanding the foregoing, the Interim Financial Statements do not reflect or include all of the footnotes required by GAAP and are subject to normal recurring year-end adjustments (none of which are reasonably expected to be material, individually or in the aggregate).

(c) The Acquired Companies have established and maintain, adhere to and enforce a system of internal accounting controls that is adequate and appropriate for a private company having the size, operations and business of the Acquired Companies to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements (including the Financial Statements) in accordance with GAAP. In the last three (3) years, the Acquired Companies have not identified or been notified in writing of (i) any significant deficiency or material weakness in the system of internal accounting controls utilized by the Acquired Companies or (ii) any fraud or material violation of Law committed by any of the Acquired Companies' management or other Employees (in their capacity as such) in connection with their role in the preparation of financial statements or the internal accounting controls utilized by the Acquired Companies.

(d) The accounts receivable of the Acquired Companies currently outstanding represent sales actually made or services actually performed or to be performed in the ordinary course of business in bona fide, arms-length transactions. The accounts receivable are valid and enforceable claims, are subject to no set-off or counterclaim, and, to the Company's Knowledge, are fully collectible in the ordinary course of business, subject to a reserve for doubtful accounts stated (i) in the Interim Financial Statements, which reserve is in accordance with GAAP, subject to normal (in amount and nature) and recurring year-end adjustments and the absence of notes, and (ii) with respect to accounts receivable arising after the date of the Interim Financial Statements, on the accounting records of the Acquired Companies (provided, for the avoidance of doubt, that the foregoing is not and shall not be construed as a guarantee that any such account receivable will be collected at any point in time). The Acquired Companies have not factored or discounted, or agreed to factor or discount, any accounts receivable. Each Acquired Company has copies in all material respects of all instruments, documents and agreements evidencing all of its accounts receivable and of all instruments, documents or agreements creating security therefor, if any, in each case maintained in the ordinary course of business. Since January 1, 2023, each Acquired Company has collected its accounts receivable in the ordinary course of business and has not accelerated any such collections.

(e) The accounts payable and notes payable of the Acquired Companies currently outstanding represent sales actually made or services actually performed or to be performed in the ordinary course of business in bona fide, arms-length transactions. Since January 1, 2023, the Acquired Companies have paid their accounts payable in the ordinary course of business.

(f) None of the Acquired Companies have any liabilities of any nature, whether accrued, absolute, contingent, matured, unmatured or otherwise (whether or not required to be reflected in financial statements prepared in accordance with GAAP, and whether due or to become due), except for liabilities (i) accrued, reserved or otherwise reflected in the Financial Statements or disclosed in the notes thereto; (ii) incurred in connection with the Contemplated Transactions; (iii) incurred after the date of the Interim Financial Statements in the ordinary course of business and which are not material in amount; and (iv) for future performance under any Contract to which any of the Acquired Companies is a party (other than as a result of a breach thereof by an Acquired Company).

(g) All Interim Period Capital Contributions made prior to the Agreement Date complied with the requirements of Section 5.10(a).

3.8 Conduct of Business. Since December 31, 2022, except as set forth on Schedule 3.8 or as otherwise contemplated by this Agreement, (a) the Acquired Companies have operated in accordance with the Acquired Companies' ordinary course of business, (b) as of the Agreement Date, there has been no event or occurrence that, individually or in the aggregate, constitutes a Material Adverse Change of the Company and (c) there has not been any action (or inaction) that would have violated, contravened with or resulted in a breach of, or otherwise would have required the consent of Parent under, Section 5.2 had it occurred after the Agreement Date.

3.9 Real Property.

(a) A true, correct and complete list of all real property owned in fee by any Acquired Company (the "**Owned Real Property**") is set forth on Schedule 3.9(a). The applicable Acquired Company has good and valid title to all of its Owned Real Property, free and clear of any Liens (other than Permitted Exceptions). All of the buildings, material fixtures and other material improvements owned by an Acquired Company and constituting the Owned Real Property are, taken as a whole, in good operating condition (ordinary wear and tear excepted) and have been maintained in the ordinary course of business, in each case, in all material respects. There are no current capital improvement projects at the Owned Real Property other than maintenance required in the ordinary course of business. Neither the whole nor any material portion of the Owned Real Property has been damaged or destroyed by fire or other casualty. No material assessments for public improvements, tax assessments or special assessments have been made against the Owned Real Property which, to the extent due and payable, remain unpaid (except for any assessments payable in installments) and no Acquired Company has received any written notice of any pending or proposed public improvements for which an assessment would typically be made against the Owned Real Property. The Owned Real Property is adequately served by all utilities that are necessary to operate the business of the Acquired Companies at the Owned Real Property in the ordinary course of business. The Owned Real Property currently has sufficient rights of physical and legal ingress and egress to and from a public street as necessary to operate the business of the Acquired Companies at the Owned Real Property in the ordinary course of business.

(b) A true, correct and complete list of all Leases pursuant to which any real property is leased, subleased, licensed or otherwise occupied or used by any Acquired Company (the "**Leased Real Property**") and all material Easement Agreements is set forth on Schedule 3.9(b). The applicable Acquired Company has a good and valid leasehold, subleasehold, license or other contractual (as applicable) interest in the Leased Real Property pursuant to such Leases, free and clear of all Liens (other than Permitted Exceptions). Each such Lease or material Easement Agreement is in full force and effect and is the legal, valid and binding obligation of the applicable Acquired Company, enforceable by and against the applicable Acquired Company, and, to the Company's Knowledge, each other party thereto, in accordance with its terms, except as enforceability may be limited by the Enforceability Exceptions and except as would not reasonably be expected to be material to the Acquired Companies, taken as a whole. (i) No Acquired Company is in default under or in breach or violation in any material respect of any such Lease or material Easement Agreement, (ii) no Acquired Company has received written notice alleging any such default, breach or violation by an Acquired Company; (iii) to the Company's Knowledge, no other party to any Lease or material Easement Agreement is in default under or in breach or violation in any material respect of any such Lease or material Easement Agreement, and (iv) no event has occurred that (with or without notice, lapse of time or both) would constitute a default on the part of the applicable Acquired Company under any such Lease or material Easement Agreement or permit the counterparty thereto to accelerate the obligations of the applicable Acquired Company under any such Lease or material Easement Agreement. To the Company's Knowledge, no event has occurred and is currently outstanding or in effect that (with or without notice, lapse of time or both) would constitute a default, breach or violation on the part of any other party under any of such Leases or material Easement Agreements.

(c) The Owned Real Property, the Leased Real Property and the material Easements constitute all of the real property necessary and sufficient for the operation of the Acquired Companies' business in the ordinary course of business. There are no conditions affecting any of the improvements on the Owned Real Property, the Leased Real Property or the Easements that would reasonably be expected to, individually or in the aggregate, interfere in any material respect with the ordinary course conduct of the Acquired Companies' business. There are no events or circumstances that would reasonably be expected to, individually or in the aggregate, interfere in any material respect with the rights of way of any Acquired Company for its cables, conduits, fiber, lines, poles or equipment necessary to conduct its business in the ordinary course of business.

(d) Except as set forth on Schedule 3.9(d), there are no leases, subleases, licenses, concessions or other agreements, written or oral, pursuant to which any Acquired Company granted to any party or parties the right to occupy or use any portion of the Owned Real Property, the Leased Real Property or the material Easements, other than Permitted Exceptions, and there is no Person (other than an Acquired Company) in possession of the Owned Real Property, the Leased Real Property or the material Easements.

(e) No Acquired Company has received written notice from any Government Agency of, any condemnation, expropriation or other proceeding in eminent domain pending or threatened, against any of the Owned Real Property, or such Acquired Company's interest in the Leased Real Property or the material Easements, or any portion thereof or interest therein.

(f) No third party has challenged or repudiated, threatened to challenge or repudiate or has the right to terminate or repudiate any Network Underlying Rights and no property owner or other third party has challenged any the right of the Acquired Companies to install, operate or maintain cable, wires, conduits or other equipment or facilities in a customer or other third-party location necessary for the provision of service to existing customers. The Network Underlying Rights constitute all of the rights or interests in real property necessary to run the Physical Network.

3.10 Personal Property. Each of the Acquired Companies has good and valid title to, or, in the case of leased assets, good and valid leasehold interests in, or otherwise has the lawful right to use, its tangible personal property assets, free and clear of Liens, except for Permitted Exceptions. Such tangible personal property assets (a) constitute the tangible personal property assets necessary for the operation of the Acquired Companies' business in substantially the same manner as it is currently operated; (b) are in good operating condition (except for ordinary wear and tear and routine maintenance in the ordinary course of business) in all material respects; (c) are structurally sound and free of material defect (except for ordinary wear and tear and routine maintenance in the ordinary course of business); (d) are suitable in all material respects for their intended uses; and (e) have been maintained in all material respects in accordance with good industry practices.

3.11 Intellectual Property Rights.

(a) Each of the Acquired Companies owns or possesses licenses or other rights to use all Intellectual Property Rights that are material to the operation of its business as currently conducted. Schedule 3.11(a) contains a true, correct and complete list of the trade names used by the Acquired Companies, registered Intellectual Property Rights and pending applications to register Intellectual Property Rights, and all registered Intellectual Property Rights are subsisting and are valid and enforceable under applicable Law. The Acquired Companies have taken commercially reasonable efforts to maintain the validity and enforceability of their Intellectual Property Rights. The Intellectual Property Rights of the Acquired Companies do not infringe the Intellectual Property Rights of any other Person in any material respect. To the Company's Knowledge, no other Person is infringing upon the Intellectual Property Rights of any of the Acquired Companies. None of the Acquired Companies has received written notice that (i) the Intellectual Property Rights of any of the Acquired Companies infringe upon the Intellectual Property Rights of any other Person or (ii) any other Person is infringing upon the Intellectual Property Rights of any of the Acquired Companies.

(b) Schedule 3.11(b) sets forth a list of all material licenses of Intellectual Property Rights (excluding off-the-shelf software, software licensed pursuant to shrink-wrap or "click to accept" agreements, or other generally commercially available software with an annual license fee of less than $100,000) to which any of the Acquired Companies is party or by which it is bound. Each such license represents legal, valid and binding obligations of, and is enforceable against, the relevant Acquired Company and, to the Company's Knowledge, represents legal, valid and binding obligations of, and is enforceable against, the other party thereto, in accordance with its respective terms, subject to the Enforceability Exceptions.

(c) No source code of software owned by any of the Acquired Companies has been licensed or otherwise provided to any Third Party.

3.12 Privacy and Data Security.

(a) The Acquired Companies are, and at all times in the past five (5) years have been, in material compliance with all Privacy Laws and Privacy Commitments (collectively, "**Privacy Requirements**"). Any and all privacy notices and marketing materials distributed or otherwise made available by the Acquired Companies have at all times complied in all material respects with Privacy Requirements, been accurate and complete in all material respects, and have not contained any material omission or inaccurate, misleading or deceptive information. The Acquired Companies have all rights and permissions necessary to lawfully access, collect, obtain, use, retain, disclose and transfer Personal Information in accordance with Privacy Requirements. No Person has made any written claim or commenced any legal or regulatory action, lawsuit or investigation against the Acquired Companies with respect to any Information Security Incident or actual or alleged violation of a Privacy Requirement.

(b) The Acquired Companies have at all times in the past five (5) years implemented and maintained commercially reasonable and appropriate policies, procedures and technical controls to monitor for, detect and remediate security vulnerabilities and security control deficiencies associated with IT Assets in a timely manner and in accordance with industry standard practices, which has included, without limitation, (i) conducting penetration testing of all critical systems and applications maintained by or on behalf of the Acquired Companies at least annually and in accordance with an industry standard methodology, (ii) conducting vulnerability assessments or scanning of all critical systems and applications maintained by or on behalf of the Acquired Companies at least quarterly and in accordance with industry standard practices, and (iii) implementing policies, procedures and technical measures to routinely identify and apply software security patches and/or security updates on all IT Assets to ensure the timely remediation of material, critical and/or high-risk security vulnerabilities in accordance with industry standard practices. The Acquired Companies have fully remediated any and all material, critical and/or high-risk security vulnerabilities for which the Acquired Companies have become aware of in the past five (5) years.

(c) The Acquired Companies have at all times in the past five (5) years maintained reasonable and appropriate administrative, technical and physical safeguards sufficient to (i) protect the security, confidentiality, integrity and availability of Company Information and IT Assets in a manner consistent with applicable industry standard practices; (ii) protect against any anticipated threats or hazards to the security, confidentiality, integrity or availability of Company Information and IT Assets; and (iii) detect and remediate Information Security Incidents. In the past five (5) years, there has been no Information Security Incident involving the Acquired Companies or third parties that process Company Information on behalf of the Acquired Companies.

3.13 Material Contracts.

(a) Schedule 3.13 (which lists Contracts by each applicable subsection referenced in the definition of "Material Contracts" in Exhibit A) sets forth a true, correct and complete list of all Material Contracts as of the Agreement Date. Copies of all written Material Contracts (including any amendments, supplements, waivers or other modifications thereto), and materially complete summaries of any verbal Material Contracts, have been made available.

(b) Each Material Contract is legal, valid and binding on the Acquired Company that is party thereto and, to the Company's Knowledge, the other party thereto, and is enforceable in accordance with the terms thereof, subject to the Enforceability Exceptions.

(c) Each Material Contract is in full force and effect, and no event, act, circumstance or condition exists (including a force majeure event), which, with notice or the lapse of time or both, would reasonably be expected to result in a right of any Person to terminate, amend, modify, accelerate, suspend or revoke any Material Contract or constitute a material breach of any Material Contract, except where the exercise of any such right or material breach of such Material Contract would not, individually or in the aggregate, reasonably be expected to be material to the Acquired Companies, taken as a whole.

(d) None of the Acquired Companies is in breach of or default under any Material Contract, except for such breaches or defaults that would not, individually or in the aggregate, be material to the Acquired Companies, taken as a whole. To the Company's Knowledge, no other party to any Material Contract is in breach of or default under any Material Contract, except for such breaches and defaults that are not, individually or in the aggregate, material to the Acquired Companies, taken as a whole. No party to any of the Material Contracts has exercised or threatened in writing to exercise any termination, cancellation, renegotiation, repricing or non-renewal with respect thereto, or given written notice of any significant dispute with respect to any Material Contract. There are no, and in the past three (3) years there have not been any, material disputes, outstanding claims or past due monetary obligations of any Acquired Company under any Material Contract.

3.14 Insurance. Schedule 3.14 lists all material insurance policies of the Acquired Companies currently in effect ("**Insurance Policies**"). True, correct and complete copies of the Insurance Policies have been made available. All of the Insurance Policies are in full force and effect and not in default, and all premiums that are due have been paid. Since December 31, 2022, none of the Acquired Companies has received any written notice of cancellation or non-renewal with respect to, any reservation of rights letter or similar correspondence regarding any claim under or disallowance of any claim under, any of the Insurance Policies, and there are no material unpaid claims, pending claims, premiums or unrepaired casualties on any such insurance policies. The Insurance Policies satisfy in all material respects any applicable requirements under the Material Contracts, Material Permits and any Order binding on any Acquired Company or its assets or business.

3.15 Litigation.

(a) Except as identified on Schedule 3.15, there are no material Actions by or against any of the Acquired Companies that are currently pending or threatened in writing. To the Company's Knowledge, there are no Investigations against any of the Acquired Companies that are pending or threatened in writing to be brought by any Government Agency.

(b) None of the Acquired Companies has received written notice that it is subject to, or in violation of, any Order, except for violations that would not, individually or in the aggregate, reasonably be expected to be material to the Acquired Companies, taken as a whole.

(c) There is no Action or Investigation that is currently pending or threatened in writing against any of the Acquired Companies that would prevent, make illegal, materially and adversely affect, materially delay or impose material obligations or conditions on or otherwise materially interfere with any Acquired Company's performance under any Transaction Documents to which it is a party, or the consummation by the Acquired Companies of the transactions contemplated in such Transaction Documents.

3.16 FCC Regulatory Matters; Material Permits.

(a) Schedule 3.16(a) contains a true and complete list and brief description of all material Permits necessary for the conduct and operations of the business of the Acquired Companies as presently conducted (collectively, the "**Material Permits**").

(b) The Material Permits include Permits issued to any of the Acquired Companies by the FCC, or other forms of authorization to operate including letter agreements with the Department of Justice acting on behalf of the Team Telecom agencies, in connection with the operation of the relevant Acquired Company's business as of the Agreement Date (the "**FCC Licenses**") and a list of the Material Permits issued to any of the Acquired Companies by any State Regulator in connection with the operation of the relevant Acquired Company's business as of the Agreement Date (such Material Permits, together with the FCC Licenses, the "**Communications Licenses**"), all of which are identified on Schedule 3.16(a).

(c) Except as set forth on Schedule 3.16(c), each Material Permit is validly issued in the name of an Acquired Company, in full force and effect, is not subject to any restrictions or conditions other than those appearing on the face of the Material Permit that limit the operations of the Acquired Companies (other than restrictions or conditions generally applicable to Material Permits of that type), and has not been suspended, canceled, revoked or modified. None of the Material Permits are scheduled to expire within 90 days after the Agreement Date. The Acquired Companies have operated their business and installed, maintained and operated the Physical Network in compliance in all material respects with the terms and conditions of the Material Permits. No other material Permits are necessary for the Acquired Companies to own, lease or use their assets or to operate their business as currently conducted. The consummation of the Contemplated Transactions will not result in the termination, suspension, revocation, amendment or non-renewal of, or any limitation or restriction on, any Material Permit, and there is no event, circumstance or condition that is reasonably likely to lead to or result in any of the foregoing.

(d) None of the Acquired Companies has received written or, to the Company's Knowledge, oral notice from the FCC or any State Regulator of any Action, Investigation or any alleged violation or potential violation of any condition or provision of any of the Communications Licenses or any provision of the Communications Act or any provision of applicable state or local Laws, including any notice or letter of inquiry, notice of investigation or notice of apparent liability.

(e) Except as listed in Schedule 3.16(e), each of the Acquired Companies has filed all material forms, reports, and documents required to be filed with the FCC and other applicable State Regulators, agencies, commissions, Government Agencies, local franchising authorities, or applicable jurisdictions in relation to Communications Licenses or the Acquired Companies' obligations under the Communications Act or other applicable Law (the "**Reports**"). Each Report was true, correct and complete in all material respects at the time of filing.

(f) In the last three (3) years, none of the Acquired Companies has received from any Government Agency any (i) written notice revoking, canceling, rescinding, materially restricting, materially modifying or refusing to renew any Material Permit or (ii) written statement of deficiency, citation or notice of violation, revocation or suspension of a Material Permit, including any notice or letter of inquiry, notice of investigation or notice of apparent liability.

3.17 Compliance with Law.

(a) Except as set forth in Schedule 3.17, the Acquired Companies are, and at all times during the last three (3) years have been, in material compliance with all Laws applicable to any of the Acquired Companies or their respective businesses, properties or assets, and in the last three (3) years, none of the Acquired Companies have violated in any material respect any such Law. Except as set forth in Schedule 3.17, in the last three (3) years, none of the Acquired Companies has received written notice of any such violation.

(b) No Action or Order has been filed or, to the Company's Knowledge, commenced against any of the Acquired Companies alleging a material violation of Laws applicable to the relevant Acquired Company or its business, properties or assets. Except as set forth in Schedule 3.17, to the Company's Knowledge, there are no facts or circumstances that are reasonably expected to form the basis for a material Action or Investigation against any of the Acquired Companies for violation of a Law or Order applicable to any of the Acquired Companies or its business, properties or assets.

(c) The Acquired Companies are, and at all times during the last three (3) years have been, in material compliance with: (i) applicable U.S. and foreign trade, export control, and import Laws (collectively, "**Export Laws**") and (ii) applicable economic and financial sanctions and trade embargo laws and regulations administered by the U.S. government (including those administered by the Office of Foreign Assets Control ("**OFAC**") of the U.S. Department of the Treasury and the U.S. Department of State), the United Nations Security Council, the European Union, any European Union member state or Her/His Majesty's Treasury of the United Kingdom (collectively, "**Sanctions**").

(d) None of the Acquired Companies nor any of their respective officers, directors or, to the Company's Knowledge, Employees, is or has been in the last three (3) years the target of Sanctions, including by virtue of (i) being listed in any Sanctions-related list of designated Persons maintained by the OFAC (including the Specially Designated Nationals and Blocked Persons List) or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, or the United Kingdom; (ii) operating, being organized, or being ordinarily resident in a country or territory that is the target of comprehensive Sanctions (a "**Sanctioned Country**") or (iii) being 50% or more owned or controlled by any such Person or Persons or acting for or on behalf of such Person or Persons (any such Person that is the target of Sanctions, including any Person described in clause (i), (ii), or (iii), is a "**Sanctioned Person**"). There are no pending or, to the Company's Knowledge, threatened, Investigations by any Government Agency of potential violations by any of the Acquired Companies of any Export Laws or Sanctions. At no time in the last three (3) years, have any of the Acquired Companies engaged in a transaction or dealing, direct or indirect, with or involving a Sanctioned Country or Sanctioned Person, or engaged in transactions, dealings, or activities that might reasonably be expected to cause such Person to become a Sanctioned Person.

(e) In the last three (3) years, the Acquired Companies and each of their respective officers, directors, and, to the Company's Knowledge, Employees: (i) have not directly or indirectly violated any Anticorruption Laws; (ii) have not offered, paid, promised, authorized, received, or solicited the payment of money or anything of value, directly or indirectly, to or from any Person, including to any government official (A) to improperly influence any official act or decision, (B) to induce a person to do or omit to do any act in violation of a lawful duty, (C) to secure any improper benefit, advantage, or favor, or (D) that would otherwise constitute a bribe, kickback, or other illegal payment or benefit; (iii) have not conducted or initiated any internal investigation or made a voluntary, directed, or involuntary disclosure to any Government Agency related to Anticorruption Laws, been the subject of any investigation, inquiry or enforcement proceedings related to violations of Anticorruption Laws, or received any notice, request, or citation related to Anticorruption Laws; and (iv) have implemented and maintained policies and procedures to promote and ensure compliance with Anticorruption Laws.

3.18 Environmental Matters.

(a) None of the Acquired Companies is, nor has any Acquired Company within three (3) years prior to the Agreement Date been, in material violation of any applicable Environmental Laws nor has in the three (3) years prior to the Agreement Date received any written or, to the Company's Knowledge, oral notice, claim, demand, order or request for information from any Government Agency or any other Person regarding any actual or alleged material violation of Environmental Laws, or any material liabilities or potential material liabilities for Release of any Hazardous Material, investigation costs, cleanup costs, response costs, corrective action costs, personal injury, property damage, natural resources damages, or attorney fees under Environmental Laws, the subject of which notice, claim, demand, or request for information is pending or otherwise unresolved.

(b) Except as provided on Schedule 3.18(b), to the Company's Knowledge, there exists no (i) underground or above ground storage tanks, (ii) materials or equipment containing friable asbestos or polychlorinated biphenyls, (iii) groundwater monitoring wells, drinking water wells or production water wells or (iv) landfills, surface impoundments or disposal areas at any of the Owned Real Property or the Leased Real Property. Hazardous Materials are not present at, on or underneath any real property currently, or the Company's Knowledge at, on or underneath any real property, formerly owned, leased or operated by any Acquired Company in an amount or condition that would reasonably be expected to result in any material liability or obligation on the part of any Acquired Company pursuant to any Environmental Law, nor has any Acquired Company Released or caused the Release of any Hazardous Materials into the environment on or from any real property currently or, to the Company's Knowledge, formerly owned, leased or operated by an Acquired Company that would reasonably be expected to result in any material liability or obligation on the part of any Acquired Company pursuant to any applicable Environmental Law. No Acquired Company has arranged for the disposal or treatment of any Hazardous Materials at any location that would reasonably be expected to result in any material liability or obligation on the part of the Company pursuant to any Environmental Law.

(c) All material environmental reports, studies, audits, sampling data, site assessments and other similar documents that are in the possession of the Company and relate to the Owned Real Property or the Leased Real Property have been made available.

(d) Each Acquired Company has received or secured in a timely manner all material Environmental Permits required under applicable Environmental Laws to conduct its business and operate its assets as currently conducted or operated, a true, complete and correct list of which is set forth in Schedule 3.18(d). Each Acquired Company is currently and for the three (3) years prior to the Agreement Date has been in material compliance with the terms and conditions of each such Environmental Permit. All applications for the renewal of such Environmental Permits have been duly filed on a timely basis with the appropriate Government Agency, and all other filings and reports required to have been made with respect to such Environmental Permits have been duly made on a timely basis with the appropriate Government Agency. None of the material Environmental Permits held by the Acquired Companies will be terminated, invalidated or otherwise negatively affected as a result of the Contemplated Transactions, and no notification of change in control, change in ownership and/or operation, permit transfer, reapplication or other communication is required to be submitted to any Government Agency in connection with or as a result of the Contemplated Transactions.

(e) Except in the ordinary course of business, no Acquired Company has (i) retained or agreed to assume, indemnify or hold harmless by contract any Person for any liabilities or obligations under any Environmental Law where such retention, assuming, indemnification and hold harmless obligation remains in effect, or (ii) given any release or waiver of liability that would waive or impair any proceeding brought by or before any Government Agency related to any Release in, on or under any real property against a previous owner or operator of any real property or against any other Person who is or may be potentially responsible for such Release.

3.19 Employee Benefit Matters.

(a) Schedule 3.19(a) contains a list of each material Employee Benefit Plan sponsored, established, maintained or contributed to, or required to be contributed to, by any of the Acquired Companies or any ERISA Affiliate or with respect to which any of the Acquired Companies or any ERISA Affiliate has any liability (contingent or otherwise) (each a "**Benefit Plan**"). With respect to each Benefit Plan, the Company has furnished or made available, to the extent applicable, a true and complete copy of: (i) the current plan document, (ii) the Form 5500 annual report for the three (3) most recently completed plan years for which such a report was required to have been filed, (iii) the most recent summary plan description together with each subsequent summary of material modifications thereto, (iv) the most recent determination, opinion, or advisory letter issued by the IRS and each currently pending application for a determination letter, (v) the most recently prepared actuarial reports, financial statements and trustee reports, and (vi) all material and non-routine records, notices and filings in connection with any IRS or U.S. Department of Labor audits or investigations during the prior three (3) years.

(b) Each Benefit Plan has been administered and maintained in accordance with its terms and not in material violation of the applicable requirements of ERISA, the Code and other applicable Laws. Each Benefit Plan that is intended to be qualified under Section 401(a) of the Code or 401(k) of the Code (a "**Qualified Benefit Plan**") has received a favorable determination letter from the IRS that it is so qualified, and, to the Company's Knowledge, nothing has occurred that would reasonably be expected to cause the revocation of such determination letter from the IRS or the unavailability of reliance on such opinion letter from the IRS. All benefits, contributions and premiums required by and due under the terms of each Benefit Plan or applicable law have been timely paid in accordance with the terms of such Benefit Plan, and the terms of all applicable laws and GAAP. With respect to any Benefit Plan, no event has occurred that has resulted in or would reasonably be expected to subject the Company to a Tax under Section 4971 or Section 4975 of the Code or a Lien (other than Permitted Exceptions) on the assets of the Company under Section 430(k) of the Code.

(c) Except as set forth in Schedule 3.19(c), no Benefit Plan (i) is subject to the minimum funding standards of Section 302 of ERISA or Section 412 of the Code, (ii) is a "multi-employer plan" (as defined in Section 3(37) of ERISA), (iii) a "defined benefit plan" (as defined in Section 3(35) of the Code), (iv) a "multiple-employer plan" (within the meaning of Section 413(c) of the Code) or (v) a "multiple employer welfare arrangement" (as defined in Section 3(40) of the Code).

(d) Other than as required under Section 4980B of the Code or other applicable law and paid for by the applicable covered individual, no Benefit Plan provides benefits or coverage in the nature of health, life or disability insurance following retirement or other termination of employment (other than death benefits when termination occurs upon death). There are no written (or to the Company's Knowledge, oral) communications to Employees by the Company or the Acquired Companies that would reasonably be expected to promise or guarantee any Employees retiree health or life insurance or other retiree death benefits on a permanent basis. The Acquired Companies have complied in all material respects with the continuation coverage requirements of Sections 601 through 608 of ERISA and Section 4980B of the Code, as well as the requirements of the Health Insurance Portability and Accountability Act of 1996, and the rules and regulations promulgated thereunder, and the Patient Protection and Affordable Care Act of 2010, and the rules and regulations promulgated thereunder. No event or circumstance exists which could reasonably be expected to result in a Tax, penalty or other liability under Sections 4980B, 4980D, 4980G, 4980H or 5000 of the Code.

(e) There is no pending or, to the Company's Knowledge, threatened Action or Investigation relating to a Benefit Plan. No Benefit Plan is under audit or investigation by the IRS, the U.S. Department of Labor or any other Government Agency.

(f) Each contribution or other payment that is required to have been accrued or made to, under, or with respect to any Benefit Plan has been duly accrued or made on a timely basis.

(g) With respect to each Benefit Plan that is subject to the minimum funding standards of Section 302 of ERISA or Section 412 of the Code, or is subject to Title IV of ERISA, (i) as of the date of the most recent actuarial valuation performed prior to the Agreement Date, the actuarially determined present value of all "benefit liabilities," within the meaning of Section 4001(a)(16) of ERISA (as determined on the basis of the actuarial assumptions contained in such actuarial valuation of such Benefit Plan), did not exceed the then current value of the assets of such Benefit Plan and since such date there has been neither an adverse change in the financial condition of such Benefit Plan nor any amendment or other change to such Benefit Plan that would increase the amount of benefits thereunder which reasonably could be expected to change such result; (ii) no such Benefit Plan has an "accumulated funding deficiency" (whether or not waived) within the meaning of Section 412 of the Code or Section 302 of ERISA and all required payments to the Pension Benefit Guaranty Corporation ("**PBGC**") with respect to each Benefit Plan have been made on or before their due dates; (iii) no waiver of any minimum funding standard or any extension of any amortization period has been requested or granted; (iv) no filing has been made with the PBGC, no proceeding has been commenced by the PBGC to terminate any Benefit Plan and no condition exists (or will exist as a result of the Contemplated Transactions) which could increase such Benefit Plans' liability above the related liability reflected on the Financial Statements or constitute grounds for the termination of any such Benefit Plan or a demand for accelerated funding of a Benefit Plan by the PBGC or other Government Agency; (v) no Benefit Plan is considered to be in "at risk" status under Section 430 of the Code; (vi) no reportable event (within the meaning of Section 4043 of ERISA, other than an event for which the reporting requirements have been waived by regulations) has occurred or is expected to occur; and (vii) neither the Company nor any ERISA Affiliate has incurred or is expected to incur any liability or obligation to the PBGC (including under Sections 4062, 4063, or 4064 of ERISA) or otherwise under Title IV of ERISA other than PBGC premiums which have been timely paid. Each Benefit Plan that constitutes a "nonqualified deferred compensation plan" subject to Section 409A of the Code has been operated in all material respects according to the requirements of Section 409A of the Code, and no member of the Acquired Companies has been required to withhold or pay any Taxes as a result of a failure to meet the requirements of Section 409A of the Code.

(h) The execution of this Agreement (either singularly or in conjunction with any other event) will not (i) result in the payment to any Employee, director or consultant of any payment or benefit; (ii) accelerate the vesting of or provide any additional rights or benefits (including funding of compensation or benefits through a trust or otherwise) to any Employee, director or consultant, except as a result of any actual or partial plan termination resulting from this Agreement; or (iii) limit or restrict the ability to merge, amend or terminate any Benefit Plan.

(i) No Acquired Company has made any payment, is obligated to make any payment or is a party to any agreement, contract, arrangement or plan that could obligate it to make any payment that may be treated, individually or in the aggregate, as an "excess parachute payment" within the meaning of Section 280G of the Code (without regard to Sections 280G(b)(4) and 280G(b)(5) of the Code) or any corresponding or similar provision of state, local, or non-U.S. Law. The Acquired Companies have no obligation to reimburse or otherwise "gross-up" any person for any Tax payments required under Section 409A(a)(1)(B) or 4999 of the Code.

3.20 Employment Matters; Labor Relations.

(a) Schedule 3.20(a) sets forth, as of the Agreement Date, a true, correct and complete list of all Employees and, for each such Employee, his or her: (i) employing entity; (ii) job title or position; (iii) minimum wage and overtime exemption status under applicable Law; (iv) current base wage rate or annual salary; (v) commission, incentive, and other bonus opportunity; (vi) date of hire; (vii) work location; and (viii) whether such Employee is absent from active employment and, if so, the date such Employee became inactive, the reason for inactive status, and, if applicable, the anticipated date of return to active employment.

(b) Except as set forth on Schedule 3.20(b), none of the Acquired Companies is a party to, bound by, or negotiating with respect to any collective bargaining or other agreement with a labor organization representing any of its Employees. In the last three (3) years, there has not been any material slowdown, lockout, work stoppage, or labor dispute affecting the Acquired Companies or any of their current or former employees, and, to the Company's Knowledge, no Person has threatened in writing to commence any such slowdown, lockout, or work stoppage.

(c) None of the Acquired Companies has violated in any material respect, and all of the Acquired Companies are in material compliance with, all applicable Laws pertaining to employment and employment practices with respect to the Employees or any former employees of the Acquired Companies. There are no Actions or Investigations pending, or to the Company's Knowledge, threatened in writing to be brought or filed by or with any Government Agency or arbitrator in connection with the employment of any current or former employee of the Company, including any claim relating to unfair labor practices, employment discrimination, harassment, retaliation, equal pay or any other employment related matter, and no such Action or Investigation has been pending or, to the Company's Knowledge, threatened in writing at any time in the last three (3) years.

(d) Except as set forth on Schedule 3.20(d), the employment of each Employee is terminable by the applicable Acquired Company at will, and no Employee is entitled to advance notice of termination or severance pay or other benefits following termination or resignation, except as otherwise required by applicable Law.

(e) To the Company's Knowledge: (i) no Employee has notified the Company that he or she intends to terminate his or her employment, (ii) no Employee has received an offer to join a business that is competitive with the business of the Acquired Companies, and (iii) no Employee is a party to or is bound by any confidentiality agreement, noncompetition agreement or other Contract (with any Person) that may have an adverse effect on (A) the performance by such Employee of any of his or her duties or responsibilities as an Employee of the applicable Acquired Company; or (B) the business of the Acquired Companies, taken as a whole.

(f) In the last three (3) years, there has been no "mass layoff" or "plant closing" as defined by WARN with respect to any Acquired Company, and since January 1, 2020, no Acquired Company has incurred any liability under WARN. Except as set forth on Schedule 3.20(f), there have been no "employment losses" as defined under WARN as to any employees of the Acquired Companies during the 90-day period prior to the Agreement Date.

(g) All amounts due and owing or accrued but not yet owing for all salary, wages, bonuses, commissions, vacation pay, pension benefits, or other employee benefits have been paid or, if accrued but unpaid, are reflected in the Financial Statements.

(h) Each Employee has the lawful right to work in the United States. Each Acquired Company has in its files a Form I-9 that was completed in accordance with applicable Law for each Employee of such Acquired Company for whom such form is required under applicable Law. No Employee is employed under a non-immigrant work visa or any other work authorization that is limited in duration.

(i) All Persons classified by the Acquired Companies as independent contractors in the last three (3) years have satisfied the requirements of applicable Law to be so classified, and the Acquired Companies have fully and accurately reported each such Person's compensation on IRS Form 1099 during such period when required to do so by applicable Law. Schedule 3.20(i) sets forth a true, correct, and complete list of the Acquired Companies' active independent contractors, including contract workers, consultants, and temporary workers.

3.21 Taxes.

(a) Each of the Acquired Companies has timely filed or caused to be filed on its behalf (after giving effect to all extensions) all income and other material Tax Returns required to be filed by it relating to Pre-Closing Tax Periods. All such Tax Returns are true, correct and complete in all material respects. All income and other material Taxes owed by each of the Acquired Companies have been timely paid to the appropriate Tax Authority. No Acquired Company has requested or been granted any extension of time within which to file any Tax Return that has not yet been filed (other than any extension obtained in the ordinary course of business). Copies of all Tax Returns of each of the Acquired Companies for Tax years ending on or after December 31, 2020 that have been filed as of the Agreement Date have been made available.

(b) Each of the Acquired Companies has timely withheld and remitted (or there has been withheld and remitted on its behalf) all material income and other material Taxes required to have been withheld and remitted by it in connection with amounts paid to any Employee, independent contractor, creditor, equityholder, partner or other Third Party, and has timely and duly remitted and reported or caused to be remitted and reported all withheld Taxes to the proper Tax Authority in accordance with applicable Laws. All material information returns (including, for the avoidance of doubt, Forms W-2, 1099 and 1042) required with respect to such withholding and remittances have been properly and timely filed. Each of the Acquired Companies has timely collected and remitted all material sales and telecommunications Taxes.

(c) Each Acquired Company has included reserves determined in accordance with GAAP in the Interim Financial Statements for all accrued Taxes of the Acquired Company not yet due and payable as of the date of such Acquired Company's most recent balance sheet. The unpaid Taxes of each Acquired Company did not, as of the date of such Acquired Company's most recent balance sheet, exceed the reserves for Taxes (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on its Interim Financial Statements. Since the date of each Acquired Company's most recent balance sheet, such Acquired Company has not incurred any liability for Taxes outside the ordinary course of business.

(d) None of the Acquired Companies has received any written notice of deficiency or proposed adjustment with respect to any amount of Taxes of the relevant Acquired Company. There is no Action or Investigation, and none is pending or threatened in writing, in respect of any Tax of any of the Acquired Companies. There are no Liens for Taxes (other than for Liens for Taxes, assessments or other governmental charges not yet due and payable or that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in the consolidated balance sheet of the relevant Acquired Company prepared in accordance with GAAP) upon the assets of any of the Acquired Companies.

(e) None of the Acquired Companies has received any claim by any Tax Authority in a jurisdiction where such Acquired Company does not file Tax Returns that the Acquired Company is or may be subject to Tax by that jurisdiction or required to file a Tax Return in that jurisdiction, which claim has not been fully resolved.

(f) None of the Acquired Companies has agreed to, nor is any of the Acquired Companies a beneficiary of, any extension of time with respect to any Tax deficiency or any Tax that may be assessed or collected, or any extension or waiver of a statute of limitations in respect of Taxes of the relevant Acquired Company, other than automatic extensions or waivers in connection with extensions of the due date for filing Tax Returns.

(g) None of the Acquired Companies will be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) beginning after the Closing Date as a result of: (i) any use of an improper accounting method, (ii) any adjustment under Section 481 or Section 263A of the Code (or any similar provision of state, local or non-U.S. Law) required as a result of a change in method of accounting made prior to the Closing, (iii) any "closing agreement" with a Tax Authority executed prior to the Closing, (iv) any installment sale or open transaction disposition made prior to the Closing, (v) any prepaid amounts received or deferred revenue accrued prior to the Closing or (vi) any election under Section 965 of the Code made prior to the Closing.

(h) Except as set forth on Schedule 3.21(h), no Acquired Company (i) is or has ever been a member of any affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar provision of state, local, or non-U.S. Law) other than an affiliated group of which the Company is the parent, (ii) has any liability for the Taxes of any other Person (other than another Acquired Company) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or non-U.S. Law) or as a transferee or successor, or (iii) is a party to, is bound by, or has any obligation under any Tax sharing agreement, Tax allocation agreement, or Tax indemnification agreement (other than, in each case, any agreement the principal purpose of which is not Taxes).

(i) No Acquired Company has entered into or participated in any "listed transaction" within the meaning of Treasury Regulation Section 1.6011-4(b)(2) (or any similar provision of state, local or non-U.S. Law).

(j) Within the last two (2) years, no Acquired Company has distributed stock of another Person, and has not had its stock distributed by another Person, in a transaction that was purported or intended to be governed in whole or in part by Section 355 or Section 361 of the Code.

(k) There is no joint venture, Contract or other arrangement to which an Acquired Company is a party that is treated as a partnership for Tax purposes.

(l) Each Acquired Company has (i) complied with all material legal requirements to defer the amount of the employer's share of any "applicable employment taxes" under Section 2302 of the CARES Act, (ii) to the extent applicable, materially complied with all legal requirements and duly accounted for any available tax credits under Sections 7001 through 7005 of the Families First Act and (iii) has not received or claimed any tax credits under Section 2301 of the CARES Act.

(m) No Acquired Company is or has been a resident for tax purposes in any non-U.S. jurisdiction, or is or has had any branch, agency, permanent establishment (within the meaning of an applicable Tax treaty), or otherwise has an office or fixed place of business in a non-U.S. jurisdiction.

(n) Within the last three (3) years and, to the Company's Knowledge, at any time, no Acquired Company has ever requested or received a private letter ruling or other similar ruling from any Tax Authority. No Acquired Company has filed within the last three (3) years or, to the Company's Knowledge, at any time, nor does any Acquired Company have any present intent to file, any ruling requests with any Tax Authority, including any request to change any accounting method.

(o) Each of the Company, Horizon Telecom Inc., The Chillicothe Telephone Company, Horizon Services, Inc., and Horizon Technology, Inc. is, and always has been, treated as an entity taxable as a corporation for U.S. federal income Tax purposes and has comparable status under the applicable Laws of any state or local jurisdiction in which it is required to file any Tax Return. Each of Urban Systems LLC and Infinity Fiber LLC is, and always has been, treated as disregarded as an entity separate from its owner for U.S. federal income Tax purposes and applicable state and local Tax purposes.

(p) For all Tax years for which the statute of limitations remains open for U.S. federal income Tax purposes (including to the extent that net operating losses from otherwise closed Tax years are carried forward to open Tax years with such otherwise closed Tax years being treated as open Tax years for purposes of this representation), none of the Acquired Companies has taken Tax basis in any asset nor claimed any corresponding Tax depreciation deductions with respect to any asset that was acquired with Broadband Technology Opportunities Program ("**BTOP**") grants or IRU funds to the extent such BTOP grants or IRU funds were treated by any Acquired Company as Tax-exempt income and/or a Tax-free capital contribution.

(q) The Company is not a "United States real property holding corporation" within the meaning of Section 897(c) of the Code.

3.22 **Material Customers**. To the Company's Knowledge, none of the 15 largest customers of the Company identified on Schedule 3.22 (determined based on payments received from such Persons for calendar year 2022) has provided written notice to any of the Acquired Companies that such customer intends (i) to terminate its relationship with any of the Acquired Companies or (ii) to materially reduce its purchases, as applicable, from any of the Acquired Companies or materially change its pricing.

3.23 **Material Vendors**. To the Company's Knowledge, none of the 15 largest vendors of the Company identified on Schedule 3.23 (determined based on payments to such Persons for calendar year 2022) has provided written notice to any of the Acquired Companies that such vendor intends (i) to terminate its relationship with any of the Acquired Companies or (ii) to materially reduce its sales, as applicable, to any of the Acquired Companies or materially change its pricing.

3.24 **Books and Records**. The books of account, minute books, stock record books, and other records of the Acquired Companies have been made available. Except as identified on Schedule 3.24, the corporate books and records of the Acquired Companies are true, correct and complete in all material respects.

3.25 **Bank Accounts**. Schedule 3.25 contains a true, correct and complete list of the bank accounts of the Acquired Companies.

3.26 **Indebtedness**. Schedule 3.26 contains a true, correct and complete list, as of the Agreement Date, of (i) all Indebtedness in excess of $100,000 and (ii) all Contracts under which an Acquired Company has any Indebtedness for borrowed money, together with the outstanding principal amount of Indebtedness under each such Contract.

3.27 Physical Network.

(a) Schedule 3.27(a) sets forth, for the Physical Network, a true, complete and correct list for the years ended December 31, 2021 and 2022 of (i) outages relating to a particular event that resulted in credits to customers in excess of $25,000 or required the filing of an outage report with the FCC or a State Regulator, and (ii) failures, breakdowns or continuous periods of substandard service and material network and collocation service unavailability resulting in customer service credits owed in excess of $100,000 in the aggregate relating to any calendar year period.

(b) The Acquired Companies have made available (i) a true, complete and correct, in all material respects, description of the Physical Network (including the location and routes, the route miles and total fiber miles of the Fiber), (ii) the routes and locations of all Fiber that the Acquired Companies lease or obtain from others, including the approximate number of Fibers leased by the Acquired Companies in each such route, in each case, as set forth in the applicable Contract, and (iii) a map of the Physical Network produced from a Google Earth KMZ digital file, as of October 2023.

(c) The Physical Network is working, functional, fit for the purpose intended, and has been maintained, subject to ordinary wear and tear, in good working condition and without material defects for purposes of operating the business as operated by the Acquired Companies, in each case, in all material respects.

(d) The properties and assets which comprise the Physical Network constitute all the property and assets necessary to operate the Physical Network and are sufficient, in all material respects, for operation of the Physical Network in the ordinary course of business. The Acquired Companies own or have a valid right to use all proprietary rights, trade secrets and other property and assets, tangible and intangible, currently applicable to or used in connection with the Physical Network, including the Network Underlying Rights.

(e) The Physical Network includes approximately 14,000 feet of Lead-Sheathed Cable.

3.28 Grant Compliance.

(a) In applying for the Fayette County Grant Agreement, the Ross County Grant Agreement, the NTIA Grant 2023 and the items set forth on Schedule 3.28(a) (the "**Grants**"), none of the Acquired Companies or their respective representatives knowingly, intentionally or negligently made any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(b) The Acquired Companies have (i) complied, in all material respects, with all provisions of the grant agreements with respect to the Grants (the "**Grant Agreements**") and (ii) used all of the proceeds of the Grants exclusively in the manner required or permitted by such Grant Agreements.

(c) None of the Acquired Companies has received any written notice from any Government Agency that (i) any Acquired Company is not in compliance in any material respect with any provisions of any Grant Agreement or (ii) such Government Agency is seeking or may attempt to seek any clawback, return or reimbursement of all or any portion of the proceeds of any Grant.

(d) Other than the Grants, the Acquired Companies have not applied for or accepted any grants from any Government Agency in connection the construction, maintenance, extension of or modifications to the Physical Network.

3.29 **Affiliate Transactions**. Except as set forth on Schedule 2.6 or Schedule 3.29, no Seller nor, to the Company's Knowledge, any officer, director, manager, member, partner, shareholder, direct or indirect equityholder or Affiliate of a Seller (a) is a party to, or has an economic interest in, any Contract with any Acquired Company, (b) has an interest in any asset or property owned or used by any Acquired Company, (c) has any claim or cause of action against any Acquired Company, (d) owes any money to any Acquired Company or is owed any money from any Acquired Company, (e) provides services or resources to any Acquired Company, (f) has an interest, directly or indirectly, in any vendor, supplier, distributor, customer or other business relationship of any Acquired Company, or (g) has an interest, directly or indirectly, in any business (regardless of form or structure), which is in competition with any Acquired Company.

3.30 **Seller Written Consent**. The written consent of the Sellers adopting and approving this Agreement, the Mergers and the Contemplated Transactions is the only vote or written consent of the holders of any Equity Securities of the Company necessary to approve this Agreement, the Mergers and the other Contemplated Transactions.

3.31 **Broker and Finder Fees**. Other than Bank Street Group LLC (the fees of which will be included in the Transaction Expenses), there is no broker, finder or other Person who has any claim against any Acquired Company for a commission, finders' fee, brokerage fee or other similar fee in connection with this Agreement or the Contemplated Transactions by virtue of any actions taken by on or behalf of any Acquired Company or its Affiliates.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PARENT

Parent represents and warrants to the Sellers and the Company, as of the Agreement Date (except where a representation or warranty is made herein as of a specified date, in which case as of such date), as follows, except as disclosed in the Parent SEC Documents (other than any disclosures contained under the captions "Risk Factors" and "Quantitative and Qualitative Disclosures About Market Risk" that is not factual or historical in nature, disclosures set forth in any "forward-looking statements" disclaimer or any other disclosures that are predictive, cautionary or forward-looking in nature) filed with or furnished to the SEC and publicly available at least one Business Day prior to the Agreement Date or as set forth in the Parent Schedules:

4.1 **Organization**.

(a) Parent is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Virginia. Merger Sub I is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Merger Sub II is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware. Each of Parent, Merger Sub I and Merger Sub II has all requisite organizational power and authority to own its properties and carry on its business in all material respects as presently owned or conducted, except where the failure to be so organized, existing and in good standing or to have such power or authority would not reasonably be expected, individually or in the aggregate, to materially impair or delay Parent's ability to consummate the Contemplated Transactions. Each of Merger Sub I and Merger Sub II was formed solely for the purpose of engaging in the Contemplated Transactions. All of the outstanding capital stock of each of Merger Sub I and Merger Sub II is owned directly by Parent. There are no options, warrants or other rights (including registration rights), agreements, arrangements or commitments to which either of Merger Sub I or Merger Sub II is a party of any character relating to the issued or unissued capital stock of, or other equity interests in, Merger Sub I or Merger Sub II or obligating either of such entity to grant, issue or sell any shares of the capital stock of, or other equity interests in, such entity, by sale, lease, license or otherwise. Except for obligations or liabilities incurred in connection with its incorporation or organization and the Contemplated Transactions, neither of Merger Sub I or Merger Sub II has and or will have incurred, directly or indirectly, through any Affiliate, any obligations or liabilities or engaged in any business activities of any type or kind whatsoever or entered into any agreements or arrangements with any Person.

(b) As of the Agreement Date, the authorized capital stock of Parent consists of 96,000,000 shares of Parent Stock. As of October 19, 2023, 50,264,477 shares of Parent Stock were issued and outstanding and 2,963,770 were reserved and available for issuance pursuant to Parent's incentive equity plans. Except as described in this Section 4.1(b) and any equity awards issued under Parent's incentive equity plans, as of the Agreement Date, there are (i) no outstanding shares of capital stock of, or other equity or voting interests in, Parent, (ii) no outstanding securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interests in, Parent, (iii) no outstanding options, warrants, rights or other commitments or agreements to acquire from Parent or any Subsidiary, or that obligate Parent or any Subsidiary to issue, any capital stock of, or other equity or voting interests (or voting debt) in, or any securities convertible into or exchangeable for shares of capital stock of, or other equity or voting interests in, Parent, (iv) no obligations of Parent or any Subsidiary to grant, extend or enter into any subscription, warrant, right, debt, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interests in, Parent (the items in clauses (i), (ii), (iii) and (iv) being referred to collectively as "**Parent Securities**") and (v) no other obligations by Parent or any of its Subsidiaries to make any payments based on the price or value of any Parent Securities, including any phantom equity or stock appreciation rights.

(c) As of the Agreement Date, (i) there are no outstanding agreements of any kind which obligate Parent or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Parent Securities, or obligate Parent to grant, extend or enter into any such agreements relating to any Parent Securities, including any agreements granting any preemptive rights, subscription rights, anti-dilutive rights, rights of first refusal or similar rights with respect to any Parent Securities, (ii) none of Parent or any Subsidiary of Parent is a party to any stockholders' agreement, voting trust agreement, registration rights agreement or other similar agreement or understanding relating to any Parent Securities or any other agreement relating to the disposition, voting or dividends with respect to any Parent Securities, (iii) all outstanding shares of Parent Stock have been duly authorized and validly issued and are fully paid, nonassessable and free of preemptive rights.

4.2 **Authority and Enforceability**. Each of Parent, Merger Sub I and Merger Sub II has, subject to the adoption of this Agreement by Parent in its capacity as the sole stockholder of Merger Sub I and the approval of Merger II by Parent in its capacity as the sole member of Merger Sub II, all requisite entity power and authority to enter into the Transaction Documents to which it is a party and to consummate the Contemplated Transactions to which it is a party. The execution and delivery by each of Parent, Merger Sub I and Merger Sub II of the Transaction Documents to which it is a party, and, subject to the adoption of this Agreement by Parent in its capacity as the sole stockholder of Merger Sub I and sole member of Merger Sub II, its consummation of the Contemplated Transactions, have been duly authorized by all requisite entity action on the part of Parent, Merger Sub I and Merger Sub II. This Agreement has been duly executed and delivered by Parent and (assuming that this Agreement constitutes the valid and binding agreement of the other Parties to this Agreement) constitutes the valid and binding obligation of Parent, enforceable against Parent in accordance with its terms, except as enforceability may be limited by the Enforceability Exceptions. The shares of Parent Stock to be issued pursuant to this Agreement have been duly authorized and, when issued pursuant to this Agreement, will be validly issued, fully paid and non-assessable and free of preemptive rights.

4.3 **Consents and Approvals**. Except in connection with the Required Regulatory Approvals, the execution, delivery and performance by each of Parent, Merger Sub I and Merger Sub II of any Transaction Document to which it is a party and the consummation by each of Parent, Merger Sub I and Merger Sub II of the transactions contemplated in any such Transaction Document do not and will not (a) violate or conflict with any provision of the Governing Documents of Parent, Merger Sub I or Merger Sub II, (b) violate or conflict with any Order or Law to which Parent, Merger Sub I or Merger Sub II is subject, (c) require the consent, notice, or other action by any Person under, violate or conflict with, or result in the acceleration of any material Contract to which Parent, Merger Sub I or Merger Sub II is a party, or (d) except for the filing of the Certificates of Merger, compliance with the federal securities Laws and any applicable U.S. state securities or "blue sky" Laws and foreign securities Laws and compliance with the rules and regulations of NASDAQ, require any consent, permit, Order, filing or notice from, with, or to any Government Agencies; except, in the cases of clauses (ii), (iii), where the violation, conflict, acceleration or failure to obtain consent or give notice would not have a material adverse effect on Parent's ability to consummate the Contemplated Transactions and, in the case of clause (iv), where such consent, permit, Order, filing or notice would not have a material adverse effect on Parent's ability to consummate the Contemplated Transactions. No vote of the shareholders of Parent is required to consummate the Contemplated Transactions.

4.4 **Broker and Finder Fees**. Except for Rothschild & Co. US Inc., there is no broker, finder, or other Person who has any valid claim against Parent, Merger Sub I or Merger Sub II for a commission, finders' fee, brokerage fee or other similar fee in connection with this Agreement or the Contemplated Transactions by virtue of any actions taken by on or behalf of Parent or any of its Affiliates.

4.5 **Acquisition Financing Commitment; Solvency**. Parent has delivered to the Company a true and complete copy of a duly executed commitment letter of CoBank, ACB, dated as of October 24, 2023, including all related fee letters and side letters (redacted as customary or if and as required by the applicable Debt Financing Sources (as defined below), including with respect to any fees, pricing caps and economic terms and any other commercially sensitive information not pertaining to conditions related to the Debt Financing), and all exhibits, schedules, annexes, supplements and term sheets forming part thereof, pursuant to which the Debt Financing Sources have agreed and committed to, subject only to the terms and conditions set forth therein, provide acquisition debt financing (the "**Debt Financing**") to Parent in the aggregate amount set forth therein (such commitment letter, fee letters and side letters, the "**Debt Commitment Letter**") as in effect on the Agreement Date. As of the Agreement Date, the Debt Commitment Letter is a legal, valid and binding obligation of Parent and, to the knowledge of Parent, the other parties thereto, is in full force and effect, and is enforceable against the parties thereto in accordance with its terms, except as may be limited by the Enforceability Exceptions. The Debt Commitment Letter has not been rescinded, amended or terminated, and is in full force and effect as of the Agreement Date, and Parent does not know of any specific facts or circumstances that could reasonably be expected to result in any of the conditions set forth in the Debt Commitment Letter not being satisfied. There are no contingencies or conditions precedent to funding the full amount set forth in the Debt Commitment Letter except as set forth in the Debt Commitment Letter. Parent acknowledges that the obligations of Parent under this Agreement are not contingent on the availability of the Debt Financing. The aggregate net proceeds of the Debt Financing (together with Parent's cash on hand) will be sufficient to enable Parent to pay all amounts owed by it pursuant to the terms of this Agreement, including the amounts set forth in Section 1.7(a), consummate the Contemplated Transactions and pay all fees and expenses owed under the Debt Commitment Letter. Other than the Debt Commitment Letter, there are no agreements, side letters or arrangements relating to the Debt Financing. As of the Agreement Date, no event has occurred which, with or without notice, lapse of time or both, would constitute a default or breach on the part of Parent under any term or condition of the Debt Commitment Letter that would reasonably be expected to prevent, materially delay or materially impede the Closing or the funding of the Debt Financing on or prior to the dates set forth in the Debt Commitment Letter, and Parent is not aware of any fact or occurrence that, with or without notice, lapse of time or both, would reasonably be expected to cause it to be unable to satisfy any condition to be satisfied by it contained in the Debt Commitment Letter, or that would cause the full amount of the Debt Financing not to be available to Parent on the Closing Date. The Debt Commitment Letter contains all of the conditions precedent to the obligations of the parties thereunder to make the full amount of the Debt Financing, as applicable, available to Parent on the terms set forth therein. As of the Agreement Date, the Debt Commitment Letter has not been terminated or withdrawn. Parent is, and after giving effect to the Contemplated Transactions (including the consummation of the financing transactions contemplated by the Debt Commitment Letter), will continue to be, Solvent.

4.6 Investment Representations.

(a) Parent acknowledges and agrees that the Company Units have not been registered under the Securities Act or the securities laws of any state and that, owing to certain requirements arising under the Securities Act and applicable state securities laws, the Company Units must be held indefinitely unless subsequently registered under the Securities Act and any applicable state law, or unless an exemption from registration is otherwise available. Parent acknowledges that neither the Company nor any other party has any obligation to register or qualify the Company Units for resale. Parent further acknowledges that if an exemption from registration or qualification is available, it may be conditioned on various requirements, including the time and manner of sale, the holding period for the Company Units, and requirements that the Company may not be able to satisfy. Parent understands that there is no public market for the Company Units or any of the Company's securities, and there is no certainty that such a market will ever develop. Parent understands that there can be no assurance that Parent will be able to sell or dispose of the Company Units.

(b) Parent is a sophisticated buyer with respect to the Company Units, has knowledge and experience in financial and business matters, has legal and other advisers who are capable of evaluating the merits and risks of its purchase of the Company Units and has been represented or has had the opportunity to be represented by legal counsel, tax advisers, and financial advisers of its own choice with respect to all aspects of Parent's investment decision. Parent is aware that the acquisition of the Company Units involves a high degree of risk and has sufficient economic resources to bear the economic risk of the complete loss of its investment in the Company Units. Parent has conducted such examination of the Company's business, financial condition, results of operations and other relevant matters as Parent deems appropriate and has adequate information concerning the Company, its financial condition, and its business to make an informed and knowledgeable decision to acquire the Company Units. Parent has independently and without reliance upon the Company or any of the Sellers or any of their respective representatives (other than the representations and warranties set forth in this Agreement and the other Transaction Documents) and based on such information as Parent has deemed appropriate in its independent judgment, made its own analysis and decision to enter into this Agreement and the Contemplated Transactions. Parent acknowledges and agrees that none of the Sellers, the Company, or any other Person has made any representation or warranty as to Sellers, the Company, or this Agreement except as expressly set forth in this Agreement (including the related portions of the Schedules) and the other Transaction Documents.

4.7 Legal Proceedings. There are no Actions pending or, to Parent's knowledge, threatened against or by Parent or any Affiliate of Parent that challenge or seek to prevent, enjoin, or otherwise delay the Contemplated Transactions.

4.8 Legal and Financial Qualifications.

(a) Parent or one of its Subsidiaries is legally and financially qualified to hold FCC Licenses and receive support from the FCC and/or the Universal Service Administrative Company.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Change, Parent and each of its Subsidiaries are and for the past three (3) years have been, in compliance with all Laws or Orders, in each case, that are applicable to Parent or any of its Subsidiaries. Parent and each of its Subsidiaries hold all licenses, franchises, permits, certificates, approvals and authorizations from Government Agencies necessary for the lawful conduct of their respective businesses, except where the failure to hold the same would not individually or in the aggregate, reasonably be expected to have a Material Adverse Change.

4.9 SEC Filings.

(a) All reports, schedules, forms, statements and other documents (including exhibits, schedules, financial statements and all other information incorporated therein) required to be filed by Parent with the SEC for its two (2) most recent fiscal years and subsequent fiscal quarters, as they may have been supplemented, modified or amended since the time of filing, including those filed subsequent to the Agreement Date and prior to the Closing (the "**Parent SEC Documents**"), have been or will be filed with the SEC on a timely basis. As of the time it was filed with the SEC (or, if amended or superseded by a filing prior to the Agreement Date, then on the date of such filing): (i) each of the Parent SEC Documents complied as to form in all material respects with the applicable requirements of the Securities Act, the Exchange Act and the Sarbanes-Oxley Act (as the case may be); and (ii) none of the Parent SEC Documents contained when filed (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of mailing, respectively) any untrue statement of a material fact or omitted, as the case may be, to state a material fact required to be stated or incorporated by reference therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. None of Parent's subsidiaries is currently subject to the periodic reporting requirements of the Exchange Act. Parent is in compliance in all material respects with the applicable provisions of the Sarbanes-Oxley Act. To the knowledge of Parent and except as set forth on Schedule 4.9, as of the Agreement Date, none of the Parent SEC Documents is the subject of ongoing SEC review or outstanding SEC investigation and there are no outstanding or unresolved comments received from the SEC with respect to any of the Parent SEC Documents. None of Parent's subsidiaries is required to file or furnish any forms, reports, or other documents with the SEC.

(b) Parent is in compliance in all material respects with all current listing requirements of NASDAQ. The Parent Stock is registered pursuant to Section 12(b) of the Exchange Act and listed on NASDAQ, and Parent has taken no action designed to, or which to the knowledge of Parent is reasonably likely to have the effect of, terminating the registration of the Parent Stock under the Exchange Act or delisting the Parent Stock from NASDAQ, nor has Parent received as of the Agreement Date any notification that the SEC or NASDAQ is contemplating terminating such registration or listing.

(c) Each of the consolidated financial statements (including, in each case any notes and schedules thereto) contained in or incorporated by reference into the Parent SEC Documents complied as to form in all material respects with the published rules and regulations of the SEC with respect thereto as of their respective dates. The balance sheets included in such financial statements fairly present, in all material respects, the financial position of Parent as of their respective dates, and the related statements of operations, stockholder's deficit and cash flows included in such financial statements fairly present, in all material respects, the results of its operations and cash flows for the periods indicated therein, in each case in accordance with GAAP applied on a consistent basis, with only such deviations from such accounting principles and/or their consistent application as are referred to in the notes to such financial statements and subject, in the case of any unaudited financial statements, to normal year-end audit adjustments and the absence of related notes (none of which year-end adjustments or footnote disclosures would be material). Neither Parent nor any of its Subsidiaries has any liabilities of any nature (whether accrued, absolute, contingent or otherwise) that would be required under GAAP, as in effect on the Agreement Date, to be reflected on a consolidated balance sheet of Parent (including the notes thereto) except liabilities (i) reflected or reserved against in the balance sheet (or the notes thereto) of Parent and its Subsidiaries as of June 30, 2023 (the "**Balance Sheet Date**"), included in the Parent SEC Documents, (ii) incurred after the Balance Sheet Date in the ordinary course of business (other than any such liabilities related to any breach of contract, violation of law or tort), (iii) that have been discharged or paid prior to the Agreement Date or (iv) as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Change.

(d) Parent has established and maintains, and at all times since January 1, 2022, has maintained, disclosure controls and procedures and a system of internal controls over financial reporting (as such terms are defined in paragraphs (e) and (f), respectively, of Rule 13a-15 under the Exchange Act) as required by Rule 13a-15 under the Exchange Act. Since January 1, 2022, neither Parent nor, to the knowledge of Parent, Parent's independent registered public accounting firm, has identified or been made aware of "material weaknesses" (as defined by the Public Company Accounting Oversight Board) in the design or operation of Parent's internal controls over and procedures relating to financial reporting which would reasonably be expected to adversely affect in any material respect Parent's ability to record, process, summarize and report financial data, in each case, which has not been subsequently remediated.

4.10 **Absence of Changes**. Since January 1, 2023, except in connection with the execution and delivery of this Agreement and the consummation of the Contemplated Transactions or as disclosed in the Parent SEC Documents, the business of Parent and each of its subsidiaries has been conducted in the ordinary course of business in all material respects. Parent is not subject to any current, pending or threatened takeover, take private, or other merger and/or acquisition transaction of Parent that is reasonably likely to be consummated.

4.11 **Affiliate Transactions**. As of the Agreement Date, none of the officers or directors or other Affiliates of Parent is presently a party to any transaction with Parent or any of its Subsidiaries (other than as holders of options, and/or other grants or awards under Parent's incentive equity plan, and for services as employees, officers and directors) that is material to Parent and its Subsidiaries, taken as a whole.

4.12 **Indebtedness**.

(a) As of the Agreement Date, except for the Credit Agreement (the "**Credit Agreement**"), dated July 1, 2021 (as may be amended), with CoBank, ACB, Parent is not party to any Contract, and is not subject to any provision in its Governing Documents or resolutions of its board of directors, that, in each case, by its terms restricts, limits, prohibits or prevents Parent from paying dividends.

(b) As of the Agreement Date, Parent and its Subsidiaries and, to the knowledge of Parent, each of the other parties thereto, are not in material breach of, or default or violation under, the Credit Agreement and no event has occurred that with notice or lapse of time, or both, would constitute such a material breach, default or violation.

4.13 **Labor Matters**. As of the Agreement Date, neither Parent nor any of its Subsidiaries is party to or bound by any collective bargaining agreement or Contract with any labor organization, labor union, or works council, nor to Parent's knowledge, are any union organizational activities threatened with respect to the employees of Parent or any of its Subsidiaries. There are no active, nor, to the knowledge of Parent, threatened, material labor strikes, slowdowns, work stoppages, pickets, walkouts, lockouts or other material labor disputes with respect to the employees of Parent or any of its Subsidiaries as of the Agreement Date. As of the Agreement Date, no employee layoff, facility closure, or material reduction in force is currently planned or announced and pending completion.

4.14 **No Rights Agreement; Anti-Takeover Provisions**. As of the Agreement Date, Parent is not party to a stockholder rights agreement, "poison pill" or similar anti-takeover agreement or plan. No other "business combination," "control share acquisition," "fair price," "moratorium" or other anti-takeover Laws apply or will apply to Parent as a result of this Agreement or the Contemplated Transactions.

ARTICLE V
CONDUCT PRIOR TO THE FIRST EFFECTIVE TIME

5.1 **Affirmative Covenants**. During the Interim Period, except as expressly required or expressly permitted by this Agreement or to the extent that Parent consents in writing (which consent shall not be unreasonably withheld, conditioned, or delayed), the Company shall, and shall cause each of the Acquired Companies to, use commercially reasonable efforts to carry on its businesses in the ordinary course of business and use commercially reasonable efforts to (a) preserve and maintain its assets in good operating condition and repair (normal wear and tear excepted), (b) preserve and maintain its rights under all Material Contracts, Leases, Easements, Permits and Insurance Policies (or substitute policies with substantially the same coverage), (c) preserve and maintain its relationships with Employees, customers, suppliers and others having business dealings with the Acquired Companies, and (e) comply in all material respects with all applicable Laws and Permits regarding the conduct of the Acquired Companies' business.

5.2 **Negative Covenants**. During the Interim Period, except as contemplated or permitted by this Agreement or to the extent that Parent consents in writing, the Company will not, and will not permit any Acquired Company to:

(a) Issue, sell or pledge, or authorize or propose the issuance, sale or pledge of, any (i) additional Company Units, or securities convertible into or exchangeable for Company Units, or any rights, warrants or options to acquire any Company Units or other convertible or exchangeable securities, or (ii) other securities in respect of, in lieu of, or in substitution for, any Company Units outstanding on the Agreement Date; provided, that the Company may issue additional Preferred Units to the Sellers in accordance with Section 5.10.

(b) Split, combine or reclassify any Equity Securities.

(c) Declare or pay any dividend or distribution (provided that the Company and any other Acquired Company may declare and pay cash dividends or distributions but shall use commercially reasonable efforts in doing so not to reduce the amount of cash held by the Acquired Companies below $1,000,000 as of the Closing Date) or make any payments to any Seller or their respective Affiliates, in each case, other than (i) pursuant to a Material Contract in effect as of the Agreement Date or (ii) in connection with the sale, transfer or other disposition of Disposable Inventory by the Company, one or more of the Sellers and/or any of their respective Affiliates in accordance with the provisions of Section 5.11.

(d) Propose or adopt any amendment to any Governing Documents except as may be required to permit the issuance of Preferred Units in connection with Interim Period Capital Contributions expressly permitted by this Agreement.

(e) Merge or consolidate with any other Person, or liquidate, dissolve, recapitalize, reorganize, file a petition in bankruptcy under any applicable Law or consent to the filing of any bankruptcy petition against it under any applicable Law or otherwise wind up its business or operations, or fail to maintain its existence.

(f) Acquire (by merger, consolidation or acquisition of stock or assets) any corporation, partnership or other business organization or entity or division thereof or any equity interest therein.

(g) Except as required by applicable Laws or any Benefit Plan and except as set forth on Schedule 5.2(g), (i) increase the salary or other compensation of any Employee, director or independent contractor except for annual base salary increases in the ordinary course of business for Employees below the director level, not to exceed 3%, (ii) grant any bonus, benefit or other direct or indirect compensation to any Employee, director or independent contractor, (iii) materially increase the coverage or benefits available under any (or create any new) severance pay, termination pay, sick leave, deferred compensation, bonus or incentive compensation, insurance, pension or other Employee Benefit Plan or arrangement made to, for or with any Employees, or materially modify or amend or terminate any such plan or arrangement, (iv) terminate the employment of any Employee at the level of senior management and above (other than for cause), (v) hire any individual to fill any position other than (A) the positions set forth on Schedule 5.2(g) or (B) vacant positions below the Manager level or (vi) enter into any employment, deferred compensation, severance, special pay, consulting or similar Contract or arrangement with any Employee or any other person which provides for annual compensation in excess of $100,000 or which cannot be terminated at-will by the applicable Acquired Company for any reason without advance notice and without payment of severance, early termination fee, or other penalty.

(h) Enter into any collective bargaining agreement or other agreement with a labor union, works council or similar organization covering any Employee.

(i) Acquire, sell, lease or otherwise dispose of, or agree to acquire, sell, lease or otherwise dispose of, any real property or material assets, other than sales of inventory in the ordinary course of business; or sales or returns of obsolete supplies, inventory or equipment in the ordinary course of business; or sales or other dispositions of Disposable Inventory.

(j) Sell, lease, transfer, assign or grant any license or sublicense of any material rights under or with respect to any Intellectual Property Rights, other than non-exclusive licenses granted in the ordinary course of business, or abandon, permit to lapse, instruct or consent to a future lapse or fail to take any action reasonably necessary to maintain, enforce or protect, or create or incur any Lien (other than a Permitted Exceptions) on any Intellectual Property Rights.

(k) Lease or grant an IRU in any Fiber or swap or otherwise transfer or dispose of, or abandon or allow to lapse, or create or incur any Lien (other than Permitted Exceptions) on, any Fiber, in each case, other than in the ordinary course of business.

(l) Commit to make (or enter into any Contract, the performance of which would require) any capital expenditure exceeding $100,000 (other than capital expenditures (i) required under Material Contracts in effect as of the Agreement Date, (ii) as contemplated by the Interim Period CapX Plan, or (iii) which, if not made, would reasonably be expected to adversely affect in any material respect the operations or financial condition of the business and affairs of the Acquired Companies; provided, that, in the case of clause (iii) the Acquired Companies shall reasonably consult with Parent prior to making any such capital expenditure).

(m) Permit or accept any Interim Period Capital Contributions except in accordance with Section 5.10.

(n) Mortgage, pledge, create, incur, assume or suffer to exist any Lien, other than Permitted Exceptions, on any material assets.

(o) Create, incur, assume or guarantee any Indebtedness (other than in connection with Interim Period Capital Contributions made in connection with the funding of the Interim Period CapX Plan).

(p) Amend, terminate, cancel or compromise any material claims of any Acquired Company or waive any other rights of substantial value to any of the Acquired Companies.

(q) Settle or compromise any pending or threatened (in writing) Action or Investigation for an amount in excess of $100,000, individually, or $250,000, in the aggregate.

(r) Fail to maintain in full force and effect and, if applicable, renew any Material Permits or Communications Licenses.

(s) Fail to maintain in full force and effect, or fail to replace or renew, any Insurance Policy, or act or fail to act in a way that would cause any coverage under any such Insurance Policy to lapse; provided, that the Acquired Companies shall reasonably consult with Parent prior to renewing any directors' and officers' insurance and indemnification policies.

(t) Make, change or revoke any Tax election, file or amend any material Tax Return, change any annual tax or accounting period, adopt or change any material method of Tax accounting, settle any income or other material Tax claim or assessment, or surrender any right to claim a refund of Taxes in excess of $1,000, request or enter into any ruling with respect to Taxes, change the tax classification or status of any Acquired Company, enter into a closing agreement applicable to any Tax liability or Tax proceeding as described in Section 7121 of the Code (or any corresponding or similar provision of law), extend or waive the limitation period applicable to any Tax liability or Tax proceeding, or take any similar action relating to the filing of any material Tax Return or the payment of any material Taxes.

(u) Except as required by GAAP or applicable Laws, change its accounting policies.

(v) Materially change or modify any credit, collection or payment policies, procedures or practices, including by any accounts receivable collection acceleration or discount, write-off, or any delay of the invoicing or payment of accounts payable.

(w) Amend or modify in any material respect, or waive, terminate or enter into, any Material Contract or Material Network Agreement (or any Contract (including any statement of work or purchase order) which would have been a Material Contract or Material Network Agreement if in effect as of the Agreement Date), except any Contract, statement of work or purchase order entered into in connection with the execution of the Interim Period CapX Plan (after reasonable consultation with Parent).

(x) Enter into or discontinue any material line of business or cause the Acquired Companies to operate in a geographic area where they did not have material operations as of the Agreement Date.

(y) Take, propose to take or commit or agree to take any of the actions prohibited by this Section 5.2.

5.3 Consents and Approvals. During the Interim Period, subject to the terms and conditions of this Agreement, the Parties will use commercially reasonable efforts to take, or cause to be taken, any and all actions and to use commercially reasonable efforts to do, or cause to be done, any and all things reasonably necessary, proper or advisable under any applicable requirement of Law or otherwise so as to, as promptly as is reasonably practicable, consummate the Contemplated Transactions, and in accordance with the terms of, this Agreement and the other Transaction Documents, and each Party shall, and shall cause its respective Affiliates to, use commercially reasonable efforts to cooperate to that end. Without limiting the generality of the foregoing, the Parties will use their commercially reasonable efforts to cooperate with each other and promptly provide all necessary information to obtain at the earliest practical date all consents and approvals listed on Schedule 1.7(b)(vi) and all Required Regulatory Approvals from, and provide all notices to, all Government Agencies and other Persons required to consummate the Contemplated Transactions as promptly as practicable. In furtherance of the foregoing:

(a) Each of the Company and Parent agrees to file all required notifications and filings pursuant to the HSR Act and any applicable foreign antitrust and competition Laws with respect to the Contemplated Transactions in the most expeditious manner reasonably practicable (and, in any case, within 10 Business Days after the Agreement Date) and to use commercially reasonable efforts to supply promptly any additional information and documentary material that may be requested of such Party by the relevant Government Agency in connection with the HSR Act or any other applicable antitrust or competition Laws.

(b) The Company and Parent agree to file all applications, notices, registrations or other filings with the FCC and any applicable State Regulators that may be required by the Communications Act or similar rules, regulations, policies, instructions and orders of State Regulators for the transfer of control of the Communications Licenses to Parent in the most expeditious manner reasonably practicable (and, in any case, within 10 Business Days after the Agreement Date). The Company, Parent and the Sellers will also use commercially reasonable efforts to supply any additional information and documentary material that may be requested by Team Telecom or its designees in connection with its review process. Subject to the terms and conditions herein provided and without limiting the foregoing, each of the Parent and the Company will make all required regulatory notice filings prior to Closing and will provide any required notices, if any, to customers.

(c) Parent and the Company shall, and shall cause their Subsidiaries to, (i) reasonably cooperate with the other Party in connection with the other Party's filings, applications and submissions under this Section 5.3, including by furnishing to the other Party such necessary information and reasonable assistance as the other Party may reasonably request and giving the other Party a reasonable opportunity to review any such filings, applications and submissions (with the exception that no Party shall be required to provide its premerger notification and report filing under the HSR Act to any other Party), (ii) promptly inform the other Party of the occurrence and contents of any substantive material oral communication from, and promptly provide to the other Party copies of any written communications from, any Government Agency in respect of such filings, applications and submissions, (iii) provide the other Party with drafts of any substantive communications to any Government Agency in respect of such filings, applications and submissions at such time as will allow the other Party a reasonable opportunity to review such draft communications, (iv) consult and reasonably cooperate with the other Party in connection with all meetings, actions and proceedings with any Government Agency relating to such filings, applications and submissions and (v) reasonably comply with, and reasonably cooperate with the other Party to comply with, requests for additional information, documents or other materials by Government Agencies and promptly make any appropriate or necessary subsequent or supplemental filings, applications or submissions and in any event in accordance with any applicable time limit. To the extent reasonably practicable, each Party agrees not to participate, or to permit their respective Subsidiaries (including, in the case of the Sellers, the Acquired Companies) or representatives to participate, in any substantive meeting or discussion, either in person or by telephone, with any Government Agency in connection with the Contemplated Transactions unless it consults with the other Party in advance and, to the extent not prohibited by such Government Agency, gives the other Party the opportunity to attend and participate. Each Party agrees and acknowledges that the business activities of the other are subject to regulation by various Government Agencies, and nothing in this Section 5.3 requires a Party or its Affiliates to limit or forbear from communications not related to this Agreement with any Government Agency. Notwithstanding anything in this Agreement to the contrary, any competitively sensitive materials required to be provided to any other Party pursuant to this Section 5.3(b) may be provided on an outside counsel only basis and may not be disclosed by such outside counsel to any other representatives of the receiving Party without the prior written consent of the providing Party, and any materials may be redacted or withheld as reasonably necessary to address reasonable privilege or confidentiality concerns.

(d) During the Interim Period, subject to the terms and conditions of this Agreement and Parent's prior review and written approval, the Company shall, and shall cause each of the Acquired Companies to use its best efforts to take, or cause to be taken, any and all actions and to do, or cause to be done, any and all things reasonably necessary, proper or advisable under any applicable requirement of Law or otherwise so as to, as promptly as is reasonably practicable, complete the actions listed on Schedule 5.3(d). The Company will use its best efforts to supply any additional information and documentary material that may be requested by any Government Agency or other third party in connection with completing the actions listed on Schedule 5.3(d). The Company shall be responsible for all fees, costs and expenses, including any penalties or assessments, associated with completing the actions listed on Schedule 5.3(d).

(e) In addition to filings described above, the Parties will cooperate with each another in a commercially reasonable manner (i) in determining whether any action by or in respect of, or filing with, any Government Agency is required, or any actions, consents, approvals or waivers are required to be obtained from Third Parties to any Leases or Material Contracts, in connection with the consummation of the Contemplated Transactions (provided that, in the event of any good faith disagreement, the final determination shall be made by Parent) and (ii) in taking such actions or making any such filings, furnishing information required in connection therewith and seeking timely to obtain any such actions, consents, approvals or waivers; provided, that nothing in this Agreement will obligate or be construed to obligate any Party to make or cause to be made any payment or concession to any Third Party in order to obtain any such action, consent, approval or waiver.

(f) Parent and the Company shall, and shall use reasonable best efforts to cause each of their respective Affiliates to, respond to and exercise their respective reasonable best efforts to seek to resolve as promptly as reasonably practicable any objections asserted by any Government Agency or other Person with respect to the Contemplated Transaction, including using commercially reasonable efforts to (i) contest and resist any Action challenging the Contemplated Transaction, (ii) avoid the entry of and have vacated, lifted, reversed or overturned any Order that would prevent, restrict or materially delay the consummation of the Contemplated Transaction and (iii) consider in good faith any proposed settlement, undertaking, consent decree, stipulation or other agreement with any Government Agency or other Person that may be required to obtain a Required Regulatory Approval; provided, however, that notwithstanding anything in this Agreement to the contrary, no Party nor any of its respective Affiliates will be required, either pursuant to this Section 5.3 or otherwise, to (and, without such Party's prior written consent, the other Parties and the Acquired Companies will not) (A) negotiate, commit to or effect, by consent decree, hold separate order or otherwise, the sale, lease, license, divestiture or disposition of any assets, rights, product lines or businesses of such Party or any of its respective Affiliates or the Acquired Companies, (B) terminate any existing relationships, contractual rights or obligations of such Party or any of its respective Affiliates or the Acquired Companies, (C) terminate any joint venture or other arrangement, (D) create any relationship, contractual rights or obligations of such Party or any of its respective Affiliates or the Acquired Companies, (E) effectuate any other change or restructuring of such Party or any of its respective Affiliates or the Acquired Companies or (F) otherwise take or commit to take any actions, including agreeing to prior approval restrictions, with respect to the businesses, product lines or assets of such Party or any of its respective Affiliates or the Acquired Companies (any of the foregoing, a "**Burdensome Condition**").

(g) Notwithstanding anything in Section 5.3(f) to the contrary, a Burdensome Condition shall not include any action, undertaking, obligation or condition that (i) is imposed or provided for in any Material Contract to which the Company is a party as of the Agreement Date, (ii) imposes or provides for an obligation to comply with Laws of general applicability or (iii) is regularly and routinely agreed to by similarly-situated companies in the Company's industry in connection with obtaining consents or approvals similar to the Required Regulatory Approvals from the applicable Government Agencies and, in the case of this clause (3), would not, individually or in the aggregate, reasonably be expected to be material to the business or operations of Parent or an Acquired Company.

5.4 **Access to Information**. During the Interim Period, to the extent permitted by Law, the Company will, and will cause the Acquired Companies to, (x) provide Parent and its representatives with reasonable access during normal business hours to the assets, properties, facilities and books and records of the Company and (y) furnish or make available to Parent and its representatives during such period all such information and data concerning the Company in its possession or control as Parent reasonably requests; provided, however, that (i) such investigation (A) will be coordinated through such persons as may be designated in writing by the Company for such purpose, and (B) will not include any meeting or contact between Parent or its representatives and any customer, vendor or supplier of any of the Acquired Companies, without the Company's prior written consent and participation (other than any meetings or contacts between Parent or its representatives and any such customer, vendor or supplier in the ordinary course of business and unrelated to the Contemplated Transactions), (ii) Parent and its representatives shall be entitled to organize periodic meetings with senior management of the Company (at reasonable times and upon reasonable notice, and not more than once per week), and the Company shall use commercially reasonable efforts to facilitate a reasonable number of meetings, at reasonable times and upon reasonable advance notice, between Parent and such Employees as Parent may request from time to time, but Parent shall otherwise not be permitted to meet with or otherwise have contact with any Employee or representative of any of the Acquired Companies (other than senior management) without the Company's prior consent (not to be unreasonably withheld, conditioned or delayed) and the Company will be entitled to participate in and be present during any meeting with any of its Employees or representatives and (iii) the Company will be entitled to withhold access to such records or information as determined in good faith as reflecting or containing competitively sensitive information. Parent will conduct its access and inspection, and any meetings with Employees, in such a manner as not to interfere unreasonably with operations of the Company.

5.5 **No Solicitation**. During the Interim Period, the Sellers and the Company shall not, and the Company shall cause the Acquired Companies not to, directly or indirectly, (a) solicit, initiate or knowingly encourage, or take any other action to knowingly facilitate, any proposal or offer (whether or not in writing) from any Person (other than Parent and its representatives) with respect to any (i) equity purchase, merger, consolidation, tender or exchange offer, share exchange, other business combination, plan of arrangement, joint venture, recapitalization, reorganization, liquidation, dissolution or similar transaction involving any of the Acquired Companies or their business or assets, (ii) sale, lease, contribution or other disposition, directly or indirectly (including by way of merger, consolidation, share exchange, other business combination, partnership, joint venture, sale of capital stock of or other equity interests in any Acquired Company or otherwise) of any business or assets of the Sellers or the other Acquired Companies (other than any sales of immaterial assets in the ordinary course of business) or (iii) combination of the foregoing (each, a "**Takeover Proposal**"); (b) solicit, initiate or knowingly encourage, or take any other action to knowingly facilitate, any inquiries or the making of any proposal that would reasonably be expected to lead to a Takeover Proposal; (c) enter into, continue or otherwise participate in any discussions or negotiations regarding, or furnish to any Person (other than Parent and its representatives) any nonpublic information or provide access to its properties or assets with respect to, or otherwise knowingly cooperate in any way with any Person (other than Parent and its representatives) with respect to, any Takeover Proposal or any inquiries or the making of any proposal for the purpose of facilitating or encouraging any effort or attempt to pursue a Takeover Proposal; or (d) recommend, propose or enter into any agreement with respect to a Takeover Proposal. The Sellers or the Company, as applicable, shall notify Parent of any written Takeover Proposal within 24 hours of receipt thereof. During the Interim Period, the Sellers shall not sell, transfer, assign, convey or deliver, or pledge, create, incur, assume or suffer to exist any Lien, other than Permitted Exceptions, on any of the Company Units.

5.6 **R&W Insurance Policy**. Parent has obtained a conditional binder with respect to the R&W Insurance Policy, which has been made available to the Sellers. Parent has paid or, at or prior to the Closing, Parent will pay or cause to be paid all costs and expenses related to the R&W Insurance Policy, including the total premium, underwriting fees and costs, brokerage commissions, due diligence fees, taxes and other fees and expenses of the R&W Insurance Policy, and to obtain and bind the R&W Insurance Policy, and none of the Sellers or the Seller Representative will have any obligation with respect to any of the foregoing. Parent shall not amend or modify the R&W Insurance Policy in any manner that would reasonably be expected to materially and adversely affect the Sellers without obtaining the prior written consent of the Company (prior to the Closing) or the Seller Representative (after the Closing). The R&W Insurance Policy will provide that the insurer or insurers shall have no right of subrogation (except in the case of Actual Fraud), claims in contribution, rights acquired by assignment or otherwise against any of the Sellers and any of their respective direct or indirect equityholders, controlling Persons, members, stockholders, directors, officers, employees, Affiliates, general or limited partners or representatives of the foregoing, and (ii) provide that each Seller and the Seller Representative may rely upon and enforce the subrogation provisions of the R&W Insurance Policy as an express third-party beneficiary thereof, except in the case of Actual Fraud. Parent will ensure that the R&W Insurance Policy complies with this Section 5.6.

5.7 **Notice of Developments**. Prior to the Closing, each Party hereto will promptly notify the others in the event of any occurrence, event or development that will, or is reasonably like to, result in any of the conditions set forth in Article VII becoming incapable of being satisfied.

5.8 **Financing**.

(a) Parent acknowledges and agrees that (i) its obligations pursuant to this Agreement are not subject in any respect to any financing or similar contingency or to the availability of the financing contemplated by the Debt Financing or any Alternative Financing, and (ii) none of the Sellers, the Seller Representative and the Company, on behalf of themselves and any of their respective Affiliates have any responsibility for the Debt Financing, other than as explicitly set forth in Section 5.8(f). Parent shall use its reasonable best efforts to take, or cause to be taken, all actions and do, or cause to be done, all things necessary, proper or advisable to arrange and consummate the Debt Financing at the Closing on the terms and conditions set forth in the Debt Commitment Letter, including using its reasonable best efforts to: (i) comply with and maintain in effect the Debt Commitment Letter, (ii) negotiate and enter into definitive agreements with respect thereto, (iii) comply with and perform the obligations applicable to it pursuant to such Debt Commitment Letter, (iv) draw down on and consummate the Debt Financing (which will include agreeing to consummate the Debt Financing even if any "flex" rights in the Debt Commitment Letter are exercised to their maximum extent) if the conditions to the availability of the Debt Financing have been satisfied or waived, including using its reasonable best efforts to enforce its rights under the Debt Commitment Letter and the definitive documentation governing the Debt Financing and cause the Debt Financing Sources to fund the Debt Financing at the Closing, provided, however, that Parent shall not be required to commence or pursue litigation, and the Sellers and the Company shall not have the right to compel Parent to commence or pursue litigation, to enforce the obligations of the Debt Financing Sources to fund the Debt Financing, and (v) satisfy on a timely basis all conditions applicable to it in the Debt Commitment Letter and such definitive agreements. If any portion of the Debt Financing expires or terminates or otherwise becomes unavailable, Parent shall use its reasonable best efforts to arrange for and obtain as promptly as practicable following the occurrence of any such event alternative debt financing (the "**Alternative Financing**") in an amount sufficient to consummate the Contemplated Transaction and pay related fees and expenses and perform all of its obligations hereunder on terms and conditions that are not materially less favorable or more onerous (including imposition of new conditions or expansion of existing conditions), in the aggregate, than those set forth in the Debt Commitment Letter, but in no event in a manner that would reasonably be expected to materially impede, materially delay or prevent the consummation of the Contemplated Transactions, it being understood that if Parent proceeds with any Alternative Financing, Parent shall be subject to the same obligations with respect to such Alternative Financing as set forth in this Agreement with respect to the Debt Financing.

(b) Parent shall not replace, amend or waive the Debt Commitment Letter or any provision thereof without the Seller Representative's prior written consent if such replacement, amendment or waiver would, or would reasonably be expected to, solely or when taken together with any other amendments, modifications, or waivers: (i) delay or prevent the Closing, (ii) make the funding of any of the Debt Financing (or satisfaction of the conditions to obtaining any of the Debt Financing) less likely to occur, (iii) adversely impact the ability of Parent to consummate the Contemplated Transactions or (iv) impose new conditions or adversely expand, amend or modify any of the existing conditions to the receipt of any of the Debt Financing, or otherwise add, expand, amend or modify any other provision of the Debt Commitment Letter, in a manner that would reasonably be expected to materially impede, materially delay or prevent the consummation of the Contemplated Transactions. Parent shall promptly deliver to the Seller Representative copies of any such amendments, modifications or replacements. Upon any permitted amendment, supplement, modification or replacement of the Debt Commitment Letter after the Agreement Date (including with respect to any Alternative Financing) in accordance with this Section 5.8(b), the term "**Debt Commitment Letter**" shall mean the Debt Commitment Letter and any commitment letter evidencing an Alternative Financing, in each case as so amended, supplemented, modified or replaced with a commitment letter evidencing an Alternative Financing, and references to "**Debt Financing**" and/or "**Alternative Financing**" shall include the financing contemplated by the Debt Commitment Letter as so amended, supplemented, modified or replaced.

(c) Parent shall provide the Seller Representative prompt (but in any event, within two (2) Business Days) written notice (i) upon becoming aware of any material breach, default, repudiation, cancellation or termination (or any event or circumstance that, with or without notice, lapse of time or both, would reasonably be expected to give rise to any material breach, default, repudiation, cancellation or termination) by any party to the Debt Commitment Letter or such other commitment letters, agreements or documents (including any definitive agreements) relating to the Debt Financing or any termination of the Debt Commitment Letter or such other commitment letters, agreements or documents (including any definitive agreements) relating to the Debt Financing, (ii) upon receipt by Parent or any of its Affiliates or representatives of any notice or other communication of any such material breach, default, repudiation, cancellation or termination, (iii) of any material dispute or disagreement between or among the parties to the Debt Commitment Letter or any other commitment letters, agreements or documents (including any definitive agreements) related to the Debt Financing with respect to the obligation to fund any of the Debt Financing or the amount of the Debt Financing to be funded at the Closing and (iv) if for any reason Parent believes in good faith that it will not be able to obtain all or any portion of the Debt Financing on the terms, in the manner or from the sources contemplated by any Debt Commitment Letter or any other commitment letters, agreements or documents (including any definitive agreements) related to the Debt Financing in any manner which impairs, delays or prevents the consummation of the Contemplated Transactions. As soon as reasonably practicable, but in any event within two (2) Business Days after the date the Seller Representative delivers Parent a written request, Parent shall provide any information reasonably requested by the Seller Representative relating to any circumstance referred to in clause (i), (ii), (iii) or (iv) of the immediately preceding sentence. In addition, Parent shall, upon the Seller Representative's request, keep the Seller Representative reasonably informed on a reasonably current basis and in reasonable detail of the status of its efforts to finalize the Debt Financing.

(d) Parent shall indemnify and hold harmless the Company and the other Seller Related Parties from and against all losses, damages, costs and expenses (including reasonable attorneys' fees and expenses) suffered or incurred by any of them in connection with the obligations under Section 5.8(f), except to the extent that any such losses, damages, costs or expenses result from the gross negligence, bad faith or willful misconduct of the Seller Related Parties or any of their respective directors, managers, officers, employees agents or representatives. Parent shall promptly, upon request by the Seller Representative, reimburse the Company and any other Seller Related Party for all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees and expenses) incurred by such Person in connection with the cooperation contemplated by Section 5.8(f).

(e) Parent acknowledges and agrees that, notwithstanding anything to the contrary in this Agreement, the Debt Commitment Letter or any other Transaction Document, in no event shall the availability or obtaining of all or any portion of the Debt Financing or any other financing to or by Parent or any of its Affiliates or any other Person be a condition to any of Parent's obligations under this Agreement, and Parent shall consummate the Contemplated Transactions irrespective and independently of the availability or obtaining of all or any portion of the Debt Financing or any other financing by any Person.

(f) From the Agreement Date through the earlier of the Closing or the termination of this Agreement, the Company shall, shall cause its Subsidiaries to and shall use its commercially reasonable efforts to cause the directors, managers, officers, employees, agents and representatives of the Company and its Subsidiaries to, reasonably cooperate with Parent, at Parent's sole cost and expense, in connection with obtaining the Debt Financing, which cooperation, to the extent requested in writing by Parent, shall include using commercially reasonable efforts (provided, in each case, such cooperation does not unreasonably interfere with the ongoing operations of the Company) to:

(i) deliver to Parent and the Debt Financing Sources monthly and quarterly unaudited, and annual audited, financial statements and such other information specifically required under the Debt Commitment Letter as Parent or the Debt Financing Sources may reasonably request (the "**Required Financial Information**");

(ii) promptly supplement, update or correct any previously provided Required Financial Information in the event that the Company or its representatives determine that any such Required Financial Information was untrue, incorrect or incomplete in any material respect when it was provided to Parent or the Debt Financing Sources;

(iii) furnish to Parent and the Debt Financing Sources other information regarding the Acquired Companies and their business reasonably requested by Parent (and supplements and updates thereto as reasonably requested by Parent) and which customarily is provided by a borrower and included in Marketing Material, including due diligence information reasonably requested by Parent in connection with preparation of Marketing Material;

(iv) cause Employees with appropriate seniority, knowledge or experience to provide reasonable and customary cooperation in, and reasonable assistance with, the preparation of Marketing Material;

(v) cause such Employees to participate, in a reasonable and customary fashion during normal business hours and with reasonable prior written notice, in a reasonable number of due diligence sessions, drafting sessions, ratings agencies meetings, bank meetings, lender presentations and other meetings with prospective lenders and investors (including customary one-on-one meetings), including direct contact between such Employees, on the one hand, and the Debt Financing Sources, on the other hand;

(vi) cause such Employees to participate, in a reasonably and customary fashion, in the preparation and negotiation of definitive documentation for the Debt Financing, including customary exhibits, annexes and schedules thereto and related customary certificates (including perfection certificates and insurance certificates), and to execute and deliver the definitive documentation required by the Debt Financing Sources in connection with the consummation of the Debt Financing at (but not prior to) the Closing; provided, that (A) none of the documents or certificates shall be executed and/or delivered except in connection with the Closing, (B) the effectiveness thereof shall be conditioned upon, or become operative after, the occurrence of the Closing and (C) no liability shall be imposed on the Company, any of its Subsidiaries or any of their respective officers or employees involved prior to the occurrence of the Closing;

(vii) facilitate (A) the grant of Liens in favor of the applicable agent for the Debt Financing on substantially all of the assets of the Acquired Companies to secure the Debt Financing, including physical delivery to or for the order of Parent or the Debt Financing Sources of all possessory collateral (such as equity certificates and promissory notes) and (B) the release of existing Liens (if any) on any assets of the Acquired Companies as required under the Debt Financing, in each case, at (but not prior to) the Closing, including delivery of the Payoff Letters in accordance with Section 1.6(c) and any other customary termination documentation or instruments; provided, that (A) none of the documents or certificates shall be executed and/or delivered except in connection with the Closing, (B) the effectiveness thereof shall be conditioned upon, or become operative after, the occurrence of the Closing and (C) no liability shall be imposed on the Company, any of its Subsidiaries or any of their respective officers or employees involved prior to the occurrence of the Closing; and

(viii) furnish to Parent promptly, and in any event at least five (5) Business Days prior to the Closing Date (if requested at least 10 Business Days prior to the Closing Date), all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the U.S.A. Patriot Act of 2001 (and beneficial ownership regulations), or reasonably requested by the Debt Financing sources in connection therewith.

Notwithstanding anything herein to the contrary, (1) it is understood and agreed by the Parties that the obligations of the Company and each other Seller Related Party to assist with obtaining the Debt Financing shall be governed solely by this Section 5.8(f), and (2) (i) none of the Company, its Subsidiaries, any of their respective Affiliates or any of the directors, managers, officers, employees or agents of any of the foregoing shall be required to pay any commitment or other similar fee, to incur any other liability that is not contingent upon the Closing or to enter into any contract in connection with the Debt Financing effective prior to the Closing that is not conditioned on the Closing, (ii) none of the Company, its Subsidiaries, any of their respective Affiliates or any of the directors, officers, employees or agents of any of the foregoing shall be required to take any action that could reasonably be expected to give rise to personal liability to any director, manager, officer, shareholder, member, employee or agent of the foregoing, (iii) none of the Company, its Subsidiaries, any of their respective Affiliates or any of the directors, officers, employees or agents of any of the foregoing shall be required to incur any actual or potential liability prior to Closing or provide any indemnity in connection with the Debt Financing prior to Closing, in each case that is not conditioned upon the Closing, (iv) nothing in this Section 5.8(f) shall require the directors, managers or similar governing body of any member of the Company or the Subsidiaries, prior to the Closing, to adopt resolutions approving or otherwise approve the contracts pursuant to which the Debt Financing is made, (v) none of the Company, the Subsidiaries, or any of their respective Affiliates shall be required to take any action that would conflict with or violate the Company's, any of its Subsidiaries' or their Affiliates' Governing Documents or applicable Law, (vi) none of the Company, its Subsidiaries or any of their respective Affiliates shall be required to provide access to or disclose information that the Company determines in good faith would jeopardize any attorney-client privilege of the Company, the Subsidiaries, or any of their respective Affiliates or which is restricted or prohibited under applicable Law; (vii) none of the Company, its Subsidiaries or any of their respective Affiliates shall be required to prepare pro forma financial statements or separate financial statements or financial information for the Company, its Subsidiaries or any of their respective Affiliates.

(g) Each of the Company (on behalf of itself and its Subsidiaries), the Sellers and the Seller Representative hereby expressly authorize the use of the Required Financial Information and other information and data to be provided to Parent and the Debt Financing Sources pursuant to this Section 5.8(f) in connection with the Debt Financing, and none of the Company (on behalf of itself and its Subsidiaries), the Sellers or the Seller Representative is aware of any limitation on the use of the Required Financial Information as contemplated by this Agreement. Each of the Company (on behalf of itself and its Subsidiaries), the Sellers and the Seller Representative shall promptly provide Parent with, or consent to the use by Parent of, electronic versions of the trademarks, service marks and corporate logos of each of the Acquired Companies for use in the Marketing Material, and the Company (on behalf of itself and its Subsidiaries) hereby consents to the use of its logos in connection with the Debt Financing.

5.9 NTIA Grant. The Company will use commercially reasonable efforts to finalize the NTIA Grant 2023 on substantially the terms and conditions set forth in the NTIA Grant 2023, and to implement the grant funding contemplated in the NTIA Grant 2023 in accordance with its terms; provided, that, other than the NTIA Grant LOC, the Company shall not enter into any Contracts relating to the NTIA Grant 2023 without the prior written approval of Parent, not to be unreasonably withheld, conditioned or delayed; and provided, further, that the Company shall be entitled at any time to terminate or otherwise cancel the NTIA Grant 2023 without any need for approval by Parent (and, if the Company takes or elects to take such action, it will promptly inform Parent that such action has been or will be taken).

5.10 Interim Period CapX Plan; Interim Period Capital Contributions.

(a) During the Interim Period, the Parties agree that the Company shall be permitted to enter into Contracts with the Sellers (and only with the Sellers) providing for Interim Period Capital Contributions in exchange for Preferred Units, subject to the following:

(i) the terms and conditions of such Interim Period Capital Contributions (and related Contracts) shall (i) not require any consent, approval or notice in order to consummate the Closing and the Contemplated Transactions or otherwise would, or would reasonably be likely to, materially delay or impair the Closing or the Closing Date, (ii) permit prepayment at the Closing without any penalty or additional cost to be incurred by Parent or any Acquired Company except as expressly set forth in this Agreement, and (iii) upon prepayment, not result in any further liability or obligation of any Acquired Company with each such Acquired Company being fully released of all liabilities of any kind;

(ii) the Reimbursable Amount and the Preferred Return with respect thereto shall not exceed $65,000,000 (provided, for the avoidance of doubt, that, notwithstanding any provision herein to the contrary, the Sellers shall not be required to make Interim Period Capital Contributions in the event that the Reimbursable Amount (along with the Preferred Return with respect thereto) would exceed such amount);

(iii) the Interim Period Capital Contributions shall be consistent with the Interim Period CapX Plan (including with respect to milestones and timing) in all material respects; provided, that the Parties shall consider in good faith any changes to the Interim Period CapX Plan that any Party may propose in response to circumstances or developments related to the business of the Acquired Companies arising during the Interim Period; and

(iv) prior to entering into or accepting any Interim Period Capital Contribution, the Company shall provide Parent with five (5) Business Days' notice, together with the execution forms of any related Contract.

(b) Subject to the provisions of Section 5.10(a), without the prior written approval of Parent, the Company shall not permit any additional Interim Period Capital Contribution during the Interim Period if the amount to be incurred is not reasonably required (as determined by the Company in good faith) to fund the Interim Period CapX Plan or other operations of the Acquired Companies (including, for the avoidance of doubt, any required repayment of Indebtedness) prior to the earlier of (X) the then-expected Closing Date or (Y) the End Date.

(c) The Sellers shall use commercially reasonable efforts to timely make the Interim Period Capital Contributions contemplated by the Interim Period CapX Plan, and all such Interim Period Capital Contributions shall be made in compliance with the provisions of this Section 5.10. For the avoidance of doubt, Parent acknowledges and agrees that that the Closing shall not be conditioned upon such Interim Period Capital Contributions being made.

(d) Notwithstanding anything to the contrary in the Company's organizational documents, each Seller hereby (i) agrees that the Interim Period Capital Contributions contemplated by the Interim Period CapX Plan shall be permitted in the amounts set forth therein, (ii) authorizes and approves, in its capacity as a member of the Company, such Interim Period Capital Contributions, and agrees to take, or cause the Company to take, any action necessary to permit such Interim Period Capital Contributions and (iii) waives any provision of the Company's organizational documents that otherwise would prevent any Seller from making any Interim Period Capital Contribution contemplated by the Interim Period CapX Plan.

(e) For the avoidance of doubt, each Seller acknowledges and agrees that, except for the Preferred Unit Merger Consideration plus each Seller's applicable portion of the Aggregate Preferred Adjustment Consideration as determined pursuant to Section 1.6(b) (if any), no Seller shall be entitled to receive from Parent, the Company or any other Person any consideration or reimbursement with respect to any Interim Period Capital Contribution.

5.11 Disposable Inventory.

(a) Notwithstanding any provision herein or elsewhere to the contrary, prior to the Closing Date, the Company shall (a) distribute or otherwise transfer to an Affiliate, one or more of the Sellers and/or any of their respective Affiliates, or use for the repayment of Indebtedness outstanding under the Existing Credit Facilities or otherwise, or use for any other purpose, any proceeds of any sales or other dispositions of any Disposable Inventory and/or (b) distribute or otherwise transfer to any Person title to all or any Disposable Inventory (including but not limited to a distribution or transfer achieved via the establishment of an entity(ies) (including a new subsidiary of the Company or any other Acquired Company) to which all or any of the Disposable Inventory may be transferred or contributed (and the ownership interests of which entity(ies) may be dividended or otherwise distributed to one or more of the Sellers and/or any of their respective Affiliates).

(b) The Company shall use commercially reasonable efforts to give Parent at least three (3) Business Days notice before selling or otherwise disposing of any Disposable Inventory to a third party, which notice shall include a list of the Disposable Inventory being sold or otherwise disposed of, and in any case the Company shall provide Parent with an updated version of Exhibit D reflecting any such sales or other dispositions promptly thereafter.

(c) In the event that any of the Disposable Inventory has not been sold or otherwise disposed of prior to the Closing Date, Parent shall permit the owner of such Disposable Inventory (provided that such owner is a Seller or one of its Affiliates) to rent, on commercially reasonable terms, space in the applicable Acquired Company's facilities to store such Disposable Inventory for up to three (3) months following the Closing Date, and such owner shall cause such Disposable Inventory to be removed from such facilities within three (3) months following the Closing Date. Neither Parent nor any Acquired Company shall have any liability to any owner of Disposable Inventory for any matter relating to any Disposable Inventory following the Closing, except to the extent that such liability results from the gross negligence, bad faith or willful misconduct of Parent or an Acquired Company.

5.12 Financial Statements and Operating Reports.

(a) During the Interim Period, the Company shall prepare its financial statements in the ordinary course of business, including preparation for an audit of its annual financial statements, and shall use commercially reasonable efforts to deliver to Parent (a) within 15 days after the end of each month, an operational report, consistent with the monthly reports provided to the Company's board of directors, members and lenders, monthly unaudited financial statements and the other information set forth on Schedule 5.12(a), (b) within 30 days after the end of each fiscal quarter (other than the end of the quarter ending December 31), quarterly unaudited financial statements, and (c) within 120 days after the quarter ending December 31, annual audited financial statements.

(b) Without limiting the generality of the foregoing, in the event that the Closing is not reasonably expected to occur on or before May 1, 2024, the Company shall, if requested by Parent, promptly engage independent auditors to provide, by July 15, 2024, reviewed financial statements for the three-month periods ending March 31, 2024, and March 31, 2023, in accordance with American Institute of Certified Public Accountants standards; provided, that all fees and expenses of any independent auditor engaged by the Company under this Section 5.12(b) shall be borne 100% by Parent.

5.13 Parent Board Vacancy. During the Interim Period, Parent shall not fill the current vacancy on the Parent board of directors in the director class expiring in 2025.

ARTICLE VI
Additional Covenants

6.1 Employees and Employee Benefits. From and after the Closing Date, Parent agrees, and will cause the Acquired Companies, to carry out the following:

(a) Parent shall, for the period beginning on the Closing Date and ending on December 31, 2024 (the "**Post-Closing Benefit Period**"), cause each Employee who remains employed by Parent or an Acquired Company during the Post-Closing Benefit Period to receive a base salary or base wage level (including commissions) and bonus opportunity (excluding, for the avoidance of doubt, any transaction bonus), to the extent applicable, at least as favorable in the aggregate to the Employee as in effect immediately before the Closing Date; provided, that this Section 6.1(a) shall not be deemed to be a guarantee of employment to any Employee or to impose any obligation on Parent or any of the Acquired Companies to continue the employment of any Person.

(b) Parent will ensure that during the Post-Closing Benefit Period, the Employee Benefit Plans available for Employees will provide benefits that, in the aggregate, are at least as favorable as the benefits provided under the Company's Employee Benefit Plans (excluding any defined benefit pension plans) prior to the Closing Date. To the extent Employees become covered under Employee Benefit Plans maintained by the Parent Related Parties, Parent will use commercially reasonable efforts to provide that those plans will (i) provide Employees with credit for their service with the Company prior to the Closing Date, to the same extent (or better) that such service would have been credited under the Company's Employee Benefit Plans for all purposes (including for purposes of vesting credit, eligibility to participate and receive benefits and benefit accrual, but excluding for purposes of benefit accrual under defined benefit pension plans, for purposes of qualifying for subsidized early retirement benefits, or to the extent it would result in duplication of benefits), (ii) cause Employees to be eligible immediately to commence participation in such plans without regard to any eligibility period, waiting period, elimination period, evidence of insurability requirements and cause any pre-existing condition limitations to be waived, and (iii) give effect, in determining any deductible and maximum out-of-pocket limitations, to claims incurred and amounts paid by, and amounts reimbursed to, the Employees with respect to the Company's Employee Benefit Plans prior to the Closing Date. For purposes of this Section 6.1, reference to Employees and their rights under Employee Benefit Plans will extend to and include the Employees' respective dependents and other beneficiaries of such Employee Benefit Plans to the extent applicable.

(c) With respect to the 2023 calendar year, the Acquired Companies shall pay to non-executive Employees commission, incentive or other bonus compensation that is substantially consistent in the aggregate with the amounts paid with respect to such Employees for calendar year 2022; provided, that the Acquired Companies shall be permitted to make exceptions for individual Employees in their reasonable discretion. The Acquired Companies shall make such payments prior to the Closing Date.

(d) With respect to the portion of the 2024 calendar year ending on the Closing Date, the Acquired Companies shall make accruals in the ordinary course of business for potential payments of commissions, incentives or other bonuses to Employees under each Employee Benefit Plan, subject to proration based on the number of days which have elapsed between January 1, 2024, and the Closing Date.

(e) With respect to the 2024 calendar year, Parent shall pay or cause to be paid to each applicable Employee any commission, incentive or other bonuses owed to such Employees under each Employee Benefit Plan (if any), the amount of which will be determined by Parent in accordance with the terms of the applicable Employee Benefit Plan (the "**2024 Bonus Payments**"). Parent shall make or cause to be made the 2024 Post-Closing Bonus Payments to the applicable Employees in the ordinary course of business, subject to the continued employment in good standing of each Employee through the date of payment and all other policies and procedures of Parent.

(f) Subject to compliance with applicable Law, during the Post-Closing Benefit Period, or if shorter, the duration of such Employee's employment with the Parent Related Parties after the Closing, Parent will honor, or will cause to be honored, all accrued but unused vacation time, sick leave and personal time of the Employees as of the Closing in accordance with the terms of the applicable program or policy in effect immediately prior to the Closing Date (in addition to, and not in lieu of, any vacation earned and accrued under the applicable vacation plans or policies of the Parent Related Parties for services on or following the Closing). Subject to compliance with applicable Law and the terms of any applicable Contract, any accrued but unused vacation time, sick leave and personal time which remains unused following the expiration of the Post-Closing Benefit Period will immediately expire without any payment.

(g) Notwithstanding anything in this Agreement to the contrary, nothing contained in this Section 6.1, express or implied, shall (i) be interpreted to confer upon any Person (including any current or former employee or any beneficiary thereof) any rights, benefits or remedies as third-party beneficiaries, including any rights of continued employment or service, any rights to a particular term of employment or service or any rights to any particular compensation or benefits of any nature or kind; or (ii) be treated as an amendment to, or prevent the termination of, any Benefit Plan or any other Employee Benefit Plan, program or arrangement of the Acquired Companies, Parent or any of their respective Affiliates.

(h) During the Interim Period, before making any announcements or communications to the Employees regarding this Agreement or the Contemplated Transactions, the Company will obtain Parent's prior written consent (not to be unreasonably withheld, conditioned or delayed) as to the content and timing of any such announcements or communications.

6.2 Tax Matters.

(a) The Seller Representative will prepare or cause to be prepared all Tax Returns that any Acquired Company is required to file on or prior to the Closing Date for all periods ending on or prior to the Closing Date ("**Pre-Closing Tax Periods**"), and each Acquired Company shall be responsible for and shall timely pay (prior to the Closing) all Taxes that are due and payable with respect to any Pre-Closing Tax Period by such Acquired Company (including those shown on Tax Returns for a Pre-Closing Tax Period). Such Tax Returns will be prepared on a basis consistent with past practice except to the extent otherwise required by any Law. Parent will prepare or cause to be prepared all other Tax Returns of the Acquired Companies, including Tax Returns for all periods ending after the Closing Date ("**Post-Closing Tax Periods**") and all Straddle Periods (defined below). Parent shall provide Seller Representative with drafts of Tax Returns for Pre-Closing Tax Periods due after the Closing Date and Straddle Periods at least 30 days prior to the filing thereof and shall incorporate into such Tax Returns the reasonable written comments of Seller Representative provided at least 15 days prior to the due date for filing such Tax Returns.

(b) In the case of any taxable period that includes (but does not end on) the Closing Date (a "**Straddle Period**"), the amount of any Taxes based on or measured by income, receipts, property or payroll of an Acquired Company for the Pre-Closing Tax Period will be determined based on an interim closing of the books as of the close of business on the Closing Date and the amount of other Taxes of an Acquired Company for a Straddle Period that relates to the Pre-Closing Tax Period will be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction the numerator of which is the number of days in the taxable period ending on the Closing Date, and the denominator of which is the number of days in such Straddle Period.

(c) Each Party will cooperate fully, as and to the extent reasonably requested by the other Parties, in connection with the filing of Tax Returns pursuant to Section 6.2(a) and any audit, litigation or other proceeding with respect to Taxes. Such cooperation will include (i) the retention and (upon the other Party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding and (ii) making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Parties further agree, upon request, to use their reasonable efforts to obtain any certificate or other document from any Tax Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including with respect to the Contemplated Transactions).

(d) Notwithstanding anything to the contrary, all transfer, documentary, sales, use, stamp, registration and other such Taxes ("**Transfer Taxes**") incurred in connection with completion of the Contemplated Transactions will be borne fifty percent (50%) by Sellers and fifty percent (50%) by Parent. Fifty percent (50%) of the amount of any Transfer Tax, representing the portion borne by Sellers, will be included as a Transaction Expense. The Party required to do so by applicable Law shall pay each Transfer Tax to the appropriate Tax Authority and file all necessary Tax Returns and other documentation with respect to such Transfer Tax, and, if required by applicable Law, the Parties will, and will cause their Affiliates to, join in the execution of any such Tax Returns and other documentation in connection with such Transfer Tax. Each Party agrees to cooperate with the other Parties in the payment of any Transfer Tax and the filing of any corresponding Tax Returns, including promptly supplying any information in its possession that is reasonably necessary to pay such Transfer Tax and complete any such Tax Returns.

(e) The Sellers shall cause all Tax-sharing agreements, Tax allocation agreements, Tax indemnity agreements or similar agreements with respect to or involving an Acquired Company to be terminated as of the Closing Date and shall ensure that, after the Closing Date, no Acquired Company shall be bound thereby or have any liability thereunder.

6.3 Directors' & Officers' Insurance and Indemnification.

(a) For six years after the Closing Date, Parent will ensure that the Governing Documents of the Company contain provisions no less favorable with respect to the elimination of liability of directors and officers, and the indemnification of (and advancement of expenses to) directors and officers, as are set forth in the Governing Documents of the Company as in effect immediately prior to the Agreement Date.

(b) Without limiting Section 6.3(a), from and after the Closing Date, to the fullest extent permitted by Law, Parent will ensure that the Company indemnifies and defends each Person who is now or has been at any time a director or officer of the Acquired Companies (collectively, the "**Company Indemnified Parties**"), and holds each of the Company Indemnified Parties harmless, from and against all Damages in connection with any claim, based in whole or in part on or arising in whole or in part out of the fact that the Company Indemnified Party (or the Person controlled by the Company Indemnified Party) is or was a director or officer of the Company and pertaining to any matter existing or arising out of actions or omissions occurring at or prior to the Closing Date, whether asserted or claimed prior to, at or after the Closing Date, in each case to the fullest extent permitted by Law.

(c) For six years after the Closing Date, Parent will, or will cause the Company to, maintain directors' and officers' insurance and indemnification policies that provide coverage in the same amounts and on terms no less advantageous than the Company provided to directors and officers as of immediately prior to the Agreement Date and extended reporting (i.e., run-off or tail) endorsements that provide directors' and officers', employment practices and fiduciary coverage, providing coverage for all such directors or officers with respect to events occurring prior to the Closing Date (with the same coverage, limits and deductibles as the corresponding insurance policies in effect as of immediately prior to the Agreement Date, unless otherwise agreed by the Seller Representative), without any gaps in coverage.

(d) This Section 6.3 is intended to be for the benefit of, and will be enforceable by, each Company Indemnified Party and each Company Indemnified Party's heirs, representatives and successors.

6.4 Access to Records after Closing.

(a) The Seller Representative shall have the right for a period of six years following the Closing Date to have reasonable access, during regular business hours and upon reasonable advance written notice, to the books and records regarding the Acquired Companies and needed by the Seller Representative for the purpose of determining any matter relating to its rights and obligations (or those of the Sellers) hereunder, or for the purpose of (i) compliance with reporting, disclosure, filing or other similar requirements applicable to the Seller Representative or the Sellers (including under applicable securities laws) with any Government Agency or securities exchange having jurisdiction over the Seller Representative or the Sellers; (ii) for use in any other judicial, regulatory, administrative or other Action (other than any Action against or involving Parent or its Affiliates; provided, that this proviso shall not in any way limit or preclude discovery or any other documentary request or demand in any such Action); (iii) for use in connection with any Tax, audit, accounting, financial reporting, regulatory, compliance, claims, internal investigation or other similar requirements or proceedings; or (iv) to comply with its obligations under this Agreement or any Transaction Document; provided, however, that (A) Parent shall not be obligated to provide the Seller Representative with any information where such access or disclosure would violate any Law, fiduciary duty or term of any Contract or prohibit the ability of Parent or any of its Affiliates to assert attorney-client, attorney work product or other similar privilege and (B) Parent may redact from any information provided such portion of that information to the extent it exclusively regards Parent or its Affiliates and is not otherwise not related to the Acquired Companies; provided, further, in the case of the foregoing clause (A), that Parent shall, and shall cause its Affiliates to, reasonably cooperate to enable the Seller Representative to enter into appropriate confidentiality, joint defense or similar documents or agreements so that the Seller Representative may obtain access to such information. Parent shall be entitled to recover from the Seller Representative its reasonable, documented, out-of-pocket costs (including copying costs) incurred in connection with its provision of such access. All such information and access shall be subject to the terms and conditions of a non-disclosure agreement to be mutually acceptable to Parent and the Seller Representative, and no such information shall be required to be provided by Parent until such non-disclosure agreement has been duly executed and delivered by each of Parent and the Seller Representative.

(b) Any information that is provided to the Seller Representative pursuant to this Section 6.5 shall be deemed to remain the property of the providing party. Nothing contained in this Agreement shall be construed as granting or conferring rights of license or otherwise in any such information.

(c) Parent shall not have any liability to the Seller Representative or any other Person in the event that any information provided pursuant to this Section 6.4 is found to be inaccurate. Parent shall not have any liability to the Seller Representative or any other Person if any information is destroyed or lost after reasonable commercial efforts by Parent to comply with the provisions of this Section 6.4.

6.5 Public Disclosure.

(a) The Parties have agreed upon the form of the press release each Party will issue following the execution of this Agreement. From the Agreement Date until the Closing Date, no Party or their respective Affiliates or representatives will issue any public statement or communication regarding the subject matter of this Agreement or the Contemplated Transactions, including, if applicable, the termination of this Agreement and the reasons therefor, without the consent of the Company (or after the Closing, the Seller Representative) and Parent, which consent will not be unreasonably conditioned, withheld or delayed; provided, however, that the Parties may (i) make public statements and disclose information to the extent required by applicable Law, including any securities Laws, SEC rules or regulations or applicable stock exchange rules or requirements, and (ii) make public statements and disclose information in connection with the enforcement of any right or remedy relating to this Agreement or the Contemplated Transactions.

(b) In connection with the Closing, (i) Parent and the Seller Representative will mutually agree on a public statement(s) or press release(s) about the Contemplated Transactions and thereafter will be permitted to respond to press inquiries consistent with the information set forth in the public statement(s) or press release(s) and to make public statements and disclose information to the extent required by applicable Law, including any securities Laws or applicable stock exchange rules or requirements and (ii) the Seller Representative will cause the Company and the Sellers to use commercially reasonable efforts to provide as soon as reasonably practicable any information reasonably requested by Parent prior to the Closing to enable Parent to prepare and file all reports required to be filed by Parent pursuant to the Exchange Act and any other applicable securities Laws, and the rules and regulations of NASDAQ, as a result of the Closing.

(c) From and after the Closing, the Sellers and the Seller Representative shall, and shall cause their respective Affiliates and representatives to, treat as confidential and not disclose or use, directly or indirectly, any and all non-public, confidential or proprietary information, trade secrets, knowledge or data about the Acquired Companies or Parent or its or their respective Affiliates (collectively, the "**Confidential Information**"), except to the extent that such information (i) is or becomes generally available to the public other than as a result of disclosure thereof by the Sellers, the Seller Representative or their respective representatives or (ii) is or becomes available to the Seller, the Seller Representative or their respective representatives from a source which is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If, after the Closing, any Seller or the Seller Representative is legally required to disclose any Confidential Information, it shall, (A) notify Parent as soon as reasonably practicable to permit Parent to seek a protective order or take other appropriate action and (B) cooperate as reasonably requested by Parent, at its sole cost and expense, in its efforts to obtain a protective order or other reasonable assurance that confidential treatment will be accorded such Confidential Information. If, in the absence of a protective order, a Seller or the Seller Representative is compelled as a matter of Law to disclose Confidential Information to a third party, it may disclose to the third-party compelling disclosure only the portion of such Confidential Information as is required by Law to be disclosed.

(d) From and after the Closing, Parent shall, and shall cause its respective Affiliates and representatives to, treat as confidential and not disclose or use, directly or indirectly, any and all non-public, confidential or proprietary information, trade secrets, knowledge or data about the Sellers or their respective Affiliates, which, for the avoidance of doubt, shall not include Parent or any Acquired Company (collectively, the "**Seller Confidential Information**"), except to the extent that such information (i) is or becomes generally available to the public other than as a result of disclosure thereof by Parent or its representatives or (ii) is or becomes available to Parent or its representatives from a source which is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If, after the Closing, Parent is legally required to disclose any Seller Confidential Information, it shall, (A) notify the Seller Representative as soon as reasonably practicable to permit the Seller Representative to seek a protective order or take other appropriate action and (B) cooperate as reasonably requested by the Seller Representative, at its sole cost and expense, in its efforts to obtain a protective order or other reasonable assurance that confidential treatment will be accorded such Seller Confidential Information. If, in the absence of a protective order, Parent is compelled as a matter of Law to disclose Seller Confidential Information to a third party, it may disclose to the third-party compelling disclosure only the portion of such Seller Confidential Information as is required by Law to be disclosed.

(e) Notwithstanding the foregoing, nothing in this Section 6.5 shall limit any disclosure by any Seller or its Affiliates or successors or permitted assigns, in its non-publicly distributed marketing materials and in any non-public update or communication to its limited partners, investors or prospective investors, financing sources, accountants, consultants and others (so long as such disclosure has a valid business purpose and the recipients are bound by customary confidentiality provisions).

6.6 Lead-Sheathed Cables. The Acquired Companies shall use commercially reasonable efforts to remove and properly dispose of (and, if applicable, replace) all Lead-Sheathed Cable prior to the Closing; provided, for the avoidance of doubt, that Parent acknowledges and agrees that that the Closing shall not be conditioned upon the completion of the removal and disposal (and, if applicable, replacement) of the Lead-Sheathed Cable.

6.7 No Control of the Acquired Companies' Business. Nothing contained in this Agreement shall give Parent, directly or indirectly, the right to control or direct the Sellers' or any of the Acquired Companies' operations prior to the Closing. Prior to the Closing, the Sellers and each of the Acquired Companies shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over their respective businesses, assets and operations.

6.8 **Further Assurances**. Following the Closing, each of the Parties will use commercially reasonable efforts to execute and deliver such additional documents, instruments, conveyances and assurances, and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the Contemplated Transactions.

ARTICLE VII

CONDITIONS

7.1 **Conditions to Obligations of Each Party**. The respective obligations of each Party to effect the Contemplated Transactions are subject to the satisfaction or waiver (to the extent permitted by applicable Law) at or prior to the Closing of the following conditions:

(a) The Required Regulatory Approvals will have been obtained and will be in full force and effect in each case, without the imposition, individually or in the aggregate, of a Burdensome Condition.

(b) No provision of applicable Law and no Order will prohibit the consummation of the Contemplated Transactions, and no Action challenging this Agreement or the Contemplated Transactions or seeking to restrain, enjoin, prohibit or obtain material damages or other material relief in connection with this Agreement or the consummation of the Contemplated Transactions shall be pending.

7.2 **Conditions to Obligations of Parent**. The obligations of Parent, Merger Sub I and Merger Sub II to effect the Contemplated Transactions are subject to the satisfaction or waiver (to the extent permitted by applicable Law) at or prior to the Closing of the following conditions:

(a) The representations and warranties of the Sellers or the Company, as applicable, contained in Section 2.1 (Organization of Seller), Section 2.2 (Authority and Enforceability), Section 2.3 (Title to Company Units), Section 2.4(a)(i) (Consents and Approvals), Section 2.7 (Investment Representations), Section 2.9 (Broker and Finder Fees), Section 3.1 (Organization of the Acquired Companies), Section 3.2 (Authority and Enforceability), Section 3.3(a)(i) (Consents and Approvals), Section 3.4 (Capitalization), Section 3.5 (Subsidiaries and Other Business Interests), Section 3.30 (Seller Written Consent) and Section 3.31 (Broker and Finder Fees) (collectively, the "**Seller Fundamental Representations**") will, in each case, be true and correct in all respects as of the Closing with the same effect as though made as of such time (except for representations and warranties that are made expressly as of a specific date, which representations and warranties will be true and correct as of such date). The representations and warranties of the Sellers in Article II and the representations and warranties of the Company in Article III, in each case, other than the Seller Fundamental Representations, without giving effect to any qualifications or exceptions as to materiality or Material Adverse Change set forth therein, will be true and correct as of the Closing Date with the same effect as though made as of such time (except for representations and warranties that are made expressly as of a specific date, which representations and warranties will be true and correct as of such date), except where such failures to be so true and correct do not constitute, and are not reasonably expected to constitute, a Material Adverse Change of the Company.

(b) The Sellers and the Company will have performed in all material respects all of their respective obligations and covenants under this Agreement required to be performed by them on or prior to the Closing Date.

(c) The Acquired Companies will not have experienced a Material Adverse Change since the date of this Agreement.

(d) The Company and the Sellers will have delivered, or caused to be delivered, all agreements, instruments and documents required to be delivered pursuant to Section 1.7(b) and Section 1.7(c).

7.3 Conditions to Obligations of the Sellers and the Company. The obligations of the Company to effect the Contemplated Transactions are subject to the satisfaction or waiver (to the extent permitted by applicable Law) at or prior to the Closing of the following conditions:

(a) The representations and warranties of Parent in Sections 4.1 (Organization), 4.2 (Authority and Enforceability), 4.3 (Consents and Approvals) and 4.4 (Broker and Finder Fees) (collectively, the "**Parent Fundamental Representations**") will be true and correct as of the Closing with the same effect as though made as of such time (except for representations and warranties that are made expressly as of a specific date, which representations and warranties will be true and correct as of such date). The representations and warranties of Parent in Article IV, other than the Parent Fundamental Representations, will be true and correct in all material respects as of the Closing Date with the same effect as though made as of such time (except for representations and warranties that are made expressly as of a specific date, which representations and warranties will be true and correct as of such date).

(b) Parent will have performed in all material respects all of its obligations under this Agreement required to be performed by it on or prior to the Closing Date.

(c) Parent shall not be subject to any current, pending or threatened takeover, take private, or other merger and/or acquisition transaction of Parent that is reasonably likely to be consummated.

(d) The Parent Stock shall be registered pursuant to Section 12(b) of the Exchange Act and listed on NASDAQ.

(e) Parent will have delivered, or caused to be delivered, all agreements, instruments and documents required to be delivered pursuant to Section 1.7(a).

ARTICLE VIII
TERMINATION

8.1 Termination Events. By notice given prior to the Closing, this Agreement may be terminated as follows:

(a) By mutual written consent of Parent and the Sellers holding not less than 75% of the Company Units.

(b) By Parent or the Sellers holding not less than 75% of the Company Units:

(i) If any applicable Law makes consummation of the Contemplated Transactions illegal or otherwise prohibited.

(ii) If consummation of the Contemplated Transactions would violate any non-appealable final Order of any court or Government Agency having competent jurisdiction; provided that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to a Party if such Order was primarily due to the failure of such Party to perform any of its obligations under this Agreement.

(iii) If the Closing has not occurred on or before May 1, 2024, or such later date as the Parties may agree in writing (the "**End Date**"), unless the terminating Party is in material breach of this Agreement and such material breach causes, or results in, the failure of the Closing to occur by the End Date; provided, that if on May 1, 2024, (A) all of the conditions to the Closing described in Article VII other than the receipt of one or more Required Regulatory Approvals contemplated in Section 7.1(a) and actions that by their nature are to be performed or waived at the Closing have been satisfied or (B) Parent has exercised its right to delay the Closing as provided in Section 1.14, then the "**End Date**" shall automatically be extended to and shall be deemed to be July 1, 2024.

(c) By Parent if (i) any of the representations and warranties of the Sellers or the Company contained in this Agreement fail to be true, correct and complete, or any such representation or warranty shall have become untrue, incorrect or incomplete after the Agreement Date, in either case such that the condition set forth in Section 7.2(a) would not be satisfied or (ii) the Sellers or the Company have breached or failed to comply with any of their respective covenants or obligations under this Agreement to the extent required to be performed prior to the Closing such that the condition set forth in Section 7.2(b) (other than with respect to covenants to be performed on the Closing Date) would not be satisfied and such failure or breach with respect to any such representation, warranty, covenant or obligation cannot be cured or has not been cured by the earlier of 30 days after the giving of written notice to the Company and the Seller Representative of such failure or breach and the End Date; provided, however, that the right to terminate this Agreement pursuant to this Section 8.1(c) shall not be available to Parent if there shall have been an inaccuracy in any representation or warranty made by Parent in this Agreement or Parent shall have failed to perform all of its covenants or obligations required to be performed under this Agreement to the extent required to be performed prior to the Closing, in either case, such that the conditions set forth in Section 7.3(a) or Section 7.3(b) (other than with respect to covenants to be performed on the Closing Date) would not be satisfied.

(d) By the Sellers holding not less than 75% of the Company Units if (i) any of the representations and warranties of Parent contained in this Agreement fail to be true, correct and complete, or any such representation or warranty shall have become untrue, incorrect or incomplete after the Agreement Date, in either case such that the condition set forth in Section 7.3(a) would not be satisfied, (ii) Parent has breached or failed to comply with any of its covenants or obligations under this Agreement to the extent required to be performed prior to the Closing such that the condition set forth in Section 7.3(b) (other than with respect to covenants to be performed on the Closing Date) would not be satisfied and such failure or breach with respect to any such representation, warranty, covenant or obligation cannot be cured or has not been cured by the earlier of 30 days after the giving of written notice to Parent of such failure or breach and the End Date or (iii) within five (5) Business Days after the Company delivers a notice to Parent irrevocably certifying that (A) all conditions to the Closing set forth in Section 7.1 and Section 7.3 have been satisfied or waived and (B) the Company and the Sellers are ready, willing and able to complete the Closing, Parent fails to complete the Closing on the basis that the Debt Financing or any other financing is not available; provided, however, that the right to terminate this Agreement pursuant to this Section 8.1(d) shall not be available to the Sellers if there shall have been an inaccuracy in any representation or warranty made by the Sellers or the Company in this Agreement or the Sellers or the Company shall have failed to perform all of their respective covenants or obligations required to be performed under this Agreement to the extent required to be performed prior to the Closing, in either case, such that the conditions set forth in Section 7.2(a) or Section 7.2(b) (other than with respect to covenants to be performed on the Closing Date) would not be satisfied.

8.2 **Effect of Termination**. If this Agreement is terminated as permitted by Section 8.1, such termination will be without liability of any Party (or any shareholder, member, director, manager, officer, employee, agent, consultant or representative of such Party) to any other Party to this Agreement, except that (i) each Party will be responsible to the extent that such termination results from the willful and material breach by such Party of its obligations contained in this Agreement and (ii) the provisions of Section 6.5, this Section 8.2 and Article X and all provisions of the Nondisclosure Agreement will remain in full force and effect and survive any termination of this Agreement.

ARTICLE IX

SURVIVAL; INDEMNIFICATION; INVESTIGATION

9.1 **No Survival; Exclusive Remedy**. Other than in connection with Actual Fraud, none of the representations and warranties of any Party contained in this Agreement (including any certificate to be delivered pursuant to this Agreement), and none of the covenants of any Party required to be performed by such Party before the Closing shall survive the Closing, and thereafter none of the Parties or any of their respective Affiliates shall have any liability whatsoever with respect to any such representation, warranty, covenant or agreement, and no claim for breach of any such representation or warranty, detrimental reliance or other right or remedy (whether in contract, in tort or at law or in equity) may be brought after the Closing with respect thereto. The provisions of this Section 9.1 will not, however, prevent or limit a cause of action under Section 10.13 to obtain an injunction to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof or a cause of action under Section 9.2 with respect to the matters set forth therein. Unless otherwise indicated, the covenants and agreements set forth in this Agreement which by their terms are required to be performed after the Closing shall survive the Closing until they have been performed or satisfied. The Parties agree that the R&W Insurance Policy shall be the sole and exclusive remedy in respect of any losses and damages incurred by Parent and its Affiliates, equity holders, directors, managers, officers, representatives, successors, and assigns arising out of inaccuracies or breaches of any representations and warranties set forth in this Agreement or any certificate or other Transaction Documents made, delivered or issued in connection with the Contemplated Transactions, other than (a) rights or remedies based on any claim for Actual Fraud, (b) any dispute under Section 1.8 (which shall be governed by the terms thereof) (c) the right to obtain specific performance or an injunction to enforce the other Party's covenants or agreements contained herein in accordance with the terms hereof or (d) any Parent Indemnitee's rights under Section 9.2. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall be construed to limit Parent's rights under the R&W Insurance Policy.

9.2 **Indemnification**.

(a) Subject to the other terms and conditions of this Section 9.2, from and after the Closing, the Sellers shall jointly and severally indemnify and defend each of Parent, Merger Sub I, Merger Sub II, the Ultimate Surviving Entity and their Affiliates and their respective directors, managers, officers, agents, employees, general partners, members, stockholders, advisors or representatives (collectively, the "**Parent Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Damages incurred or sustained by, or imposed upon, any of the Parent Indemnitees based upon, arising out of, as a result of or related to any of the matters set forth on Schedule 9.2(a).

(b) To make a claim for indemnification under this Section 9.2, Parent shall give the Seller Representative written notice of such claim describing such claim (a "**Claim Notice**") and the nature and amount of any Damages, to the extent that the nature and amount thereof are determinable at such time, promptly after a Parent Indemnitee receives any written notice of any Action against or involving the Parent Indemnitee; provided, that the failure to notify or delay in notifying the Seller Representative will not relieve the Sellers of their obligations pursuant to Section 9.2(a), except to the extent the Sellers are actually prejudiced as a result of such failure or delay. Any Claim Notice must be delivered on or prior to the first (1st) anniversary of the Closing Date.

(c) If the Seller Representative disputes the amount of, or the Sellers' liability with respect to, a Claim Notice, the Seller Representative shall notify Parent in writing within 30 days of receipt of a Claim Notice (an "**Objection Notice**"). If the Seller Representative timely delivers an Objection Notice, then the Parties shall attempt in good faith for a period of up to 45 days to agree upon the rights of the respective Parties with respect to the claim. If the Parties do not reach an agreement by the conclusion of such 45-day period, then either Party may bring suit to resolve the Parties' respective rights with respect to such claim. If the Seller Representative does not timely deliver an Objection Notice, then the Sellers shall be deemed to have accepted responsibility for the claims set forth in the Claim Notice, and Parent and the Seller Representative shall deliver joint written instructions to the Escrow Agent to disburse the amount set forth in the Claim Notice (and, if the amount of Damages was not determinable at the time of the initial Claim Notice, such amount of Damages as is indemnifiable under this Section 9.2 when such amount is determinable) to Parent from the Indemnification Escrow Amount.

(d) Neither the Seller Representative nor the Sellers shall have any right to control or assume the defense of any Action relating to a Claim Notice, and the Parent Indemnitee may settle any such Action in its sole discretion (subject to good faith consultation with the Seller Representative prior to entering into any such settlement; provided, that no settlement requiring any Seller or its Affiliates to take or refrain from taking any action or be subject to any prior approval restriction or any other restriction on its business or activities may be entered into without the prior written consent of such Seller, which may be withheld in its sole discretion).

(e) After any final decision, judgment or award shall have been rendered by a Government Agency of competent jurisdiction, or a settlement shall have been agreed, or Parent and the Seller Representative shall have arrived at a mutually binding agreement with respect to a claim for indemnification, Parent and the Seller Representative shall deliver joint written instructions to the Escrow Agent to disburse such amount to Parent from the Indemnification Escrow Amount.

(f) From and after the Closing, the Sellers and their Affiliates shall not seek, or have any right to seek, indemnification, subrogation or contribution from any Parent Indemnitee with respect to any action, suit, proceeding, complaint, claim or demand brought by any Parent Indemnitee (whether such action, suit, proceeding, complaint, claim or demand is pursuant to this Agreement for any amount for which the Sellers are otherwise expressly responsible pursuant to this Agreement, applicable Law or otherwise) or any payment for indemnifiable Damages by any Seller hereunder.

(g) Parent acknowledges and agrees that indemnification pursuant to this Section 9.2, the amount of which shall in no event exceed the Indemnification Escrow Amount, shall be the sole and exclusive remedy of the Parent Indemnitees for any and all Damages from and after the Closing in connection with the matters set forth on Schedule 9.2(a), other than (i) rights or remedies based on any claim for Actual Fraud or (ii) any dispute under Section 1.8 (which shall be governed by the terms thereof).

(h) Within five (5) Business Days following the first (1st) anniversary of the Closing Date, Parent and the Seller Representative shall deliver a joint written instruction to the Escrow Agent to promptly release to the Seller Representative, for further distribution to the Sellers in accordance with the Closing Allocation Schedule, any remaining cash balance of the Indemnification Escrow Amount, less any amounts subject to an unresolved Claim Notice delivered prior to such date. Upon the final determination of any such unresolved Claim Notice, Parent and the Seller Representative shall deliver a joint written instruction to the Escrow Agent to promptly release any remaining balance of the Indemnification Escrow Amount to, as applicable, Parent or the Seller Representative, for further distribution to the Sellers in accordance with the Closing Allocation Schedule.

(i) All indemnification payments made under this Agreement shall be treated by the parties as an adjustment to the Merger Consideration for Tax purposes, unless otherwise required by Law.

9.3 Investigation; No Other Representations or Warranties.

(a) Parent, on its own behalf and on behalf of the other Parent Related Parties, acknowledges and agrees that, in connection with the decision to enter into this Agreement and consummate the Contemplated Transactions, Parent has conducted an independent review, investigation and analysis (financial, tax, legal, operational and otherwise) of the Acquired Companies and their respective businesses. Parent, on its own behalf and on behalf of the other Parent Related Parties, further acknowledges and agrees that, notwithstanding anything to the contrary contained herein, except for the representations and warranties expressly made by the Sellers in Article II and the Company in Article III (in each case, as qualified or modified by the Schedules), none of the Seller Related Parties or any other Person has made, is making or will make, or will have any liability with respect to, and the Parent Related Parties have not relied, are not relying and will not rely on, and will not have any remedy, recourse or entitlement whatsoever with respect to, any representation or warranty, express or implied, at law or in equity, including with respect to (a) any Seller or any Acquired Company, (b) the Company Units or any other Equity Securities of the Acquired Companies, (c) the structure, acquisitions, dispositions, businesses, assets, liabilities, operations, prospects, condition (financial or otherwise), Employees, service providers, customers or suppliers of the Acquired Companies, (d) the Contemplated Transactions, (e) the accuracy or completeness of any information regarding any of the foregoing, including any information contained in any confidential information memorandum, management presentation, quality of earnings report, market study or other due diligence report or memorandum, any projections or budgets or any other information, document or material made available to any Parent Related Party in any "data room" or online "data site," during any management presentation or in any other form or manner or (f) any other matter whatsoever. Without limiting the generality of the foregoing, Parent, on its own behalf and on behalf of the other Parent Related Parties, further acknowledges and agrees that, (i) with respect to any estimate, projection, forecast or other forward looking statement delivered or made available to any Parent Related Party, (A) there are uncertainties inherent in attempting to make such estimates, projections, forecasts and forward looking statements, (B) the Parent Related Parties are aware that actual results may differ materially, (C) no Person shall have any claim against any Seller Related Party or any other Person with respect to any such estimate, projection, forecast or forward looking statement and (ii) none of the Seller Related Parties or any other Person has made, is making or will make, or will have any liability with respect to, any representations or warranties regarding the probable success or profitability of the Acquired Companies or their respective businesses.

(b) Each Seller and the Company, on their own behalf and on behalf of their respective Affiliates, acknowledges and agrees that, in connection with its decision to enter into this Agreement and consummate the Contemplated Transactions, such Seller and the Company have conducted an independent review, investigation and analysis (financial, tax, legal, operational and otherwise) of Parent and its business. Each Seller and the Company, on their own behalf and on behalf of their respective Affiliates, further acknowledges and agrees that, notwithstanding anything to the contrary contained herein, except for the representations and warranties expressly made by Parent in Article IV (in each case, as qualified or modified by the Parent Schedules or the Parent SEC Documents), neither Parent nor any other Person has made, is making or will make, or will have any liability with respect to, and no Seller or the Company has relied, is relying or will rely on, and will not have any remedy, recourse or entitlement whatsoever with respect to, any representation or warranty, express or implied, at law or in equity, including with respect to (a) Parent, (b) the Equity Securities of Parent, (c) the structure, acquisitions, dispositions, businesses, assets, liabilities, operations, prospects, condition (financial or otherwise), employees, service providers, customers or suppliers of Parent, (d) the Contemplated Transactions, (e) the accuracy or completeness of any information regarding any of the foregoing, including any information contained in any confidential information memorandum, management presentation, quality of earnings report, market study or other due diligence report or memorandum, any projections or budgets or any other information, document or material made available to any Seller or the Company in any "data room" or online "data site," during any management presentation or in any other form or manner or (f) any other matter whatsoever. Without limiting the generality of the foregoing, each Seller and the Company, on their own behalf and on behalf of their respective Affiliates, further acknowledges and agrees that, (i) with respect to any estimate, projection, forecast or other forward looking statement delivered or made available to any Seller or the Company, (A) there are uncertainties inherent in attempting to make such estimates, projections, forecasts and forward looking statements, (B) each Seller and the Company is aware that actual results may differ materially, (C) no Person shall have any claim against Parent or any other Person with respect to any such estimate, projection, forecast or forward looking statement and (ii) neither Parent nor any other Person has made, is making or will make, or will have any liability with respect to, any representations or warranties regarding the probable success or profitability of Parent or its business.

ARTICLE X

General Provisions

10.1 Seller Representative.

(a) Each Seller hereby appoints the Seller Representative as agent and attorney-in-fact for such Seller to have absolute authority, for and on behalf of the Sellers, including with respect to the following: (i) to give and receive notices and communications, to object to payments, to agree to, negotiate, enter into settlements and compromises of, and demand suit or arbitration or other procedures and comply with orders of courts and awards of arbitrators with respect to claims, and to otherwise act on behalf of the Sellers following the Closing with respect to any matter involving the Sellers' rights and obligations under this Agreement and the other Transaction Documents, and (ii) to take all actions necessary or appropriate in the judgment of the Seller Representative for the accomplishment of the foregoing.

(b) The Seller Representative will have the right to (i) take any action contemplated to be taken by the Sellers under this Agreement or any other Transaction Document; (ii) negotiate, determine, defend and settle any disputes that may arise under or in connection with this Agreement or any other Transaction Document, including with respect to any indemnification claim pursuant to Article IX; and (iii) make, execute, acknowledge and deliver any releases, assurances, receipts, requests, instructions, notices, agreements, certificates and any other instruments, and generally do any and all things and take any and all actions that may be requisite, proper or advisable in connection with this Agreement, or any other Transaction Document.

(c) An amount equal to $500,000 (the "**Representative Holdback Amount**") shall be held by the Seller Representative as a fund from which the Seller Representative shall, in its sole discretion, (i) reimburse itself for or pay directly any out-of-pocket fees, expenses or costs it incurs in performing its duties and obligations under this Agreement and the other Transaction Documents, including out-of-pocket fees and expenses incurred pursuant to the procedures and provisions set forth herein and legal and consultant fees, expenses and costs for reviewing, analyzing and defending any claim or process arising under or pursuant to this Agreement or any Transaction Document and/or (ii) satisfy any other obligation or liability of any Seller under this Agreement or any Transaction Document as set forth herein (provided that, for the avoidance of doubt, the Seller Representative shall be entitled to do so in its sole discretion and shall have no obligation to satisfy any other obligation or liability of any Seller in priority to the items in clause (i) above or at all). Each Seller acknowledges that the Seller Representative will not be liable for any loss of principal of the Representative Holdback Amount except to the extent finally determined by a court of competent jurisdiction (not subject to further appeal) to have resulted directly and exclusively from the Seller Representative's fraud or willful misconduct. At such time as the Seller Representative deems appropriate in its sole discretion, the Seller Representative shall pay to each Cash Seller his, her or its pro rata share of all or any portion of the remaining Representative Holdback Amount in accordance with their respective Closing Percentages.

(d) Notwithstanding any of the foregoing to the contrary, in no event shall the Seller Representative have the power or authority to amend, modify, waive or change any provision of this Agreement or any Transaction Document or otherwise take any action (including any settlement, waiver or resolution of any provision herein) that requires the consent of the Sellers holding not less than 75% of the Company Units without the prior approval of the Sellers holding not less than 75% of the Company Units.

10.2 **Expenses**. The Company and the Sellers, on one hand, and Parent, Merger Sub I and Merger Sub II, on the other hand, each will bear their respective fees and expenses incurred in connection with the preparation, negotiation, execution, and performance of this Agreement and the consummation and performance of the Contemplated Transactions, including all fees and expenses of their respective representatives. The foregoing notwithstanding, Parent will be responsible for all expenses related to the R&W Insurance Policy, including premiums, underwriting charges and due diligence charges.

10.3 **Notices**. All notices, requests, consents, claims, demands, waivers and other communications hereunder must be in writing and must be sent to the respective parties at the following addresses (or at such other address for a party as will be specified in a notice given in accordance with this Section 10.3):

If to Parent, Merger Sub I or Merger Sub II:

Name:	Shenandoah Telecommunications Company
Address:	500 Shentel Way
	Edinburg, Virginia 22824
Email:	[***]
Attention:	[***]

With a copy to:

Name:	Hunton Andrews Kurth LLP
Address:	951 East Byrd Street
	Richmond, VA 23219
Email:	shaas@huntonak.com
Attention:	Steven M. Haas
Address:	600 Travis Street
	Suite 4200
	Houston, TX 77002
Email:	j.a.glaccum@huntonak.com
Attention:	J.A. Glaccum

If to Company (prior to the Closing) or the Seller Representative:

Name:	Horizon Acquisition Parent LLC
Address:	c/o Novacap 700-3400 rue de l'Eclipse Brossard, Qc, J4Z 0P3
Email:	[***]
Attention:	[***]

With a copy to:

Name:	Baker Botts L.L.P.
Address:	30 Rockefeller Plaza 44th Floor New York, NY 10112
Email:	neil.torpey@bakerbotts.com
Attention:	Neil Torpey

With a copy to:

Name:	GCM Grosvenor
Address:	767 Fifth Avenue 14th Floor New York, NY 10153
Email:	[***]
Attention:	[***]

With a copy to:

Name:	Greenberg Traurig LLP
Address:	2101 L St NW Suite 1000 Washington, DC 20037
Email:	hawak@gtlaw.com and turekc@gtlaw.com
Attention:	Kemal Hawa and Chris Turek

If sent in accordance with this Section 10.3, a communication will be deemed to have been received (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); or (c) on the date sent by email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient.

10.4 **Severability**. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

10.5 **Entire Agreement**. This Agreement contains the entire understanding of the Parties with respect to the subject matter of this Agreement and supersedes all other agreements and understandings of the Parties with respect to the subject matter of this Agreement.

10.6 **Assignment**. No Party may assign its rights or obligations hereunder without the prior written consent of the other Parties. Notwithstanding the foregoing, Parent may (without the prior written consent of any other Party) make a collateral assignment for security interest purposes of its rights (but not its obligations) under this Agreement or any other Transaction Document to any Debt Financing Source (or any representative or agent of a Debt Financing Source) providing financing to Parent, any of Parent's permitted assigns or any Affiliates of Parent or Parent's permitted assigns. No assignment will relieve the assigning Party of any of its obligations hereunder.

10.7 **Successors and Assigns**. This Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors and permitted assigns.

10.8 **No Third-Party Beneficiaries**. This Agreement is for the sole benefit of the Parties to this Agreement. Nothing in this Agreement, express or implied, is intended to or will confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, other than (i) Section 6.3, which is intended to be for the benefit of the Company Indemnified Parties covered thereby and may be enforced by such Company Indemnified Parties, (ii) Section 10.1, relating to the Seller Representative and may be enforced by the Seller Representative, (iii) Section 10.15, relating to the Seller Representative and Baker Botts L.L.P. ("**Baker Botts**"), and may be enforced by the Seller Representative and Baker Botts, and (iv) Sections 10.6, 10.9, 10.10, 10.11, 10.16 and this Section 10.8, which are intended for the benefit of the Debt Financing Sources and may be enforced by the Debt Financing Sources.

10.9 **Amendment and Modification; Waiver**. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by the Seller Representative (subject to the prior approval of Sellers holding not less than 75% of the Company Units) and Parent. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Seller Representative (subject to the prior approval of Sellers holding not less than 75% of the Company Units) or Parent. No waiver by any Party will operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Notwithstanding anything to the contrary contained herein, (a) the definition of "Material Adverse Change" and Sections 10.6, 10.8, 10.10, 10.11 and this Section 10.9 (and any related definition or other provision of this Agreement to the extent a modification, waiver or termination of such provision would modify the substance of the foregoing provisions) may not be modified, waived or terminated in a manner that is materially adverse to the Debt Financing Sources under the Debt Commitment Letter without the prior written consent of the Debt Financing Sources and (b) the End Date and Section 10.16 (and any related definition or other provision of this Agreement to the extent a modification, waiver or termination of such provision would modify the substance of the foregoing provisions) may not be modified, waived or terminated without the prior written consent of the Debt Financing Sources.

10.10 **Governing Law; Venue**. This Agreement, the Transaction Documents, the other certificates and schedules (including the Schedules) delivered pursuant hereto or thereto and the other documents, instruments and agreements specifically referred to herein or therein or delivered pursuant hereto or thereto, and all claims or causes of action (whether in contract or tort) that may be based upon, arise out of or relate hereto or thereto, or the negotiation, execution or performance of hereof or thereof (including any claim or cause of action based upon, arising out of or related to any representation or warranty made in or in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed exclusively by the internal Laws of the State of Delaware, without giving effect to any choice of Law or conflict of Laws rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware; provided, that the adjudication of any Actions of any kind or nature, whether at law or equity, in contract, in tort or otherwise, in each case against the Debt Financing Sources in connection with this Agreement, the Debt Commitment Letter or the Debt Financing or the other Contemplated Transactions and thereby shall be governed by and construed in accordance with the laws of the State of New York.

10.11 Exclusive Jurisdiction; Service of Process; MUTUAL WAIVER OF JURY TRIAL. Any suit, Action or proceeding arising out of or relating to this Agreement, any Transaction Document, any other certificate or schedule (including the Schedules or the Parent Schedules) delivered pursuant hereto or thereto or any transaction contemplated hereby or thereby shall be brought exclusively in the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such suit, Action or proceeding, the United States District Court for the District of Delaware, or to the extent neither of such courts has subject matter jurisdiction over such suit, Action or proceeding, the Superior Court of the State of Delaware, and in each case, the appellate courts having jurisdiction of appeals in such courts (collectively, the "**Specified Courts**"), and each of the Parties hereby irrevocably submits to the exclusive jurisdiction of the Specified Courts for itself and with respect to its property, generally and unconditionally, for the purpose of any such suit, Action or proceeding. Each Party irrevocably and unconditionally waives any objection to the laying of venue of any suit, Action or proceeding arising out of or relating to this Agreement, any Transaction Document, any other certificate or schedule (including the Schedules or the Parent Schedules) delivered pursuant hereto or thereto or the transactions contemplated hereby or thereby in the Specified Courts, and hereby irrevocably and unconditionally waives and agrees not to plead or claim in any Specified Court or elsewhere that any such suit, Action or proceeding brought in any Specified Court has been brought in an inconvenient forum. The choice of venue set forth in this Section 10.11 is intended by the Parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the Parties with respect to or arising out of this Agreement, any Transaction Document, any other certificate or schedule (including the Schedules or the Parent Schedules) delivered pursuant hereto or thereto or the transactions contemplated hereby or thereby in any jurisdiction other than those specified in this Section 10.11. A final judgment in any such suit, Action or proceeding may be enforced in other jurisdictions by suit, Action or proceeding on the judgment or in any other manner provided by Law. Each Party further agrees that service of any process, summons, notice or document by U.S. registered mail to such Party's respective address set forth herein shall be effective service of process for any such suit, Action or proceeding. Notwithstanding the foregoing, each of the Parties agrees that it will not bring or support any Action against the Debt Financing Sources under the Debt Commitment Letter, including any dispute arising out of or relating in any way to the Debt Commitment Letter or the performance thereof, in any forum other than exclusively in federal court sitting in the State of New York, Borough of Manhattan in the City of New York. EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY TRANSACTION DOCUMENT, THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (INCLUDING THE DEBT FINANCING UNDER THE DEBT COMMITMENT LETTER) OR THE ACTIONS OF SUCH PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF OR THEREOF. EACH PARTY FURTHER WAIVES ANY RIGHT TO SEEK TO CONSOLIDATE ANY SUCH SUIT OR OTHER LEGAL PROCEEDING IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER SUIT OR OTHER LEGAL PROCEEDING IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EACH PARTY FURTHER CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED OR WARRANTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND (D) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Schedules; Parent Schedules.

(a) The Schedules are arranged in sections corresponding to the numbered and lettered sections of this Agreement, but the disclosures in any section of the Schedules will qualify any other section in this Agreement to the extent that the relevance of such disclosures to such other section is reasonably apparent on the face of such disclosure, whether or not a specific cross-reference appears; provided, that nothing in the Schedules shall be construed as disclosed against or qualifying Section 3.8(b) unless listed specifically on Schedule 3.8(b). Disclosure of any fact or item in the Schedules will not necessarily mean that such item or fact, individually or in the aggregate, is material or adverse to the business, results of operations or financial condition of the Company, or that such item or fact has had or is expected to have a Material Adverse Change or that such item or fact is required to be disclosed pursuant to this Agreement. The disclosure of any information concerning an item or fact in the Schedules does not imply that any other, undisclosed item or fact that has a greater significance or value is material. No disclosure in the Schedules shall constitute, or be deemed to be, an admission to any third party concerning such item, including with respect to any actual or possible breach or violation of any Contract or Law, or a waiver of any attorney-client privilege associated with such information or item or any protection afforded by the work-product doctrine with respect to any of the information or items disclosed or discussed therein.

(b) The Parent Schedules are arranged in sections corresponding to the numbered and lettered sections of this Agreement, but the disclosures in any section of the Parent Schedules will qualify any other section in this Agreement to the extent that the relevance of such disclosures to such other section is reasonably apparent on the face of such disclosure, whether or not a specific cross-reference appears. Disclosure of any fact or item in the Parent Schedules will not necessarily mean that such item or fact, individually or in the aggregate, is material or adverse to the business, results of operations or financial condition of Parent, or that such item or fact has had or is expected to have a Material Adverse Change or that such item or fact is required to be disclosed pursuant to this Agreement. The disclosure of any information concerning an item or fact in the Schedules does not imply that any other, undisclosed item or fact that has a greater significance or value is material. No disclosure in the Parent Schedules shall constitute, or be deemed to be, an admission to any third party concerning such item, including with respect to any actual or possible breach or violation of any Contract or Law, or a waiver of any attorney-client privilege associated with such information or item or any protection afforded by the work-product doctrine with respect to any of the information or items disclosed or discussed therein.

10.13 Remedies; Specific Performance.

(a) The Parties agree that irreparable damage would occur (for which monetary relief, even if available, would not be an adequate remedy) in the event that any of the provisions of this Agreement were not performed by any Party, as applicable, in accordance with their specific terms or were otherwise breached by any Party, as applicable, including if the Parties fail to take any action required of them hereunder to consummate the Contemplated Transactions at the time required by this Agreement. It is accordingly agreed that (i) the Parties shall be entitled to an injunction or injunctions, specific performance, or other equitable relief to prevent breaches of this Agreement by any Party, as applicable, and to enforce specifically the terms and provisions hereof against each Party, as applicable, without proof of damages or otherwise, this being in addition to any other remedy to which the Parties are entitled at law or in equity and (ii) the right of specific performance and other equitable relief is an integral part of the Contemplated Transactions and without that right, none of the Parties would have entered into this Agreement. The Parties agree not to assert that a remedy of specific performance or other equitable relief is unenforceable, invalid, contrary to law or inequitable for any reason, and agree not to assert that a remedy of monetary damages would provide an adequate remedy or that the Parties otherwise have an adequate remedy at law. The Parties acknowledge and agree that any Party seeking an injunction or injunctions to prevent breaches of this Agreement and/or to enforce specifically the terms and provisions of this Agreement in accordance with this Section 10.13 shall not be required to provide any bond or other security in connection with any such order or injunction.

(b) Notwithstanding anything to the contrary contained in this Agreement (including Section 10.13(a)), from and after the Closing, no Party shall have, and to the fullest extent permitted by Law each Party hereby expressly, irrevocably and unconditionally waives and releases, any right of rescission or any similar equitable right or remedy.

(c) In furtherance and not in limitation of the foregoing, and for the avoidance of doubt, Parent acknowledges and agrees that its obligations hereunder (including but not limited to its obligation to consummate the Contemplated Transactions) shall not be contingent or in any way limited by the availability of the Debt Financing or any other financing from any third party, and that in the event Parent fails to take any action required of Parent hereunder to consummate the Contemplated Transactions at the time required by this Agreement on the basis that the Debt Financing or any other financing is not available, the Sellers shall be entitled to seek an injunction or injunctions, specific performance and any other equitable relief the Sellers may wish to pursue in order to cause Parent to consummate the Contemplated Transactions.

10.14 Attorney-Client Privilege and Waiver of Conflicts. Parent hereby waives and agrees not to assert, and agrees to cause the Company to waive and not to assert, any actual or potential conflict of interest arising out of or relating to Baker Botts' representation, after the Closing Date, of the Sellers or the Seller Representative in any dispute with Parent or the Company or any other matter involving the Contemplated Transactions (each, a "**Post-Closing Representation**"), in connection with this Agreement and the Contemplated Transactions ("**Pre-Closing Representation**"). Parent further waives and agrees not to assert, and agrees to cause the Acquired Companies to waive and not to assert, in connection with any Post-Closing Representation, any attorney-client privilege with respect to any communication between Baker Botts and the Sellers or the Seller Representative, the Company or any director, officer, employee or representative of the Company that relates to the Pre-Closing Representation (it being the intention of the Parties that all rights to such attorney-client privilege, including the right to control such attorney-client privilege, will be held by the Sellers and the Seller Representative). Recognizing that Baker Botts has acted as legal counsel to the Company prior to the Closing, and that Baker Botts may act as legal counsel to one or more of the Sellers and the Seller Representative after the Closing, Parent on its own behalf and on behalf of the Company, and the Company hereby waives, on its own behalf and agrees to cause its Affiliates to waive, any conflicts that may arise in connection with Baker Botts representing the Sellers and the Seller Representative after the Closing as such representation may relate to Parent, the Company or the Contemplated Transactions. In addition, all communications between the Sellers, the Seller Representative and the Company, on the one hand, and Baker Botts on the other hand, related to the Contemplated Transactions will be deemed to be attorney-client confidences that belong solely to the Sellers and the Seller Representative (and not the Company) (the "**Seller Pre-Closing Communications**"). From and after the Closing, Parent and the Company will maintain the confidentiality of all such material and information. Without limiting the generality of the foregoing, from and after the Closing, (a) the Sellers and the Seller Representative (and not the Company) will be the sole holders of the attorney-client privilege with respect to such engagement, and the Company will not be a holder thereof and (b) Baker Botts will have no duty whatsoever to reveal or disclose any such attorney-client communications or files to the Company by reason of any attorney-client relationship between Baker Botts and the Company or otherwise. Parent and the Company hereby acknowledge and confirm that each has had the opportunity to review and obtain adequate information regarding the significance and risks of the waivers and other terms and conditions of this Section 10.14, including the opportunity to discuss with counsel such matters and reasonable alternatives to such terms. This Section 10.14 is for the benefit of the Sellers, the Seller Representative and Baker Botts, and the Sellers, the Seller Representative and Baker Botts are intended third party beneficiaries of this Section 10.14. This Section 10.14 will be irrevocable, and no term of this Section 10.14 may be amended, waived or modified, without the prior written consent of the Sellers, the Seller Representative and Baker Botts affected thereby. The covenants and obligations set forth in this Section 10.14 will survive the Closing.

10.15 Release; Nonrecourse Parties.

(a) Effective as of the Closing Date, except in the case of Actual Fraud or except for any rights or obligations under this Agreement or the other Transaction Documents, Parent and each of the Acquired Companies on behalf of itself and each of its respective Affiliates and each of its respective current and former officers, directors, employees, partners, members, advisors, successors and assigns (collectively, the "**Parent Releasing Parties**"), hereby irrevocably and unconditionally releases and forever discharges each of the Sellers, the Seller Representative and their respective Affiliates and current and former officers, directors, employees, partners, members, advisors, successors and assigns (collectively, the "**Seller Released Parties**") of and from any and all Actions, causes of action, suits, proceedings, executions, judgments, duties, debts, dues, accounts, bonds, contracts and covenants (whether express or implied), and claims and demands whatsoever whether in law or in equity which the Parent Releasing Parties may have against each of the Seller Released Parties, now or in the future, in each case, in respect of any cause, matter or thing relating to the conduct, management or operation of the business and affairs of the Acquired Companies, the assets or liabilities of the Acquired Companies or the ownership of the Company Units.

(b) Effective as of the Closing Date, except in the case of Actual Fraud or except for any rights or obligations under this Agreement or the other Transaction Documents, the Seller Representative and each Seller, on behalf of itself and each of its Affiliates and each of their respective current and former officers, directors, employees, partners, members, advisors, successors and assigns (collectively, the "**Seller Releasing Parties**"), hereby irrevocably and unconditionally releases and forever discharges Parent, its Affiliates, each of the Acquired Companies and its and their respective current and former officers, directors, employees, partners, members, advisors, successors and assigns (collectively, the "**Parent Released Parties**") of and from any and all Actions, causes of action, suits, proceedings, executions, judgments, duties, debts, dues, accounts, bonds, contracts and covenants (whether express or implied), and claims and demands whatsoever whether in law or in equity which the Parent Releasing Parties may have against each of the Parent Released Parties, now or in the future, in each case, in respect of any cause, matter or thing relating to the conduct, management or operation of the business and affairs of the Acquired Companies, the assets or liabilities of the Acquired Companies or the ownership of the Company Units.

(c) Notwithstanding anything to the contrary contained herein, (i) all claims, obligations, liabilities, or causes of action (whether in contract or in tort, in law or in equity, or granted by statute) available to the Sellers, Parent or any of their respective Affiliates, representatives or any other Person through or on behalf of any Seller or Parent, as applicable, that may be based upon, in respect of, arise under, out or by reason of, be connected with, or relate in any manner to this Agreement or the Contemplated Transactions, or the negotiation, execution or performance of this Agreement (including any representation or warranty made in, in connection with, or as an inducement to, this Agreement), may be made only against (and are those solely of) Parent or the Sellers, as applicable; (ii) no Person other than a Seller or Parent, including any Affiliate or any director, officer, employee, incorporator, member, partner, manager, stockholder, agent, attorney, or representative of, or any financial advisor or lender to, a Seller or Parent or any of their respective Affiliates, or any director, officer, employee, incorporator, member, partner, manager, stockholder, Affiliate, agent, attorney, or representative of, or any financial advisor or lender to, any of the foregoing (for each of the Sellers and Parent, its "**Nonrecourse Parties**"), shall have any liability (whether in contract or in tort, in law or in equity, or granted by statute) for any claims, causes of action, obligations, or liabilities arising under, out of, in connection with, or related in any manner to this Agreement or the Contemplated Transactions or based on, in respect of, or by reason of this Agreement or its negotiation, execution, performance or breach; (iii) to the maximum extent permitted by Law, each of the Sellers and Parent, on behalf of itself and its Affiliates (including in the case of Parent, after the Closing, the Acquired Companies) and representatives, hereby waives and releases all such liabilities, claims, causes of action, and obligations against any such other party's Nonrecourse Parties; and (iv) without limiting the foregoing, to the maximum extent permitted by Law, each of the Seller and Parent, on behalf of itself and its Affiliates (including in the case of Parent, after the Closing, the Acquired Companies) and representatives, (1) hereby waives and releases any and all rights, claims, demands, or causes of action that may otherwise be available at law or in equity, or granted by statute, to avoid or disregard the entity form of any Seller or Parent, as applicable, or otherwise impose liability of any Seller or Parent, as applicable, on any Nonrecourse Party, whether granted by statute or based on theories of equity, agency, control, instrumentality, alter ego, domination, sham, single business enterprise, piercing the veil, unfairness, undercapitalization, or otherwise, and (2) disclaims any reliance upon any Nonrecourse Parties of the other Party with respect to the performance of this Agreement or any representation or warranty made in, in connection with, or as an inducement to enter into, this Agreement. Notwithstanding the foregoing, in no event shall this Section 10.15(c) be construed to prevent, prejudice or limit any permitted claims (x) by Parent or any of its Affiliates under any agreement entered into in connection with this Agreement or (y) after it is determined by a court of competent jurisdiction in a final, non-appealable judgement, order, award or decree that a party has committed Actual Fraud, against a Nonrecourse Party with respect to such Actual Fraud.

10.16 **Debt Financing Sources**. Notwithstanding anything herein to the contrary, the Sellers, the Seller Representative and the Company, on behalf of themselves and any of their respective Affiliates, hereby (a) acknowledge that the Debt Financing Sources (in their capacities as such) shall not have any liability (whether in contract, in tort or otherwise) to the Sellers, the Seller Representative or the Company, or any of their respective Affiliates, for any obligations or liabilities of any Party hereto under this Agreement or the Debt Commitment Letter or for any claim based on, in respect of, or by reason of this Agreement, the Debt Commitment Letter or the transactions contemplated hereby or thereby or in respect of any oral representations made or alleged to have been made in connection herewith or therewith, including any dispute arising out of or relating in any way to any Debt Financing or the performance thereof or the financings contemplated thereby, whether at law or equity, in contract, in tort or otherwise, (b) waives any rights or claims (whether in contract, in tort or otherwise) the Sellers, the Seller Representative or the Company or their respective Affiliates may have against any of the Debt Financing Sources in connection with this Agreement, the Debt Commitment Letter, the Debt Financing or the Contemplated Transactions, (c) agrees not to bring or support any Action (whether in contract, in tort or otherwise) against any of the Debt Financing Sources in connection with this Agreement, the Debt Commitment Letter, the Debt Financing or the transactions contemplated hereby or thereby and (d) agrees not to commence (and if commenced agrees to dismiss or otherwise terminate) any Action against any Debt Financing Source in connection with this Agreement, the Debt Commitment Letter, the Debt Financing or the transactions contemplated hereby or thereby; provided that, in no event will the Sellers, the Seller Representative and the Company, on behalf of themselves and any of their respective Affiliates have any liability of any kind or nature to any lender or related party arising or resulting from any cooperation or assistance provided pursuant to this Agreement, except to the extent that such liability results from the gross negligence, bad faith or willful misconduct of the Sellers, the Seller Representative or the Company or any of their respective directors, managers, officers, employees, agents or representatives. Nothing in this Section 10.16 shall in any way limit or qualify the rights and obligations of (i) the Debt Financing Sources for the Debt Financing and the other parties to the Debt Financing (or the definitive documents entered into pursuant thereto) to each other thereunder or in connection therewith, including pursuant to the Debt Commitment Letter, and (ii) the Sellers, the Seller Representative or the Company against Parent.

10.17 **Counterparts**. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

10.18 **Condition of the Business**. Notwithstanding anything contained in this Agreement to the contrary, Parent acknowledges and agrees that it is not relying upon, and will not rely upon, and neither the Company nor any Seller nor any other Person is making, any representations or warranties whatsoever, express or implied, at law or in equity, beyond those in Article II or Article III (as modified by the Schedules) or in any Transaction Documents, and any representations or warranties other than those set forth in Article II or Article III (as modified by the Schedules) or in any Transaction Documents are hereby disclaimed. Parent hereby acknowledges and agrees to such disclaimer of any representations or warranties beyond those expressly in Article II or Article III (as modified by the Schedules) or in any Transaction Documents. Without limiting the foregoing, Parent acknowledges and agrees that, except for the representations and warranties contained in Article II or Article III (or in any Transaction Documents), the assets and the business of the Acquired Companies are being transferred on a "where is" and, as to condition, "as is" basis and specifically disclaims (i) any warranty as to merchantability or fitness for a particular purpose, (ii) the prospects of the business, and (iii) the probable success or profitability of any of the Acquired Companies. Parent further acknowledges and agrees that it is not relying upon, and will not rely upon, and none of Sellers, the Company or any of their respective Affiliates nor any other Person has made or is making, any representation or warranty, express or implied, at law or in equity as to the accuracy or completeness of any information, data, or statement regarding any of the Acquired Companies or the Contemplated Transactions, including in respect of the Acquired Companies, the business, the operations, prospects, or condition (financial or otherwise), or the accuracy or completeness of any document, projection, material, statement, or other information (financial or otherwise) furnished or made available to Parent or its representatives in connection with the Contemplated Transactions, not expressly set forth in Article II or Article III (as modified by the Schedules) or in any Transaction Documents. Parent acknowledges and agrees that it has conducted its own independent investigation of the condition, operations and business of the Acquired Companies and, in making its determination to proceed with the Contemplated Transactions, Parent has relied on the results of its own independent investigation and the representations and warranties in Article II or Article III (as modified by the Schedules) and in any Transaction Documents. Parent acknowledges that it is an informed and sophisticated Person, and has engaged advisors experienced in the evaluation and purchase of companies such as the Acquired Companies as contemplated hereunder. Notwithstanding anything else to the contrary, nothing contained herein shall limit the ability of Parent to bring a claim or recover for Actual Fraud.

[Signature lines are on the next page]

SIGNATURE PAGE—AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, Parent, Merger Sub I, Merger Sub II, the Company, the Sellers and the Seller Representative have signed or caused their respective duly authorized officers to sign this Agreement, all as of the date first written above.

PARENT:

SHENANDOAH TELECOMMUNICATIONS COMPANY

/s/ Christopher E. French
By: Christopher E. French
Its: President and Chief Executive Officer

MERGER SUB I:

FOX MERGER SUB I INC.

/s/ Christopher E. French
By: Christopher E. French
Its: President and Chief Executive Officer

MERGER SUB II:

FOX MERGER SUB II LLC

/s/ Christopher E. French
By: Christopher E. French
Its: President and Chief Executive Officer

SIGNATURE PAGE—AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, Parent, Merger Sub I, Merger Sub II, the Company, the Sellers and the Seller Representative have signed or caused their respective duly authorized officers to sign this Agreement, all as of the date first written above.

COMPANY:

HORIZON ACQUISITION PARENT LLC

/s/ Ted Mocarski
By: Ted Mocarski
Its: President

SIGNATURE PAGE—AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, Parent, Merger Sub I, Merger Sub II, the Company, the Sellers and the Seller Representative have signed or caused their respective duly authorized officers to sign this Agreement, all as of the date first written above.

SELLER REPRESENTATIVE:

NOVACAP TMT V, L.P.
By: Novacap Management, Inc., *its general partner*

By: /s/Pascal Tremblay
Name: Pascal Tremblay
Title: President, Managing Partner

SIGNATURE PAGE—AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, Parent, Merger Sub I, Merger Sub II, the Company, the Sellers and the Seller Representative have signed or caused their respective duly authorized officers to sign this Agreement, all as of the date first written above.

SELLERS:

NOVACAP TMT V, L.P.
By: Novacap Management, Inc., *its general partner*

By: /s/ Pascal Tremblay
Name: Pascal Tremblay
Title: President, Managing Partner

NOVACAP INTERNATIONAL TMT V, L.P.
By: Novacap Management, Inc., *its general partner*

By: /s/ Pascal Tremblay

Name: Pascal Tremblay
Title: President, Managing Partner

NOVACAP TMT V-A, L.P.
By: Novacap Management, Inc., *its general partner*

By: /s/ Pascal Tremblay
Name: Pascal Tremblay
Title: President, Managing Partner

NVC TMT V, L.P.
By: Novacap Management, Inc., *its general partner*

By: /s/ Pascal Tremblay
Name: Pascal Tremblay
Title: President, Managing Partner

NVC TMT V-A, L.P.
By: Novacap Management, Inc., *its general partner*

By: /s/ Pascal Tremblay
Name: Pascal Tremblay
Title: President, Managing Partner

NOVACAP HORIZON CO-INVESTOR HOLDINGS, L.P.

By: Novacap Management, Inc., *its general partner*

By: /s/ Pascal Tremblay
Name: Pascal Tremblay
Title: President, Managing Partner

SIGNATURE PAGE—AGREEMENT AND PLAN OF MERGER

IN WITNESS WHEREOF, Parent, Merger Sub I, Merger Sub II, the Company, the Sellers and the Seller Representative have signed or caused their respective duly authorized officers to sign this Agreement, all as of the date first written above.

SELLER:

LIF VISTA, LLC
By: Labor Impact Fund, L.P., *its sole member*

By: GCM Investments GP, LLC, *its general partner*

By: /s/ Todd Henigan
Name: Todd Henigan
Title: Authorized Signatory

EXHIBIT A

DEFINED TERMS AND RULES OF INTERPRETATION

1. Definitions

"**2024 Bonus Payments**" is defined in Section 6.1(e).

"**Accounting Principles**" means GAAP, as consistently applied by the Company (including the Company's accounting methods, practices and procedures, to the extent permitted by GAAP), as modified by the adjustments, principles and methodologies set forth on Exhibit C attached hereto, for purposes of calculating the Working Capital. For illustrative purposes only, Exhibit C attached hereto also includes a sample calculation of the Working Capital and the Merger Consideration, assuming for purposes of such calculation that the Closing Date was June 30, 2023.

"**Acquired Company**" means the Company and each of its Subsidiaries, respectively; and "**Acquired Companies**" means the Company and its Subsidiaries, collectively.

"**Action**" means any action, suit, claim, litigation, arbitration, mediation, grievance, complaint, charge or proceeding commenced by or pending before a Government Agency, other than an Investigation.

"**Actual Fraud**" means Delaware common law fraud in connection with the making of any representation or warranty or the performance of any covenant contained in this Agreement or in any Transaction Document; provided, that "**Actual Fraud**" does not include any claim for equitable fraud, promissory fraud, unfair dealings fraud, or any torts based on negligence or recklessness.

"**Adjustment Time**" means 12:01 a.m. Eastern Time on the Closing Date.

"**Affiliate**" means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under common control with, such Person; provided, that, for the avoidance of doubt, neither the Company nor any of the Sellers shall be deemed an Affiliate of the other. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by Contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative thereto.

"**Agreed Adjustments**" is defined in Section 1.8(d).

"**Aggregate Cash Adjustment Consideration**" is defined in Section 1.5(d).

"**Aggregate Cash Consideration**" is defined in Section 1.5(b).

"**Aggregate Parent Stock Consideration**" is defined in Section 1.5(a).

"**Aggregate Preferred Adjustment Consideration**" is defined in Section 1.5(e).

"**Aggregate Preferred Unit Consideration**" is defined in Section 1.5(c).

"**Agreement**" is defined in the introductory paragraph.

"**Agreement Date**" is defined in the introductory paragraph.

"**Anticorruption Laws**" means all applicable Laws and regulations prohibiting bribery, corruption, kickbacks, or similar unlawful or unethical conduct, including the U.S. Foreign Corrupt Practices Act, the U.S. domestic anti-bribery statute codified in 18 U.S.C. § 201 and its state analogs, and non-U.S. anti-bribery or anti-corruption laws, and any laws implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

"**Benefit Plan**" is defined in Section 3.19(a).

"**BTOP**" is defined in Section 3.21(p).

"**Burdensome Condition**" is defined in Section 5.3(f).

"**Business Day**" means any day except Saturday, Sunday or any other day on which commercial banks located in the state of New York are authorized or required by law to be closed for business.

"**Cash Adjustment Escrow Amount**" means $3,000,000.

"**Cash Amount**" means all cash and cash equivalents of the Acquired Companies (including short term deposits, marketable securities and all deposited but uncleared checks, and bank deposits, but excluding (a) restricted cash, all outstanding checks, cash posted by counterparties and the amount of any cash deposits, cash in reserve accounts, cash escrow accounts, custodial cash and cash otherwise subject to any legal or contractual restriction on the ability to freely transfer) as of the Adjustment Time, (b) the Principal Amount of any Interim Period Capital Contributions and (c) the proceeds of any sales or other distributes of any Disposable Inventory.

"**Cash Dividend Adjustment Amount**" means the product of (a) the per share amount of any cash dividends or distributions declared and paid to the holders of Parent Stock on or after the Agreement Date and prior to the Closing Date, multiplied by (b) 4,081,633.

"**Cash Sellers**" means each Seller, other than the Rollover Sellers.

"**Certificate of Merger I**" is defined in Section 1.3(a).

"**Certificate of Merger II**" is defined in Section 1.3(b).

"**Claim Notice**" is defined in Section 9.2(b).

"**Class A Units**" means the Class A Units of the Company.

"**Class B Units**" means the Class B Units of the Company.

"**Closing**" is defined in Section 1.14.

"**Closing Allocation Schedule**" is defined in Section 1.6(b).

"**Closing Date**" is defined in Section 1.14.

"**Closing Payment Schedule**" is defined in Section 1.6(a).

"**Closing Percentage**" is defined in Section 1.6(b).

"**Closing Statement**" is defined in Section 1.8(a).

"**Closing Working Capital**" means Working Capital as of the Adjustment Time.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Communications Act**" means the Communications Act of 1934, as amended, and the rules, regulations, written policies and orders of the FCC thereunder.

"**Communications Licenses**" is defined in Section 3.16(b).

"**Company**" is defined in the introductory paragraph.

"**Company Indemnified Parties**" is defined in Section 6.3(b).

"**Company Information**" means all information in any form, including Personal Information, maintained, owned or controlled by or on behalf of the Acquired Companies.

"**Company Options**" is defined in Section 1.9(a).

"**Company Units**" is defined in Section 3.4(a).

"**Company's Knowledge**" means the actual knowledge of James Capuano, Pete Holland, and Meredith Irwin, in each case, after reasonable internal investigation, including inquiry of Glenn Lyttle, Joanne Salisbury and Misty Tuttle regarding matters within their respective areas of responsibility.

"**Confidential Information**" is defined in Section 6.5(b).

"**Consideration Dispute Notice**" is defined in Section 1.8(b).

"**Contemplated Transactions**" means the Mergers and the other transactions contemplated by the Transaction Documents.

"**Contract**" means, with respect to any Person, any contract, agreement, arrangement, bond, note, indenture, mortgage, debt instrument, franchise, lease, sublease, license, sublicense, Employee Benefit Plan or other instrument or obligation of any kind, written or oral (including any amendments and other modifications thereto), to which such Person is a party or which is binding upon such Person or its assets that is in effect.

"**Current Assets**" means, as of any date, the current assets of the Acquired Companies determined in accordance with the Accounting Principles, including accounts receivable, prepayments and other current assets (for the avoidance of doubt, including the amount of Lead-Sheathed Cable Removal Costs up to an aggregate amount of $200,000), but excluding cash, inventories and any Tax assets.

"**Current Liabilities**" means, as of any date, the current liabilities of the Acquired Companies determined in accordance with the Accounting Principles, including accounts payable, unused vacation time, sick leave and personal time, accrued bonuses and other accrued liabilities, but excluding Indebtedness, Transaction Expenses, any deferred Tax liabilities, any current income Tax liabilities and any amount of Preferred Return.

"**Customer Proprietary Network Information**" means any information made available by a customer to the Acquired Companies by virtue of the carrier-customer relationship, including without limitation (i) any information that relates to the quantity, technical, configuration, type, destination, location and amount of use of telecommunications services subscribed to by the customer and (ii) any information contained in the bills received by the customer for telecommunications services.

"**Damages**" means any and all losses, liabilities, claims, damages, awards, Taxes, fines, demands, obligations, judgements, settlements, charges, fees, deficiencies, costs and expenses (including interest, penalties and fees, costs and expenses of counsel, accountants, court or arbitration, and other fees, costs and expenses of investigation or defense) and any amounts paid in connection with or any assessments, judgments or settlements relating thereto.

"**Data Room**" means the virtual data room established and populated by or on behalf of the Sellers and the Company located at https://novacap.firmex.com/projects/332/documents.

"**Debt Commitment Letter**" is defined in Section 4.5.

"**Debt Financing**" is defined in Section 4.5.

"**Debt Financing Sources**" means each Person that has committed to provide or arrange Debt Financing pursuant to the Debt Commitment Letter.

"**Delaware Law**" is defined in the recitals to this Agreement.

"**Designated Firm**" is defined in Section 1.8(d).

"**Disposable Inventory**" means the inventory of the Acquired Companies set forth on Exhibit D.

"**DGCL**" is defined in the recitals to this Agreement.

"**DLLCA**" is defined in the recitals to this Agreement.

"**Easement**" means any easement, right of way, access right or similar right over real property in favor of an Acquired Company.

"**Easement Agreement**" means any Contract under which an Acquired Company is granted an Easement.

"**Employee Benefit Plan**" means any employment, retirement, pension, profit sharing, deferred compensation, severance, equity or equity-based, stock option, restricted stock, phantom stock, stock purchase, change in control, retention, bonus, incentive, commission, welfare, fringe benefit, vacation, medical, dental, vision, life, disability, or other similar employee Benefit Plan, policy, program, Contract, or arrangement (including any "employee benefit plan," as defined in Section 3(3) of ERISA)(whether or not subject to ERISA), whether written or oral, qualified or nonqualified, or funded or unfunded.

"**Employee Option Plan**" means the Employee Incentive Stock Option Plan of the Company.

"**Employees**" means all employees of the Acquired Companies, including those not at work by reason of being absent in accordance with policies of the Acquired Companies concerning vacation, sick time, personal days, jury or witness duty, disability, military, bereavement or family leave.

"**End Date**" is defined in Section 8.1(b)(vi).

"**Enforceability Exceptions**" means limitations of applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally and the availability of equitable remedies, including specific performance, subject to the discretion of the applicable court.

"**Environmental Laws**" means any and all federal, state, local, county or municipal Laws, rules, Orders, regulations, statutes, ordinances, codes, decrees, Permits, common law or legally enforceable requirements of any Government Agency regulating, relating to or imposing liability or standards of conduct concerning (i) pollution (or the cleanup thereof) or the protection of natural resources, endangered or threatened species or the environment (including ambient air, soil, surface water or groundwater, wetlands or subsurface strata); (ii) the control of any Hazardous Materials; (iii) the generation use, handling, treatment, storage, Release, threatened Release, disposal, or transportation of any Hazardous Materials; or (iv) human health and safety with respect to exposures to and management of Hazardous Materials.

"**Environmental Permit**" means any permit, license, certificate, registration, qualification or authorization issued or required under any Environmental Law.

"**Equity Security**" means any capital stock, limited liability company interest, partnership interest, or other equity security; security directly or indirectly convertible into or exchangeable for any capital stock, limited liability company interest, partnership interest, other equity security, or security containing any profit or ownership participation feature or otherwise linked to the value of any equity security; warrant, option, or other right, directly or indirectly, to subscribe for, acquire, receive, or purchase any capital stock, limited liability company interest, partnership interest, other equity security, or security containing any profit or ownership participation feature or otherwise linked to the value of any equity security or any Person or the business of any Person; or stock appreciation right, phantom stock right, derivative of an equity security or other similar right.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" means any Person, together with the Company or any of its Affiliates, that is or was, at a relevant time, treated as a single employer under Section 414 of the Code or 4001(b) of ERISA.

"**Escrow Account**" is defined in Section 1.7(a)(v).

"**Escrow Agent**" means Citibank, N.A or such other escrow agent agreed between the Parties.

"**Escrow Agreement**" means an escrow agreement in form to be agreed among the Parties and the Escrow Agent prior to Closing and to be entered into at the Closing by the Escrow Agent, Parent and the Seller Representative.

"**Escrow Amount**" means (a) the Cash Adjustment Escrow Amount, plus (b) the Preferred Adjustment Escrow Amount and plus (c) the Indemnification Escrow Amount.

"**Estimated Aggregate Cash Consideration**" is defined in Section 1.6(a).

"**Estimated Aggregate Preferred Unit Consideration**" is defined in Section 1.6(a).

"**Existing Credit Facilities**" means (i) the Credit Agreement dated as of April 14, 2022, among Horizon Telecom, Inc., the lenders party thereto and Toronto Dominion (Texas) LLC, as agent, as amended, restated, supplemented or otherwise modified from time to time, and (ii) the Second Lien Credit Agreement dated as of April 14, 2022, among Horizon Telecom, Inc., the lenders party thereto and Computershare Trust Company, N.A., as agent, as amended, restated, supplemented or otherwise modified from time to time.

"**Expert Calculations**" is defined in Section 1.8(d).

"**Export Laws**" is defined in Section 3.17(c).

"**Fayette County Grant Agreement**" means that certain Grant Agreement for Ohio Residential Broadband Expansion, dated as of October 11, 2022, between the Chillicothe Telephone Company (as Grantee) and the State of Ohio, Department of Development (as Grantor) in connection with the installation of a project for the provision of certain broadband services in Fayette County.

"**FCC**" means the U.S. Federal Communications Commission or any successor Government Agency.

"**FCC Licenses**" is defined in Section 3.16(b).

"**Fiber**" means fiber optic cabling and conduits (or usage rights thereto).

"**Final Aggregate Cash Consideration**" is defined in Section 1.8(a).

"**Final Aggregate Preferred Unit Consideration**" is defined in Section 1.8(a).

"**Final Cash Amount**" is defined in Section 1.8(a).

"**Final Transaction Expenses**" is defined in Section 1.8(a).

"**Final Working Capital**" is defined in Section 1.8(a).

"**Financial Statements**" is defined in Section 3.7(a).

"**First Effective Time**" is defined in Section 1.3(a).

"**GAAP**" means generally accepted accounting principles applicable in the United States.

"**Governing Documents**" means (a) if a corporation, the articles or certificate of incorporation, the bylaws and any shareholder or buy/sell agreement; (b) if a general partnership, the partnership agreement and any statement of partnership; (c) if a limited partnership, the limited partnership agreement and the certificate of limited partnership; (d) if a limited liability company, the articles of organization and operating or limited liability company agreement; (e) if another type of entity, any other charter or similar document adopted or filed in connection with the creation, formation or organization of the entity; and (f) any amendment or restatement to any of the foregoing.

"**Government Agency**" means any (a) nation, state, county, city, or similar jurisdiction; (b) federal, state, local, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any agency, branch, department, board, commission, court, tribunal or other entity exercising governmental or quasi-governmental powers); or (d) body entitled by applicable law to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power, including any State Regulator.

"**Grant Agreements**" is defined in Section 3.28(b).

"**Grants**" is defined in Section 3.28(a).

"**Hazardous Materials**" means (i) any petroleum or petroleum product (including waste or used oil, gasoline, heating oil, kerosene or any other petroleum products or substances or materials derived from or commingled with any petroleum products), off-specification commercial chemical product, solid waste, radioactive material, medical waste, lead-based paint, mold, mycotoxins, microbial matter and airborne pathogens (naturally occurring or otherwise), fertilizer, pesticide, herbicide, rodenticide and other chemicals or regulated substances used in crop farming, livestock farming or the agriculture industry, asbestos in any form that is or could become friable, per- and polyfluoroalkyl substances (PFAS), urea formaldehyde foam insulation, polychlorinated biphenyls (PCBs) and radon gas; (ii) any chemical, waste, material or substance (whether solid, liquid or gas) that is listed, defined, designated or otherwise classified as, or otherwise determined under any present or future Environmental Law to be, hazardous, ignitable, corrosive, reactive, radioactive, dangerous or toxic; and (iii) any pollutant, contaminant, waste or other material or substance (whether solid, liquid or gas) that is or becomes defined or classified as an "active ingredient," "pesticide," "antimicrobial pesticide," "solid waste," "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous substance," "restricted hazardous waste," "pollutant," "contaminant," "hazardous constituent," "special waste," "toxic substance," or a word, term or phrase of similar meaning or regulatory effect under any Environmental Law.

"**HSR Act**" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder, or any successor statute, rules and regulations thereto.

"**Indebtedness**" means the obligations of the Acquired Companies, without duplication, for (a) any indebtedness or other obligation of the Company for borrowed money, whether current, short-term or long-term and whether secured or unsecured, including any related party notes (and including the PIK Notes) and any accrued interest thereon; (b) indebtedness evidenced by a note, bond, debenture or other debt security and any accrued interest thereon; (c) any liability (determined in accordance with the Accounting Principles) under capital leases (finance leases) of the Acquired Companies; (d) all liabilities in respect of "earn-out" or contingent payment obligations and other obligations (including any seller notes) for the deferred purchase price of property, goods or services or any unpaid transaction fees and expenses in respect of any such transaction; (e) any Tax liabilities of the Acquired Companies for a taxable period ending prior to or on the Closing Date or for the portion of any Straddle Period ending on the Closing Date; (f) any liability arising out of any unpaid bonuses for 2022 or 2023 or any unpaid severance obligations and the employer's share of any employment or payroll Taxes with respect thereto; (g) any stimulus packages, government assistance or other benefits received (such as, but not limited to, loans, benefits, rights or amounts) pursuant to the CARES Act or any other Law that are subject to a repayment obligation; (h) letters of credit and bankers' acceptances to the extent drawn; (i) any net liabilities with respect to interest rate or currency swaps, collars, caps and similar hedging obligations; (j) all liabilities or obligations under any deferred compensation or phantom stock, equity appreciation or similar arrangement and the employer's share of any employment or payroll Taxes with respect thereto; (k) any unpaid management or advisory fees, including any such amounts payable to a Seller Related Party; or (l) guarantees of any other Person for any of obligations of the types described in clauses (a) through (k) above, but limited to the lesser of the amount of such obligations or the amount of the guarantee. Notwithstanding anything to the contrary herein, Indebtedness will not include any intercompany obligations among the Company and its Subsidiaries, obligations under operating leases, undrawn letters of credit, the NTIA Grant LOC, performance bonds, indemnities and similar obligations or trade accounts payable or Transaction Expenses or any Interim Period Capital Contributions or amounts reflected in Working Capital.

"**Indebtedness Amount**" means the Indebtedness of the Acquired Companies as of the Adjustment Time.

"**Indemnification Escrow Amount**" means $2,000,000.

"**Information Security Incident**" means any (i) accidental or unauthorized access to or loss, alteration, destruction, use, disclosure or acquisition of Company Information, or (ii) material compromise to the security, confidentiality, integrity or availability of IT Assets, in each case, which have been confirmed or reasonably should have been confirmed.

"**Insurance Policies**" is defined in Section 3.17.

"**Intellectual Property Rights**" means, in respect of any Person, any and all of the following arising under the laws of the United States of America or any other jurisdiction: (a) all patents and patent applications; (b) trademarks and service marks, trademark and service mark applications, trade dress, trade names, designs, logos and other indicia of source (together with the goodwill associated therewith or symbolized thereby); (c) copyrights and copyright applications, and all other rights in works of authorship (whether or not copyrightable), together with any moral rights associated therewith to the extent such moral rights may be transferred; (d) software; (e) internet domain name registrations, social media accounts and related "handles"; and (f) trade secrets and proprietary information and know-how.

"**Interim Financial Statements**" is defined in Section 3.10(a).

"**Interim Period**" means the period of time between the Agreement Date and the Closing Date or earlier termination of this Agreement.

"**Interim Period Capital Contributions**" means any contributions of equity in exchange for Preferred Units that are expressly permitted by Section 5.10, provided to any of the Acquired Companies by any of the Sellers or any of their Affiliates after June 30, 2023, and at least 10 Business Days prior to the Closing Date.

"**Interim Period CapX Plan**" means the plan for maintenance, extensions and modifications to the Physical Network as set forth on Exhibit E, including a forecast of the anticipated dates and amounts of any Interim Period Capital Contributions.

"**Investigation**" means an investigation, audit or inquiry.

"**Investor Rights Agreement**" is defined in the recitals to this Agreement.

"**IRS**" means the U.S. Internal Revenue Service.

"**IT Assets**" means all computers, computing hardware, platforms, software, software services, firmware, systems, middleware, network, computer or operating systems, information technology devices, servers, facilities, workstations, routers, hubs, switches, data websites, communications lines, file servers, printers and all other information technology infrastructure, equipment or systems owned, operated, licensed or controlled by the Acquired Companies.

"**Law**" means any federal, state, local, municipal, foreign, international, multinational, or other constitution, law, ordinance, principle of common law, code, rule, regulation, statute or treaty.

"**Lead-Sheathed Cable**" means all lead-sheathed cable or wire comprising part of, or that previously comprised part of, the Physical Network located on or in any of the Owned Real Property, the Leased Real Property or an Easement.

"**Lead-Sheathed Cable Removal Costs**" means any and all out-of-pocket third-party costs and expenses associated with removal, disposal and, if applicable, replacement of Lead-Sheathed Cable as contemplated by Section 6.6 that are paid by an Acquired Company prior to the Closing Date.

"**Lease**" means each lease, sublease, license or other occupancy or use agreement, including any applicable amendments thereto or guarantees thereof, pursuant to which any of the Acquired Companies leases, subleases, licenses or otherwise occupies or uses any real property (other than Easement Agreements).

"**Leased Real Property**" is defined in Section 3.9(b).

"**Letter of Transmittal**" is defined in Section 1.7(c)(i).

"**Lien**" means any lien, pledge, mortgage, deed of trust, pledge, security interest, charge, claim, assessment, license, right of first offer, refusal or similar right, defect of title, easement, encroachment or other encumbrance of any kind.

"**Marketing Material**" means ratings agency presentations, bank books, confidential information memoranda, lender and investor presentations and other similar information packages and presentations (including, where applicable, both a "public side" and "private side" version) regarding the Acquired Companies or their business for purposes of rating and marketing the Debt Financing, in each case, to the extent customarily provided by a borrower in a syndicated secured bank loan financing, including customary representation and authorization letters for use therein.

"**Material Adverse Change**" means, with respect to a Party, any event, change, condition, circumstance or occurrence that, when considered individually or in the aggregate with all other events, changes, conditions, circumstances or occurrences, has or is reasonably be expected to have a material and adverse effect on, or cause a material and adverse change in, the financial condition, business or results of operations of such Party and its Subsidiaries, taken as a whole; provided, however, that none of the following, alone or in combination, will be considered or taken into account in determining the existence of a Material Adverse Change: (i) the announcement, pendency or consummation of the Contemplated Transactions, or the execution of this Agreement or the performance of obligations hereunder, including the impact of any of the foregoing on relationships with customers, suppliers, employees or independent contractors, (ii) conditions affecting the global or United States economy or the financial, credit, commodities or capital markets as a whole (including changes in interest rates or the availability of debt financing), or generally affecting the industries in which such Party does business, (iii) any change in, adoption of, or change in the interpretation or adoption of any applicable Law or GAAP, (iv) any national or international political or social conditions, including the conflict in Ukraine and including the engagement or continuation of the United States in hostilities or the escalation thereof, or the occurrence or the escalation of any military or terrorist attack upon the United States, or any of its territories, possessions, or diplomatic or consular offices or upon any military installation, equipment or personnel of the United States, (v) epidemics and pandemics (including COVID-19 and the novel coronavirus), earthquakes, hurricanes, floods or other natural disasters, (vi) the failure by such Party to meet any revenue, earnings or other projections, forecasts or predictions (but not any of the underlying circumstances causing such failure), (vii) any action taken by, or with the consent of, the other Party with respect to the Contemplated Transactions or (viii) changes in the price or trading volume of Parent's Equity Securities, in and of itself (but not any of the underlying circumstances causing such changes); except, in the case of clauses (ii), (iii), (iv) and (v) above to the extent such events, changes, conditions, circumstances or occurrences have a materially disproportionate effect on such Party compared to other similarly-situated Persons in the industries and geographic regions in which such Party does business.

"**Material Contract**" means the following Contracts to which any of the Acquired Companies is a party or by which any of its assets, properties or businesses are bound or subject (whether or not such Contract is listed on Schedule 3.13):

(a) Each Contract involving aggregate annual consideration of $100,000 or more (or which would require the Acquired Companies to undertake capital expenditures of $100,000 or more), or requiring performance by any party more than one year from the Agreement Date.

(b) Each Contract that relates to the sale of assets for consideration in excess of $100,000, other than sales of obsolete assets in the ordinary course of business.

(c) Each Contract under which any Acquired Company has (i) Indebtedness for borrowed money, (ii) Indebtedness in excess of $100,000, (iii) guaranteed Indebtedness for borrowed money of others in excess of $100,000 or (iv) created a Lien on any Acquired Company's assets.

(d) Each Material Network Agreement.

(e) Each Contract providing for the acquisition or disposition of any real property.

(f) Each Lease or Easement Agreement requiring payments of more than $100,000 in any calendar year.

(g) Each Contract pursuant to which an Acquired Company leases any of the Owned Real Property to a third party.

(h) Each Contract with a Government Agency (other than Contracts under which a Government Agency is a customer of the Acquired Companies that was entered into in the ordinary course of business).

(i) Each Contract related to any Tax abatement or to make payments in lieu of Taxes.

(j) Each Contract with any of the Acquired Companies' customers or vendors identified on Schedule 3.22 or Schedule 3.23, as applicable.

(k) Each Contract relating to the acquisition or disposition of Equity Securities of, or all or substantially all of the assets or business of, any Person.

(l) Each Contract relating to the formation, creation, governance or control of any joint venture, partnership or similar Contract.

(m) Each Contract restricting or limiting any Acquired Company from competing in any line of business or with any Person in any geographical area, including any Contract containing non-competition, non-solicitation, right of first offer, right of first refusal or similar provisions, in each case, that is currently in effect.

(n) Each Contract containing a "most favored nations" or other clause that purports to adjust, limit or restrict the pricing or services provided by any Acquired Company based on terms made available to other customers or any exclusivity or similar provisions, including any minimum purchase or sale obligations (including any take-or-pay Contracts).

(o) Each Contract pursuant to which the other party has any option or right to purchase any assets comprising the Physical Network (other than obsolete or immaterial assets being disposed of in the ordinary course of business).

(p) Each Contract with any Seller or any officer, director, manager, member, partner, shareholder, direct or indirect equityholder or Affiliate of a Seller.

(q) Each Contract providing for indemnification by an Acquired Company of (i) a third party, other than in connection with a commercial agreement in the ordinary course of business, or (ii) any director, manager, officer or Employee of an Acquired Company (other than the Acquired Company's respective Governing Documents).

(r) Each Contract with the primary purpose of the settlement, release, compromise or waiver by any Acquired Company of any rights or claims it has against any other Person or any liabilities of any other Person to an Acquired Company.

(s) Each Contract with any labor organization, union or association representing or purporting to represent any Employees, including any collective bargaining agreement.

(t) Each Contract with a director or officer of any Acquired Company, other than their respective Governing Documents.

(u) Each employment Contract that provides for annual compensation in excess of $175,000 or that cannot be terminated at-will by the applicable Acquired Company for any reason without advance notice and without payment of severance, early termination fee, or other penalty.

(v) Each Contract providing for any sale, change in control, transaction or other similar bonus.

(w) Each Contract that includes any agreement to enter into any Contract of the type described in the foregoing provisions.

"**Material Network Agreements**" means each of the following that involves annual payment by or to an Acquired Company in excess of $100,000 or which is otherwise material to the operation of the Physical Network (a) indefeasible-right-of-use ("**IRU**"), Fiber lease, license or similar right to use dark or lit Network Fiber to which an Acquired Company is a recipient of the IRU, leased or licensed Fiber or similar right; (b) underlying right, easement, right-of-way, license, pole attachment agreement, colocation or similar right or agreement in relation to Network Fiber owned by an Acquired Company or permitting or requiring the laying, building operation or placement of cable, wires, conduits or other equipment or facilities over land, underground or in owner third party location (the rights described in clauses (a) and (b), the "**Network Underlying Rights**"); (c) other than Network Underlying Rights, each franchise agreement or similar agreement under which the Company is authorized or permitted to place, keep or otherwise locate Network Fiber in or on public property owned or otherwise held by a municipality or similar Government Agency, but for clarity excluding business licenses and construction Permits; (d) each agreement under which Network Fiber is serviced or maintained; (e) each agreement under which Network Equipment is serviced, maintained or purchased and (f) each amendment, modification or supplement to the agreements described in (a) through (e).

"**Material Permits**" is defined in Section 3.16(a).

"**Merger Consideration**" is defined in Section 1.5.

"**Merger I**" is defined in the recitals to this Agreement.

"**Merger II**" is defined in the recitals to this Agreement.

"**Merger Sub I**" is defined in the introductory paragraph.

"**Merger Sub II**" is defined in the introductory paragraph.

"**Mergers**" is defined in the recitals to this Agreement.

"**Network Equipment**" means all of the communications equipment used by an Acquired Company to provide communications services on or over the Physical Network.

"**Network Fiber**" means all fiber optic strands in which an Acquired Company holds an ownership leasehold, license or IRU interest, excluding cross-connections, tie cables, and intra-building fiber.

"**Nondisclosure Agreement**" means that certain Nondisclosure Agreement dated as of February 11, 2023, made by Parent in favor of the Company, as amended, supplemented or modified.

"**Nonrecourse Party**" is defined in Section 10.15(c).

"**NTIA Grant 2023**" means that certain grant application and business case summary relating to funding to the Acquired Companies pursuant to that certain NTIA Ohio Middle Mile Expansion grant for $27.5 million.

"NTIA Grant LOC" means a letter of credit for up to $7.5 million as contemplated by the NTIA Grant 2023.

"**Objection Notice**" is defined in Section 9.2(c).

"**OFAC**" is defined in Section 3.17(c).

"**Option Termination Agreements**" is defined in Section 1.9(a).

"**Order**" means any order, injunction, judgment, decree, ruling, assessment, or arbitration award of any Government Agency or arbitrator.

"**Owned Real Property**" is defined in Section 3.9(a).

"**Parent**" is defined in the introductory paragraph.

"**Parent Fundamental Representations**" is defined in Section 7.3(a).

"**Parent Indemnitees**" is defined in Section 9.2(a).

"**Parent Overpayment**" is defined in Section 1.8(e)(ii).

"**Parent Released Parties**" has the meaning set forth in Section 10.15(b).

"**Parent Releasing Parties**" has the meaning set forth in Section 10.15(a).

"**Parent Related Parties**" means, collectively, Parent and each of its subsidiaries (including, after the Closing, the Acquired Companies).

"**Parent Schedules**" means the disclosure schedules delivered by Parent to Sellers and the Company concurrently with the execution and delivery of this Agreement.

"**Parent SEC Documents**" is defined in Section 4.9(a).

"**Parent Securities** is defined in Section 4.1(b).

"**Parent Stock**" is defined in the recitals to this Agreement.

"**Parent Stock Price**" means an amount equal to $19.60 per share, subject to adjustment in accordance with Section 1.10(e).

"**Parent Underpayment**" is defined in Section 1.8(e)(i).

"**Payoff Amounts**" is defined in Section 1.7(a)(iii).

"**Payoff Letter**" means a customary payoff letter, in form and substance reasonably acceptable to Parent, with respect to the Existing Credit Facilities, the PIK Notes and any other Contract of an Acquired Company providing for Indebtedness for borrowed money, indicating the amount required to discharge, upon receipt of payments specified in the applicable payoff letter, any Lien granted under any Existing Credit Facility, the PIK Notes or any other Contract of an Acquired Company providing for Indebtedness for borrowed money.

"**PBGC**" is defined in Section 3.19(g).

"**Per Unit Cash Merger Consideration**" means (a) the Aggregate Cash Consideration divided by (b) the number of Company Units held by the Cash Sellers as of immediately prior to the First Effective Time.

"**Per Unit Parent Stock Merger Consideration**" means (a) the Aggregate Parent Stock Consideration divided by (b) the number of Company Units held by the Rollover Sellers as of immediately prior to the First Effective Time.

"**Permit**" means any permit, license, registration, exemption, clearance, certificate, Order, approval, franchise, variance or similar rights in respect of the assets or business of the Acquired Companies and issued by or obtained from any Government Agency.

"**Permitted Exceptions**" means (a) mechanic's, materialmen's, carriers', repairers', landlords' and other Liens arising or incurred in the ordinary course of business for amounts that are not yet due and payable or that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in the consolidated balance sheet of the Company prepared in accordance with GAAP; (b) Liens for Taxes, assessments or other governmental charges not yet due and payable or that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in the consolidated balance sheet of the Company prepared in accordance with GAAP; (c) Liens on real property (including easements, covenants, rights of way and similar restrictions of record), whether or not of record, that do not materially interfere with the relevant Acquired Company's present uses or occupancy of such real property or materially impair the value of such real property; (d) with respect to any real property, zoning, entitlement, building ordinances and other land use restrictions under applicable Law; (e) Liens securing the obligations of the relevant Acquired Company under Contracts for Indebtedness; (f) Liens created by, through or under Parent, Merger Sub I or Merger Sub II, or otherwise granted to any lender in connection with any financing by Parent; (g) with respect to any Equity Security, Liens under the Governing Documents of the issuer; (h) Liens arising under applicable securities laws; (i) all defects, exceptions, restrictions, easements, rights of way and encumbrances in effect on the date hereof and disclosed in policies of title insurance to the extent so reflected or reserved, (j) licenses in Intellectual Property Rights granted in the ordinary course of business; (k) gaps in the chain of title for Intellectual Property Rights evident from the public records; (l) Liens that will be released in connection with the Closing; (m) Liens set forth on Schedule 1.1; (n) fee title of a lessor under a Lease for which an Acquired Company is the lessee; and (o) any cautionary Lien filed against any Acquired Company in connection with any equipment financing or a similar transaction in the ordinary course of business.

"**Person**" means an individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture, or other entity or a Government Agency.

"**Personal Information**" means (i) any Company Information (a) relating to an identified or identifiable natural person or (b) that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or household; and (ii) Customer Proprietary Network Information.

"**Physical Network**" means the Network Equipment and the Network Fiber, including all wires, cable, conduits, poles, antennas, transmission equipment, junction boxes, manholes, hand holes, connecting equipment, electronics and other facilities and facility infrastructure owned by or operated by the Acquired Companies, and all supporting electronic and passive equipment and infrastructure that together enable the transport and routing of telecommunications services.

"**PIK Notes**" means a certain Subordinated PIK Note issued by the Company on April 14, 2022 to LIF AIV 1, L.P., a Delaware limited partnership, Electrical Workers Infrastructure Fund, L.P., a Delaware limited partnership, and Bregal Sagemount Credit Opportunities Fund II LP, a Delaware limited partnership, and Bregal Sagemount Credit Opportunities Coinvestment Fund LP, a Delaware limited partnership.

"**Post-Closing Benefit Period**" is defined in Section 6.1(a).

"**Post-Closing Representation**" is defined in Section 10.14.

"**Post-Closing Tax Periods**" is defined in Section 6.2(a).

"**Pre-Closing Representation**" is defined in Section 10.14.

"**Pre-Closing Tax Periods**" is defined in Section 6.2(a).

"**Preferred Adjustment Escrow Amount**" means $4,000,000.

"**Preferred Overpayment**" is defined in Section 1.8(e)(iv).

"**Preferred Return**" means interest on the Reimbursable Amount in the amount of 6.00% per annum, calculated from the date of each Interim Period Capital Contribution through the Closing Date, and assuming, for these purposes, that the portion of the Reimbursable Amount contributed on each such date was equal to (a) the Reimbursable Amount multiplied by (b) the quotient of (i) the Principal Amount of such Interim Period Capital Contribution divided by (ii) the aggregate Principal Amount of all Interim Period Capital Contributions; provided, however, that in the event Parent elects, pursuant to Section 1.14, to have the Closing take place on the first Business Day of the next calendar quarter rather than the first Business Day of the next calendar month, then the amount of the Preferred Return shall be increased to 8.00% per annum for the period beginning on the first Business Day of such next calendar month through the Closing Date.

"**Preferred Underpayment**" is defined in Section 1.8(e)(iii).

"**Preferred Unit Merger Consideration**" means (a) the Aggregate Preferred Unit Consideration divided by (b) the number of Preferred Units held by the Sellers as of immediately prior to the First Effective Time.

"**Preferred Units**" means the Series A Preferred Units of the Company.

"**Principal Amount**" means, with respect to any Interim Period Capital Contribution, the amount of such Interim Period Capital Contribution received by the Company.

"**Privacy Commitments**" means all representations, statements, obligations or commitments that the Acquired Companies have made or entered into with respect to the collection, use, disclosure, sale, licensing, transfer, security, storage, retention, disposal or other processing of Personal Information, including without limitation, all (i) policies, notices, statements or similar disclosures published or otherwise made publicly available by the Acquired Companies; (ii) internal policies, procedures or standards of the Acquired Companies; and (iii) agreements, contracts, licenses, or other similar instruments or obligations to which any of the Acquired Companies are parties.

"**Privacy Laws**" means all applicable Laws relating in any way to the privacy, confidentiality, protection or security of Personal Information or IT Assets, including without limitation, the Communications Act; the California Consumer Privacy Act of 2018 (as amended by the California Privacy Rights Act of 2020), Cal. Civil Code §1798.100 et seq. and its implementing regulations; the Virginia Consumer Data Protection Act, §59.1-575 et seq.; the Indiana Consumer Data Protection Act, S.B.5; and any and all applicable Laws regulating data protection, financial privacy, website or online service operators, biometric identifiers or biometric data, consumer reports, data breach notification, information security safeguards, secure disposal of records, use of online cookies or other tracking mechanisms, or the transmission of marketing messages through any means, including, without limitation, via email, text message and/or any other means. Privacy Laws also include the Payment Card Industry ("**PCI**") Data Security Standard and any other applicable security standards, requirements, or assessment procedures published by PCI Security Standards Council in connection with a PCI Security Standards Council program.

"**Privacy Requirements**" is defined in Section 3.12(a).

"**Parent Overpayment**" is defined in Section 1.8(e)(ii).

"**Qualified Benefit Plan**" is defined in Section 3.19(b).

"**R&W Insurance Policy**" means the buyer-side representation and warranty insurance policy to be obtained by Parent.

"**Reimbursable Amount**" means the aggregate Principal Amount of all Interim Period Capital Contributions equal to the aggregate amount of capital expenditures (which, for the avoidance of doubt, shall include the "Capital expenditures, net" and "Materials and supplies" line items as presented in the Company's audited Consolidated Statements of Cash Flows) of the Acquired Companies, as determined in accordance with GAAP, to fund maintenance, extensions and modifications to the Physical Network as contemplated by the Interim Period CapX Plan.

"**Release**" means any release, spill, leak, emission, deposit, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, dumping, dispersion or migration of Hazardous Materials into, under, above, onto or from the environment (including ambient air (indoor or outdoor), surface water, groundwater, land surface or subsurface strata or within any building, structure, facility or fixture), including the abandonment of barrels, tanks, containers or other receptacles containing Hazardous Materials.

"**Representative Holdback Account**" is defined in Section 1.7(a)(vi).

"**Representative Holdback Amount**" is defined in Section 10.1(c).

"**Required Regulatory Approvals**" means the consents, approvals, filings, notices or other actions set forth on Schedule 1.2.

"**Review Period**" is defined in Section 1.8(b).

"**Rollover Sellers**" means LIF VISTA, LLC, a Delaware limited liability company.

"**Ross County Grant Agreement**" means that certain Grant Agreement for Ohio Residential Broadband Expansion, dated as of October 11, 2022, between the Chillicothe Telephone Company (as Grantee) and the State of Ohio, Department of Development (as Grantor) in connection with the installation of a project for the provision of certain broadband services in Ross County and Highland County.

"**Sanctioned Country**" is defined in Section 3.14(d).

"**Sanctioned Person**" is defined in Section 3.14(d).

"**Sanctions**" is defined in Section 3.14(c).

"**Schedules**" means the disclosure schedules delivered by Sellers and the Company to Parent concurrently with the execution and delivery of this Agreement.

"**Securities Act**" means the Securities Act of 1933, as amended.

"**Seller Confidential Information**" is defined in Section 6.5(d).

"**Seller Pre-Closing Communications**" is defined in Section 10.14.

"**Seller(s)**" is defined in the introductory paragraph.

"**Seller Fundamental Representations**" is defined in Section 7.2(a).

"**Seller Related Parties**" means, collectively, each Seller, each of the direct and indirect equity holders and Affiliates (including, prior to the Closing, the Acquired Companies) of each Seller and each of the incorporators, members, directors, managers, officers, partners, stockholders, Affiliates or current, former or future representatives of, or any lender to, any of the foregoing.

"**Seller Released Parties**" is defined in Section 10.15(a).

"**Seller Releasing Parties**" is defined in Section 10.15(b).

"**Seller Representative**" means Novacap TMT V, L.P. or such Person's successor appointed pursuant to Section 10.1.

"**Second Effective Time**" is defined in Section 1.3(b).

"**Solvent**" means, with respect to any Person, that (i) the sum of the assets, at a fair market valuation, of such Person and its subsidiaries (on a consolidated basis) and of each of them (on a stand-alone basis) exceeds their respective liabilities, (ii) each of such Person and its subsidiaries (on a consolidated basis) and each of them (on a stand-alone basis) has not incurred and does not intend to incur, and does not believe that it will incur, debts or other liabilities beyond its ability to pay such debts and other liabilities as such debts and other liabilities mature or become due and (iii) each of such Person and its subsidiaries (on a consolidated basis) and each of them (on a stand-alone basis) has sufficient capital with which to conduct its business in which it is engaged or will be engaged.

"**Specified Courts**" is defined in Section 10.11.

"**State Regulator**" means any state public service commission or state public utility commission or similar Government Agency, including any state or local Government Agency that may be acting as a local franchising authority.

"**Straddle Period**" is defined in Section 6.2(c).

"**Subsidiary**" means, with respect to any specified Person, any other Person of which such specified Person, directly or indirectly through one or more Subsidiaries, (a) owns at least 50% of the outstanding equity interests entitled to vote generally in the election of the board of directors or similar governing body of such other Person or (b) has the power to generally direct the business and policies of that other Person, whether by contract or as a general partner, managing member, manager, joint venturer, agent or otherwise, including, with respect to the Company, Horizon Telcom, Inc., an Ohio corporation, The Chillicothe Telephone Company, an Ohio corporation, Horizon Services, Inc., an Ohio corporation, Horizon Technology, Inc., an Ohio corporation, Urban Systems, LLC, an Indiana limited liability company, and Infinity Fiber, LLC, an Indiana limited liability company.

"**Takeover Proposal**" is defined in Section 5.5.

"**Target Net Working Capital**" means negative $9,177,000.

"**Tax Authority**" means the IRS and any other Government Agency (and any subdivision, agency or authority thereof) responsible for the administration, collection or imposition of any Tax.

"**Tax Return**" means any return, declaration, report, claim for refund, information return or statement or other document required to be filed with any Government Agency with respect to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"**Taxes**" means (i) all federal, state, local, foreign and other levies or assessments on income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties, or other taxes, charges, or fees of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties, and (ii) any liability for any items described in clause (i) of any other Person as a transferee or successor or under Treasury Regulation Section 1.1502-6 (or analogous state, local or non-U.S. Law).

"**Team Telecom**" means the process set forth in U.S. Executive Order No. issued April 4, 2020 or mandated by the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, including each of the Government Agencies comprised in such committee or any other entity identified in a Memorandum of Understanding issue by the Committee.

"**Third Party**" means a person who is not an Acquired Company, a Seller Related Party or a Parent Related Party or an Affiliate of an Acquired Company, a Seller Related Party or a Parent Related Party.

"**Transaction Documents**" means this Agreement (including the Schedules and the Parent Schedules), the Investor Rights Agreement, the Option Termination Agreements, the Escrow Agreement, the Letters of Transmittal and the certificates and other documents to be delivered in connection with the Contemplated Transactions.

"**Transaction Expenses**" means all out-of-pocket fees, costs and expenses of the Acquired Companies that are incurred or otherwise payable, and are unpaid as of the Closing, in connection with the negotiation, documentation and consummation of the Contemplated Transactions, including (a) all legal fees and expenses, including the fees and expenses of Baker Botts L.L.P. and Greenberg Traurig LLP, (b) all of the accounting, investment banking and other advisory fees and expenses of the Company, including the fees and expenses of Bank Street Group LLC, (c) the payments of any sale, change in control, transaction or other bonus, in each case that is payable by reason of the consummation of the Contemplated Transactions, and the employer portion of any Taxes payable thereon or with respect thereto, in each case to the extent vested and unpaid as of the Closing (including, for the avoidance of doubt, any amounts payable in connection with the Company Options), (d) the costs and expenses related to any "tail" insurance policy as contemplated by Section 6.3, including the premium, brokerage commissions and other fees and expenses, (e) fifty percent (50%) of all costs, fees and expenses of the Escrow Agent, (f) fifty percent (50%) of all Transfer Taxes, (g) fifty percent (50%) of all filing fees paid in connection with the Required Regulatory Approvals and (h) all amounts received by holders of Company Options pursuant to Section 1.9 hereof.

"**Transfer Taxes**" is defined in Section 6.2(d).

"**Treasury Regulations**" means the Treasury Regulations promulgated under the Code.

"**Ultimate Surviving Entity**" is defined in Section 1.2(b).

"**Working Capital**" means, as of the Adjustment Time, (a) all Current Assets minus (b) all Current Liabilities.

"**Working Capital Overage**" means, when (and only when) the Closing Working Capital is greater than the Target Net Working Capital, the amount by which the Closing Working Capital is greater than the Target Net Working Capital.

"**Working Capital Underage**" means, when (and only when) the Closing Working Capital is less than the Target Net Working Capital, the amount by which the Closing Working Capital is less than the Target Net Working Capital.

"**WARN**" means the Worker Adjustment and Retraining Notification Act of 1988, as amended, and similar Law or rule with respect to a plant closing, termination, layoff, relocation or the like.

2. Usage

In the Agreement and its schedules and exhibits:

The singular number includes the plural number and vice versa. Reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are not prohibited by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually. Reference to any gender includes each other gender. Reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof and will be deemed to refer as well to all addenda, exhibits, schedules or amendments. "Hereunder," "hereof," "hereto," and words of similar import will be deemed references to this Agreement as a whole and not to any particular Article, Section or other provision. "Including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term. "Or" is used in the inclusive sense of "and/or." With respect to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding." The phrase "ordinary course of business" and phrases of similar import will be deemed to mean the ordinary course of business of such Person consistent with past practice. Reference to a "copy" or "copies" of any document, instrument or agreement means a copy or copies that are complete and correct. Reference to a list, or any like compilation, means that the list or compilation is complete and correct.

All references to time of day are Eastern Time. When calculating the period of time before which, within which or following which any act is to be done or step is to be taken under this Agreement, the reference date in calculating such period will be excluded. If the last day of such period is a non-Business Day, the period in question will end on the next succeeding Business Day.

Unless otherwise specified, all references to monetary amounts are to currency of the United States of America. Unless otherwise specified, all accounting terms will be interpreted, and all accounting determinations hereunder will be made, to the extent applicable, in accordance with the Accounting Principles.

The phrase "made available" means materials posted to the Data Room and accessible to Parent and its representatives at least one day prior to the Agreement Date.

This Agreement will be construed according to its fair meaning. This Agreement was negotiated by the Parties with the benefit of legal representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any Party will not apply to any construction or interpretation of this Agreement.

EXHIBIT B

FORM OF INVESTOR RIGHTS AGREEMENT

INVESTOR RIGHTS AGREEMENT

by and between

SHENANDOAH TELECOMMUNICATIONS COMPANY

and

LIF VISTA, LLC

Dated as of [*Closing Date*]

TABLE OF CONTENTS

This INVESTOR RIGHTS AGREEMENT, dated as of [*Closing Date*] (this "Agreement"), is made and entered into by and between Shenandoah Telecommunications Company, a Virginia corporation (the "Company"), and the Investor signatory hereto (the "Investor").

RECITALS

WHEREAS, pursuant to the Merger Agreement (as defined in Section 1), concurrently with the Closing (as defined in Section 1), the Company will acquire all of the equity interests of the Target Company (as defined in Section 1);

WHEREAS, at the Closing, all of the Class A Units of the Target Company held by the Investor will be converted into the right to receive the Acquired Shares (as defined in Section 1); and

WHEREAS, the execution and delivery of this Agreement is a condition to the closing of the transactions contemplated by the Merger Agreement.

NOW, THEREFORE, the parties to this Agreement hereby agree as follows:

Section 1. Definitions.

"2024 Stockholders Meeting" means the annual shareholders meeting of the Company occurring in calendar year 2024, whether such meeting occurs before or after the date hereof.

"Acquisition" means the acquisition by the Company, directly or indirectly through one of its wholly owned Subsidiaries, of the Target Company, as contemplated by the Merger Agreement.

"Acquired Shares" means the [•] shares of Common Stock issued to the Investor at the Closing.

"Activist Shareholder" means as of any date of determination, a Person (other than the Investor and its Affiliates) that has, directly or indirectly through its Affiliates, whether individually or as a member of a "group" (as defined in Section 13(d)(3) of the Exchange Act), within the three (3)-year period immediately preceding such date of determination (i) called or publicly sought to call a meeting of the stockholders or other equityholders of any Person not publicly approved (at the time of the first such action) by the board of directors or similar governing body of such Person, (ii) publicly initiated any proposal for action by stockholders or other equityholders of any Person initially publicly opposed by the board of directors or similar governing body of such Person, (iii) publicly sought election to, or to place a director or representative on, the board of directors or similar governing body of a Person, or publicly sought the removal of a director or other representative from such board of directors or similar governing body, in each case which election or removal was not recommended or approved publicly (at the time such election or removal is first sought) by the board of directors or similar governing body of such Person, (iv) made, engaged in or been a participant in any "solicitation" of "proxies", as such terms are used in the proxy rules of the SEC promulgated under Section 14 of the Exchange Act, with respect to the matters set forth in clauses (i) through (iii), or (v) publicly disclosed any intention, plan or arrangement to do any of the foregoing. For the avoidance of doubt, neither the Investor nor its Permitted Transferees (or its Affiliates) are Activist Shareholders.

Any Person shall be deemed to "beneficially own", to have "beneficial ownership" of, or to be "beneficially owning" any securities (which securities shall also be deemed "beneficially owned" by such Person) that such Person is deemed to "beneficially own" within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act; provided, that any Person shall be deemed to beneficially own any securities that such Person has the right to acquire, whether or not such right is exercisable immediately. For the avoidance of doubt, for purposes of this Agreement, the Investor (or any other Person) shall at all times be deemed to have beneficial ownership of the Common Stock directly or indirectly held by it, irrespective of any restrictions on voting contained in this Agreement.

"Affiliate" (and its correlated meanings such as "Affiliated") means, as to any Person, any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Person; provided, however, (i) that the Company and its Subsidiaries, on the one hand, and the Investor or any of its Affiliates, on the other hand, shall not be deemed to be Affiliates of each other and (ii) the Investor Directors shall not be deemed to be Affiliates of the Investor, the Company or any of the Company's Subsidiaries. For this purpose, "control" (including its correlative meanings, "controlling", "controlled by" and "under common control with"), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise.

"Agreement" has the meaning set forth in the Preamble.

"Beneficial Ownership Requirement" means that the Investor, together with any of its Affiliates, continues to beneficially own at all times shares of Common Stock that represent (in the aggregate) at least 5.0% of the Issued and Outstanding Common Stock.

"Blackout Commencement Notice" has the meaning set forth in Section 10(b)(i).

"Blackout Period" has the meaning set forth in Section 10(b)(iv).

"Blackout Termination Notice" has the meaning set forth in Section 10(b)(iv).

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

"Board" means the Board of Directors of the Company.

"Charter Documents" means the Company's articles of incorporation and bylaws, each as amended to the date of this Agreement.

"Class A Units" means the Class A Units of the Target Company.

"Closing" means the consummation of the transactions contemplated by the Merger Agreement.

"Closing Date" means the date on which the Closing occurs.

"Common Stock" means the common stock, no par value, of the Company, and any successor securities resulting from any reclassification, combination or other similar event with respect thereto.

"Company" has the meaning set forth in the Preamble.

"Company Indemnified Person" means each of the following Persons: (a) the Company; (b) any Affiliate of the Company; (c) any Representative of the Company or its Affiliates; (d) each Person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act; and (e) each successor of the foregoing Persons.

"Company Registration Expenses" means all fees and expenses incurred by the Company in connection with its obligations pursuant to Section 7, 8, 9 or 11 (regardless of whether any Registration Statement is filed or becomes effective under the Securities Act or whether any Demand Underwritten Offering or Piggyback Underwritten Offering is consummated), including the following, to the extent applicable: (a) registration, qualification or filing fees of the SEC, the Financial Industry Regulatory Authority, Inc. or state securities or "blue sky" regulatory agencies; (b) fees incurred in connection with the listing, or the maintaining of any listing, of any Registrable Securities on any national securities exchange or inter-dealer quotation system; (c) the fees and disbursements of counsel for the Company or of any independent accounting firm for the Company; and (d) the reasonable and documented fees and out-of-pocket expenses of a single Designated Holder Counsel incurred in connection with the General Resale Registration Statement, a single Designated Holder Counsel incurred in connection with any Demand Underwritten Offering, or a single Designated Holder Counsel incurred in connection with any Piggyback Underwritten Offering; provided, however, that Company Registration Expenses will not include (i) any fees, expenses or disbursements of any counsel for any Holder, except fees and expenses of any Designated Holder Counsel that constitute Company Registration Expenses pursuant to clause (d) above; or (ii) any underwriting, brokerage or similar fees or discounts or selling commissions, or any stock transfer taxes (or any other taxes borne by any Holder), incurred in connection with the sale or other transfer of any Registrable Securities.

"Company Trading Policy" means the insider trading policy of the Company, as the same is in effect on the date hereof and any subsequent amendments, supplements, waivers or other modifications thereto, but not giving effect to any provisions in such amendments, supplements, waivers or modifications, if any, that expand the trading restrictions applicable to Investor Directors or its affiliates or related parties unless, and only to the extent, required by applicable securities laws.

"Competitor" means any Person set forth on set forth in Exhibit C.

"Demand Underwriting Registration Notice" has the meaning set forth in Section 8(a).

"Demand Underwriting Registration Statement" means each registration statement under the Securities Act that is designated by the Company for the registration, under the Securities Act, of any Demand Underwritten Offering pursuant to Section 8. For the avoidance of doubt, the Demand Underwriting Registration Statement may, at the Company's election, be the General Resale Registration Statement.

"Demand Underwriting Registration Statement Documents" means any Demand Underwriting Registration Statement, all pre- and post-effective amendments thereto, the related prospectus (including any preliminary prospectus), all supplements to such prospectus (including any preliminary prospectus supplements), the documents incorporated by reference in any of the foregoing and each related "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act).

"Demand Underwritten Offering" has the meaning set forth in Section 8(a).

"Demand Underwritten Offering Designated Holder Counsel" has the meaning set forth in Section 8(b)(iii).

"Demand Underwritten Offering Holder Representative" has the meaning set forth in Section 8(b)(ii).

"Demanding Notice Holders" has the meaning set forth in Section 8(a).

"Depositary" means The Depository Trust Company or any other entity acting as securities depositary for any of the Registrable Securities.

"Designated Holder Counsel" has the following meaning: (a) with respect to the General Resale Registration Statement, a single counsel that is designated and appointed, by one or more Notice Holders owning a majority of the Registrable Securities to be registered for resale pursuant to such General Resale Registration Statement (with written notice of such designation and appointment to the Company by such Notice Holders), to serve as counsel for all Notice Holders in respect of the General Resale Registration Statement (which counsel, as of the date of this Agreement, is hereby designated by the Notice Holders to be Greenberg Traurig, LLP); (b) with respect to any Demand Underwritten Offering, the Demand Underwritten Offering Designated Holder Counsel designated for such Demand Underwritten Offering pursuant to Section 8(b)(iii); and (c) with respect to any Piggyback Underwritten Offering, a single counsel that is designated and appointed, by one or more Notice Holders owning a majority of the Registrable Securities to be sold pursuant to such Piggyback Underwritten Offering (with written notice thereof to the Company by such Notice Holders), to serve as counsel for such Notice Holders in respect of such Piggyback Underwritten Offering (which counsel, as of the date of this Agreement, is hereby designated by the Notice Holders to be Greenberg Traurig, LLP).

"ECP Investment" means the transactions contemplated by the Investment Agreement, dated as of [●], 2023, by and among the Company, Shentel Broadbrand and the ECP Investor.

"ECP Investor" means, collectively, Hill City Holdings, LP, a Delaware limited partnership, and ECP Fiber Holdings, LP, a Delaware limited partnership.

"ECP Registration Rights Agreement" means that certain Registration Rights Agreement, dated as of the date hereof, by and between the Company and ECP Investor.

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

"Exchangeable Preferred" means the Series A Participating Exchangeable Perpetual Preferred Stock of Shentel Broadband.

"Fall-Away of Investor Rights" means the first day on which the Investor no longer meets the Beneficial Ownership Requirement.

"Form S-3" means Form S-3 under the Securities Act, or any successor form thereto.

"General Primary Registration Statement" has the meaning set forth in Section 9(e).

"General Resale Registration Statement" means each registration statement under the Securities Act that is filed pursuant to Section 7 for the purposes set forth therein.

"General Resale Registration Statement Documents" means any General Resale Registration Statement, all pre- and post-effective amendments thereto, the related prospectus (including any preliminary prospectus), all supplements to such prospectus (including any preliminary prospectus supplements), the documents incorporated by reference in any of the foregoing and each related "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act).

"General Resale Registration Statement Effectiveness Deadline Date" means the date that is six (6) months after the date hereof.

"General Resale Registration Statement Effectiveness Period" means the period that (a) begins on, and includes, the earlier of (i) the General Resale Registration Statement Effectiveness Deadline Date; and (ii) the first date the General Resale Registration Statement is effective under the Securities Act; and (b) ends on the first date when no Registrable Securities are outstanding.

"Governmental Authority" means any government, court, regulatory or administrative agency, commission, tribunal, arbitrator or authority or other legislative, executive or judicial governmental official or entity (in each case including any self-regulatory organization), whether U.S. federal, state or local, foreign or multinational.

"Holder" means, subject to Section 17, any Person that beneficially owns any Registrable Securities. For these purposes, a Person will be deemed to beneficially own any Registrable Securities issuable upon exchange of any other securities beneficially owned by such Person.

"Holder Indemnified Person" means each of the following Persons: (a) any Holder; (b) any Affiliate of any Holder; (c) Representative of any Holder or its Affiliates; (d) each Person, if any, who controls any Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act; and (e) each successor of the foregoing Persons.

"Holder Information" means, with respect to any Holder, any information furnished in writing by or on behalf of such Holder to the Company expressly for use in any Registration Statement Document (including information in any Notice and Questionnaire delivered by such Holder to the Company).

"Indemnified Person" means any Company Indemnified Person or Holder Indemnified Person.

"Indemnifying Party" has the meaning set forth in Section 14(c)(i).

"Initial Notice and Questionnaire Deadline Date" means the date that is [ten] ([10]) calendar days before the first date that the relevant General Resale Registration Statement becomes effective under the Securities Act.

"Investor" has the meaning set forth in the Preamble.

"Investor Designee" means an individual designated in writing by the consent of the Investor Parties to be appointed or nominated by the Company for election to the Board pursuant to Section 3, as applicable.

"Investor Director" means a member of the Board who was appointed or elected to the Board as an Investor Designee.

"Investor Parties" means the Investor and each Permitted Transferee of the Investor to whom shares of Common Stock are transferred pursuant to Section 5(b)(i). "Issued and Outstanding Common Stock" means, as of any particular date, issued and outstanding of shares of Common Stock; provided, that, for the avoidance of doubt, any reserved or issued but unexercised convertible securities of the Company (including, but not limited to, options, warrants and convertible preferred stock, including the Exchangeable Preferred) shall not be considered issued and outstanding shares of Common Stock.

"Loss" means any loss, damage, expense, liability or claim (including reasonable costs of investigating or defending, and reasonable attorney's fees and disbursements in connection with, the same).

"Lock-Up Period" means the period commencing on the Closing Date and ending on the one (1)-year anniversary of the Closing Date.

"Managing Underwriters" means, with respect to any Demand Underwritten Offering or Piggyback Underwritten Offering, one or more registered broker-dealers that are designated in accordance with this Agreement to administer such offering.

"Material Disclosure Defect" has the following meaning with respect to any document: (a) if such document is of the type as to which the provisions of Section 11 of the Securities Act are applicable, that such document contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and (b) in all other cases, that such document includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

"Maximum Successful Underwritten Offering Size" means, with respect to any Demand Underwritten Offering or Piggyback Underwritten Offering, the maximum number of securities that may be sold in such offering without adversely affecting the success of such offering, as advised by the Managing Underwriters for such offering to the Company and, in the case of a Demand Underwritten Offering, the applicable Demand Underwritten Offering Holder Representative.

"Merger Agreement" means that certain Agreement and Plan of Merger, dated as of October [•], 2023, by and among the Company, the Investor and the other parties thereto in respect of the Acquisition.

"Nasdaq" means The Nasdaq Stock Market.

"Non-Holder Securities" means any securities of the Company, or of any Person other than any Holder, to be included in any Demand Underwritten Offering or Piggyback Underwritten Offering, as applicable.

"Notice and Questionnaire" means a duly completed and executed Notice and Questionnaire substantially in the form set forth in Exhibit A.

"Notice Holder" means, subject to Section 17, a Holder that has delivered a Notice and Questionnaire to the Company.

"Offering Launch Time" means, with respect to a Demand Underwritten Offering or Piggyback Underwritten Offering, the earliest of (a) the first date a preliminary prospectus (or prospectus supplement) for such offering is filed with the SEC; (b) the first date such offering is publicly announced; and (c) the date a definitive agreement is entered into with the Managing Underwriters respect to such offering.

"Other Holder" means any Person, other than the Company or any Holder, exercising piggyback rights in a Piggyback Underwritten Offering.

"Permitted Transferee" means (i) any Affiliate of the Investor, (ii) any successor entity of any Investor Party or (iii) any investment fund, vehicle, holding company or similar entity for separately managed accounts with respect to which the Investor or any of its Affiliates serves as a general partner, managing member, manager or advisor, or any successor entity of the Persons described in this clause (iii) for so long as the Investor continues to retain sole control of the voting and disposition of the Acquired Shares (for clarity, it being understood that at such time the Investor no longer retains such sole control, that such event shall constitute a Transfer to a Person who is not a Permitted Transferee) provided, however, that in no event shall (x) any "portfolio company" (as such term is customarily used in the private equity industry) or (y) any Competitor or Activist Shareholder (whether or not an Affiliate of any Investor Party) constitute a "Permitted Transferee.".

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate "person" under this Agreement.

"Piggyback Registration Statement" means each registration statement under the Securities Act that registers any Piggyback Underwritten Offering that includes any Registrable Securities pursuant to Section 9.

"Piggyback Registration Statement Documents" means any Piggyback Registration Statement, all pre- and post-effective amendments thereto, the related prospectus (including any preliminary prospectus), all supplements to such prospectus (including any preliminary prospectus supplements), the documents incorporated by reference in any of the foregoing and each related "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act).

"Piggyback Right" has the meaning set forth in Section 9.

"Piggyback Underwritten Offering" means a firmly underwritten public offering of the Common Stock that is registered under the Securities Act and pursuant to which the Company or other selling stockholders sell Common Stock to one or more underwriters for reoffering to the public for cash; provided, however, that the following will not constitute a Piggyback Underwritten Offering: (a) any Demand Underwritten Offering or any "Demand Underwritten Offering" as defined in the ECP Registration Rights Agreement; (b) any "at-the-market" offering pursuant to which Common Stock is sold from time to time into an existing market at prices then prevailing; and (c) the filing or effectiveness of any registration statement under the Securities Act for one or more offerings on a continuous or delayed basis pursuant to Rule 415 under the Securities Act (including "unallocated" or "kitchen sink" registration statements), or any amendment to such a registration statement; provided no firmly underwritten public offering of the type referred to in this definition is contemplated at the time of such filing or effectiveness.

"Piggyback Underwritten Offering Notice" has the meaning set forth in Section 9(a)(i).

"Piggyback Underwritten Offering Notice Deadline Date" means, with respect to any Piggyback Underwritten Offering, the seventh (7th) Business Day before the date of the Offering Launch Time for such Piggyback Underwritten Offering; provided, however, that if a new registration statement that is not an "automatic registration statement" (as defined in Rule 405 under the Securities Act) will be filed for such Piggyback Underwritten Offering, then the Piggyback Underwritten Offering Notice Deadline Date will instead be the fifth (5th) Business Day before the date such registration statement is initially filed with the SEC; provided, further, that if an "organizational" or similar meeting is held in connection with the commencement of the preparation for such Piggyback Underwritten Offering, then the Piggyback Underwritten Offering Notice Deadline will in no event be earlier than the date of such meeting.

"Proceeding" has the meaning set forth in Section 14(c)(i).

"Registrable Securities" means:

(a) the Acquired Shares; and

(b) any securities issued, distributed or otherwise delivered with respect to any Acquired Shares upon any stock dividend, reclassificiation, combination or split or other similar event;

provided, however, that a security described in clause (a) or (b) above will cease to be a Registrable Security upon the earliest to occur of the following events:

(a) such security ceases to be outstanding; and

(b) such security is sold or otherwise transferred in a transaction (including, for the avoidance of doubt, a transaction that is registered under the Securities Act) following which such security ceases to be a "restricted security" (as defined in Rule 144).

"Registration Statement" means any General Resale Registration Statement, Demand Underwriting Registration Statement or Piggyback Registration Statement.

"Registration Statement Documents" means any General Resale Registration Statement Documents, Demand Underwriting Registration Statement Documents or Piggyback Registration Statement Documents.

"Representatives" means, with respect to any Person, its officers, directors, principals, partners, managers, members, employees, consultants, agents, financial advisors, investment bankers, attorneys, accountants, other advisors and other representatives.

"Rule 144" means Rule 144 under the Securities Act (or any successor rule thereto).

"Rule 415" means Rule 415 under the Securities Act (or any successor rule thereto).

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

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

"Shentel Broadband" means Shentel Broadband Holding Inc., a Delaware corporation.

"Specified Courts" has the meaning set forth in Section 24(e).

"Subsidiary" means with respect to any entity, (i) any corporation of which a majority of the securities entitled to vote generally in the election of directors thereof, at the time as of which any determination is being made, are owned by such entity, either directly or indirectly, and (ii) any joint venture, general or limited partnership, limited liability company or other legal entity in which such entity is the record or beneficial owner, directly or indirectly, of a majority of the voting interests or the general partner. As used herein, for the avoidance of doubt, the Company shall be deemed for all purposes herein to be a Subsidiary of the Company at all times.

"Target Company" means Horizon Acquisition Parent LLC.

"Tax" or "Taxes" mean all taxes, imposts, levies, duties, deductions, withholdings (including backup withholding), assessments, fees or other like assessments or charges, in each case in the nature of a tax, imposed by a Governmental Authority, together with all interest, penalties and additions imposed with respect to such amounts.

"Tax Return" means any report, return, information return, filing, claim for refund or other information filed or required to be filed with a Governmental Authority in connection with Taxes, including any schedules or attachments thereto, and any amendments to any of the foregoing.

"Transfer" means, directly or indirectly, to sell, transfer, assign, pledge, encumber, hypothecate or similarly dispose of, either voluntarily or involuntarily, or to enter into any contract, option or other arrangement or understanding with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or similar disposition of, any shares of equity securities beneficially owned by a Person or any interest in any shares of equity securities beneficially owned by a Person; provided, however, that, notwithstanding anything to the contrary in this Agreement, a Transfer shall not include (i) the redemption or other acquisition of Common Stock by the Company or (ii) the direct or indirect transfer of any limited partnership interests or other equity interests in an Investor Party (or any direct or indirect parent entity of the Investor), including the direct or indirect transfer of any interest in (x) the managing member or similar controlling entity(ies) of the general partner or similar controlling entity(ies) of the general partner or similar controlling entity(ies) of the Investor or any of its Affiliates, (y) the general partner or similar controlling entity(ies) of the general partner or similar controlling entity(ies) of the Investor or any of its Affiliates or (z) any direct or indirect member of any managing member or similar controlling entity identified in clauses (x) or (y) (provided that if any transferor or transferee referred to in this clause (iii) ceases to be controlled (directly or indirectly) by the Person (directly or indirectly) controlling such Person immediately prior to such transfer, such event shall be deemed to constitute a "Transfer").

"VSCA" means the Virginia Stock Corporation Act, as amended, supplemented or restated from time to time.

Section 2. **Rules of Construction**. For purposes of this Agreement:

(a) "or" is not exclusive;

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

(c) "will" expresses a command;

(d) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

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

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

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

(h) the exhibits, schedules and other attachments to this Agreement are deemed to form part of this Agreement.

Section 3. Appointment of the Investor Director.

(a) [On the date hereof, the Board shall adopt resolutions that fill the current vacancy in the Director class expiring in 2025 with James DiMola.] [Promptly after the next annual meeting of shareholders after the date of this Agreement, the Board shall adopt resolutions that fill the current vacancy in the Director class expiring in 2025 with James DiMola. From and after the Closing Date until the date the Investor Designee is appointed to the Board, the Investor shall have the right to designate one (1) observer (including, as necessary, any substitute observer designated by the Investor) (the "Investor Observer") who shall be entitled, subject to the limitations set forth in this Agreement and applicable Laws, to attend (in person or telephonically) all meetings of the Board and, to the extent agreed by the Board, any committees thereof in a non-voting observer capacity, and to receive copies of all notices, minutes, consents, agendas and other materials distributed to the Board and any such committee thereof; provided, however, that, if the Company believes in good faith that excluding any such materials (or portions thereof) from the Investor Observer is necessary to preserve attorney-client privilege, such materials (or portions thereof) may be withheld from the Investor Observer and the Investor Observer may be excluded from any meeting or portion thereof related to such matters upon reasonable prior notice to the Investor Observer (to the extent practicable); Except as otherwise set forth herein, the Investor Observer may participate in discussions of matters brought to the Board or any committee thereof; provided, that the Investor Observer shall have no voting rights with respect to actions taken or elected not to be taken by the Board or any committee thereof and the Investor Observer shall not owe any fiduciary duty to the Company, its Subsidiaries or the holders of any class or series of the Company securities. If the Investor Observer is unable to attend any meeting of the Board or a committee thereof, the Investor shall have the right to designate a substitute Investor Observer with written notice to the Board or such committee. For the avoidance of doubt, the Investor Observer shall cease to have any rights to attend any meetings of the Board or any of its committees upon effect of the appointment by the Company of the Investor Designee to the Board.][1]

(b) Beginning at the Fall-Away of Investor Rights, at the request of the Board, the Investor Director shall immediately resign, and the Investor shall cause the Investor Director immediately to resign, from the Board and any committee thereof effective as of the Fall-Away of Investor Rights, and the Investor shall no longer have any rights under this Section 3, including, for the avoidance of doubt, any designation or nomination rights under this Section 3 and any rights to designate an Investor Observer. The Investor shall provide prompt written notice to the Company upon the Fall-Away of Investor Rights.

(c) From and after the Closing and until the Fall-Away of Investor Rights, at any annual meeting of the Company's stockholders at which the term of the Investor Director shall expire, the Investor shall have the right to designate an Investor Designee to the Board for election to the Board at such annual meeting. The Company shall include the Investor Designee designated by the Investor in accordance with this Section 3(c) in the Company's slate of nominees (as set forth in its relevant proxy materials) for the applicable annual meeting of the Company's stockholders and shall recommend that the holders of Common Stock vote in favor of any such Investor Designee's election and shall support the Investor Designee in a manner no less rigorous and favorable than the manner in which the Company supports its other nominees in the aggregate. Without the prior written consent of the Investor, so long as the Investor is entitled to designate an Investor Designee for election to the Board in accordance with this Section 3, the Board shall not remove, with or without cause, the Investor Director from his or her directorship (except as required by Law or the Charter Documents).

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[1] Note to Draft: First bracketed sentence to be included in the Agreement; provided, that the second bracketed provision shall instead be included in the Agreement in lieu of the first sentence in the event the Closing occurs on a date that the Company, in its discretion and in good faith, determines is sufficiently close to the date of its next annual meeting of shareholders such that it would not be practical or cost effective to amend its proxy materials to include the Investor Designee as a non-expiring Director or would otherwise require the Company to make a supplemental mailing of proxy materials or delay the date of such annual meeting.

(d) In the event of the death, disability, resignation or removal of the Investor Director as a member of the Board (other than resignation pursuant to Section 3(c)), the Investor, if the Investor is entitled to nominate a director pursuant to this Section 3, may designate an Investor Designee to replace such Investor Director and, subject to Section 3(e) and any applicable provisions of the VSCA, the Company shall cause such Investor Designee to fill such resulting vacancy.

(e) The Company's obligations to have any Investor Designee elected to the Board or any committee thereof or nominate any Investor Designee for election as a director at any meeting of the Company's stockholders pursuant to this Section 3, as applicable, shall in each case be subject to such Investor Designee being reasonably acceptable to the Board (provided that James DiMola shall be deemed reasonably acceptable to the Board, but shall be subject to the following clauses (i)-(iii)) and, unless the Company otherwise consents, must (i) qualify as an independent director pursuant to applicable listing standards, SEC rules and publicly disclosed standards used by the Board in determining independence of the Company's directors, (ii) meet all other qualifications required for service as a director under the Company's bylaws, corporate governance guidelines and stock exchange rules regarding service as a director of the Company and (iii) be subject to the same guidelines and policies applicable to the Company's other directors; provided, however, that neither an Investor Designee's relationship with the Investor or its Affiliates (or any other actual or potential lack of independence resulting therefrom) nor the ownership by the Investor of any shares of Common Stock, shall, in and of itself, be considered to disqualify such Investor Designee from becoming a member of the Board pursuant to this Section 3. The Investor will cause each Investor Designee to make himself or herself reasonably available for interviews and to consent to such reference and background checks or other investigations as the Board may reasonably request to determine the Investor Designee's eligibility and qualification to serve as a director of the Company. No Investor Designee shall be eligible to serve on the Board if he or she has been involved in any of the events enumerated under Item 2(d) of Schedule 13D under the Exchange Act or Item 401(f) of Regulation S-K under the Securities Act, is a "Bad Actor" as defined in Rule 506(d)(1)(i)-(viii) promulgated under the Securities Act or is subject to any Judgment prohibiting service as a director of any public company. As a condition to any Investor Designee's election to the Board or nomination for election as a director of the Company at any meeting of its stockholders, the Investor and the Investor Designee (as applicable) must provide to the Company:

(i) all information reasonably requested by the Company that is required to be or is customarily disclosed for directors, candidates for directors and their respective Affiliates and Representatives in a proxy statement or other filings in accordance with applicable Law, any stock exchange rules or listing standards or the Charter Documents or corporate governance guidelines, in each case, relating to the Investor Designee's election as a director of the Company or the Company's operations in the ordinary course of business;

(ii) all information reasonably requested by the Company in connection with assessing eligibility and other criteria applicable to directors or satisfying compliance and legal or regulatory obligations, in each case, relating to the Investor Designee's nomination or election, as applicable, as a director of the Company or the Company's operations in the ordinary course of business; and

(iii) an undertaking in writing by the Investor Designee to be subject to, bound by and duly comply with the Company's Code of Business Conduct and Ethics, Corporate Governance Guidelines, Stock Ownership Guidelines (which shall be deemed satisfied by the Investor' ownership of Acquired Shares) and Policy Statement on Trading Policy with such changes thereto (or such successor policies) as are applicable to all other directors, in each case, as such changes or successor policies are adopted in good faith by the Board, and do not by their terms materially, adversely and disproportionately impact the Investor Designee relative to all other directors; provided, that no such code of conduct or Policy Statement on Trading Policy shall (x) apply to the Investor Parties or any of their respective Affiliates (other than with respect to the Investor Director solely in his or her individual capacity), (y) restrict any transfer of securities of any Affiliate of the Investor Parties, provided that no Confidential Information constituting material non-public information is disclosed to or used by or on behalf of such Affiliate in connection with such transfer of securities, in each case, except to the extent that such Affiliate and transferee maintain the Confidential Information in accordance with Section 21 as if such Affiliate and transferee were a party to such section and abide by the restrictions imposed by the United States securities laws on the purchase or sale of securities by any person who has received material, non-public information from the issuer of such securities for so long as such Confidential Information constitutes material, non-public information, or (z) impose any share ownership requirement for the Investor Director.

(f) Subject to Section 3(e), the Company shall, upon effect of the appointment of the Investor Director to the Board and until the Fall-Away of Investor Rights, cause each such committee of the Board as the Company and the Investor may mutually agree in good faith to include the Investor Director.

(g) The Company shall indemnify the Investor Director and provide the Investor Director with director and officer insurance to the same extent as it indemnifies and provides such insurance to other members of the Board, pursuant to the Charter Documents, the VSCA or otherwise (including pursuant to customary indemnification agreements). The Company hereby acknowledges and agrees that it (1) is the indemnitor of first resort (*i.e.*, its obligations to the Investor Director are primary and any obligation of the Investor or its Affiliates to advance expenses or to provide indemnification for the same expenses or liabilities incurred by the Investor Director are secondary) and (2) shall be required to advance the amount of expenses incurred by the Investor Director and shall be liable for the amount of all expenses and liabilities incurred by the Investor Director, in each case to the same extent as it advances to and indemnifies and provides such insurance to other members of the Board, pursuant to the Charter Documents, the VSCA or otherwise, without regard to any rights the Investor Director may have against the Investor or its Affiliates. This Section 3(g) shall (i) survive (A) the consummation of the transactions contemplated in the Merger Agreement, (B) the Fall-Away of Investor Rights and (C) the resignation or removal of any Investor Director pursuant to Section 3 and (ii) be binding on all successors and assigns of the Company. This Section 3(g) is intended to be for the benefit of each Investor Director and his or her heirs and representatives (each, a "Director Indemnitee") and may be enforced by any such Director Indemnitee as if such Director Indemnitee was a party to this Agreement. The obligations of the Company under this Section 3(g) shall not be terminated or modified in such a manner as to adversely affect any Person to whom this Section 3(g) applies without the written consent of such affected Person.

(h) Prior to the Fall-Away of Investor Rights, the Company shall not decrease the size of the Board or any committee of the Board on which the Investor Director sits without, in each case, the consent of the Investor Parties if such decrease would require the resignation or removal of the Investor Designee from the Board or such committee thereof.

(i) The parties hereto agree that the Investor Director [(or, as applicable, the Investor Observer)] shall be entitled to reimbursement from the Company for the reasonable out-of-pocket fees or expenses incurred in connection with his or her service as a director [or observer] of the Board, in each case, in a manner consistent with the Company's practices with respect to reimbursement for other members and observers of the Board, including reimbursement pursuant to customary indemnification arrangements.[2]

Section 4. **Voting.** From and after the Closing and until the Fall-Away of Investor Rights, subject to any applicable Law, stock exchange rules or listing standards:

(a) At each meeting of the stockholders of the Company (including, if applicable, through the execution of one or more written consents if stockholders of the Company are requested to vote through the execution of an action by written consent in lieu of any such annual or special meeting of stockholders of the Company) and at every postponement or adjournment thereof, each Investor Party shall take such action as may be required so that all of the shares of Common Stock beneficially owned, directly or indirectly, by such Investor Party or its controlled Affiliates and entitled to vote at such meeting of stockholders are voted, or consent is given or revoked, in the same manner as recommended by the Board with respect to (i) the election or removal of directors (other than any Investor Designee or Investor Director), (ii) ratification of the appointment of the Company's independent registered public accounting firm, (iii) the Company's "say-on-pay" proposals, (iv) the Company's equity incentive plans and (v) amendments to the Company's articles of incorporation proposed by the Board to increase (A) the number of authorized shares of Common Stock within ISS policy guidelines or (B) the size of the Board; provided, that, for the avoidance of doubt, the Investor Parties shall not be restricted from voting in any manner on any matter not enumerated in the foregoing clauses (i)-(v). For the avoidance of doubt, each Investor Party shall ensure it is entitled to vote each share of Common Stock which is then held by such Investor Party (subject to Section 5(b)) on the applicable record date for each meeting of stockholders or solicitation of consents in lieu of a meeting.

[2] Note to Draft: Bracketed provisions to be included in the Agreement if the first bracketed sentence in Section 3(a) is not included in the Agreement.

(b) Each Investor Party shall be present, in person or by proxy, at all meetings of the stockholders of the Company so that all shares of Common Stock beneficially owned by such Investor Party or its controlled Affiliates may be counted for the purposes of determining the presence of a quorum and voted in accordance with Section 4(a) at such meetings (including at any adjournments or postponements thereof). The foregoing provision shall also apply to the execution by such Persons of any written consent in lieu of a meeting of holders of shares of Common Stock.

Section 5. Transfer Restrictions.

(a) Except as otherwise permitted in this Agreement, including Section 5(b), until the expiration of the Lock-Up Period, the Investor Parties will not (i) Transfer any Acquired Shares or (ii) make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a short sale of or the purpose of which is to offset the loss which results from a decline in the market price of, any shares of Common Stock, or otherwise establish or increase, directly or indirectly, a put equivalent position, as defined in Rule 16a-1(h) under the Exchange Act, with respect to the any of the Common Stock or any other capital stock of the Company (any such action, a "Hedge"). From and after the expiration of the Lock-up Period, the Investor Parties shall be free to Transfer and Hedge against any Acquired Shares.

(b) Notwithstanding Section 5(a), each Investor Party shall be permitted to Transfer any portion or all of the Acquired Shares at any time under the following circumstances*:*

(i) Transfers to any Permitted Transferees, but only if the transferee agrees in writing prior to such Transfer for the express benefit of the Company (in form and substance reasonably satisfactory to the Company and with a copy thereof to be furnished to the Company) to be bound by the terms of this Agreement and if the transferee and the transferor agree for the express benefit of the Company that the transferee shall Transfer the Acquired Shares so Transferred back to the transferor at or before such time as the transferee ceases to be a Permitted Transferee of the transferor;

(ii) Transfers pursuant to a merger, tender offer or exchange offer or other business combination, acquisition of assets or similar transaction or any change of control transaction involving the Company or any Subsidiary, that, in each case, is approved by the Board;

(iii) Transfers pursuant to a tender offer or exchange offer that is (A) approved by the Board, (B) for less than all of the outstanding shares of Common Stock or (C) part of a two-step transaction in which a tender offer is followed by a second step merger, in which the consideration to be received in the first step of such transaction is identical to the amount or form of consideration to be received in the second step merger;

(iv) Transfers to the Company or any of its Subsidiaries or that have been approved in writing by the Board; and

(v) Transfers after commencement by the Company or a significant subsidiary (as such term is defined in Rule 12b-2 under the Exchange Act) the Company or such significant subsidiary of bankruptcy, insolvency or other similar proceedings; and

(vi) Transfers in connection with a bona fide loan or other financing arrangement of such Investor Party entered into with a nationally recognized financial institution, including a pledge to such a financial institution to secure a bona fide debt financing and any foreclosure by such financial institution or Transfer to such financial institution in lieu of foreclosure and subsequent sale of the securities (a "Permitted Loan"). Nothing contained in this Agreement shall prohibit or otherwise restrict the ability of any lender (or its securities' affiliate) or collateral agent to foreclose upon, or accept a Transfer in lieu of foreclosure of, the Acquired Shares mortgaged, hypothecated, and/or pledged to secure the obligations of the borrower following an event of default under a Permitted Loan. In the event that any lender or other creditor under a Permitted Loan transaction (including any agent or trustee on their behalf) or any Affiliate of the foregoing exercises any rights or remedies in respect of the Acquired Shares or any other collateral for any Permitted Loan, no lender, creditor, agent or trustee on their behalf or Affiliate of any of the foregoing (other than, for the avoidance of doubt, such Investor Party or its Affiliates) shall have any obligations or be subject to any Transfer restrictions or limitations hereunder except and to the extent for those expressly provided for in Section 5(c)(which shall apply to any lender, creditor, agent or trustee on their behalf or Affiliate of any of the foregoing to the same extent as an Investor Party).

(c) Notwithstanding Section 5(a) and 5(b), each Investor Party will not at any time, including after the Lock-Up Period, knowingly (after reasonable inquiry), directly or indirectly (without the prior written consent of the Board), Transfer any Acquired Shares to a Competitor, an Activist Shareholder or any Person (other than the Company) that, together with its Affiliates, to the knowledge of such Investor Party at the time it enters into such transaction (after reasonable inquiry), would hold 5% or more of the outstanding Common Stock after giving effect to such Transfer; provided, that these restrictions shall not apply (i) to Transfers into the public market pursuant to a bona fide, broadly distributed underwritten public offering, in each case made pursuant to this Investor Rights Agreement or through a bona fide sale to the public without registration effectuated pursuant to Rule 144 under the Securities Act or (ii) to block trades to investment banks in the ordinary course of such investment banks' businesses (but excluding block trades to a Competitor or an Activist Shareholder). The Company shall reasonably cooperate in good faith with the Investor Parties in connection with the private sale by any Investor Party of any Acquired Shares or Common Stock to a third party that is not a Competitor or an Activist Shareholder.

(d) Any attempted Transfer in violation of this Section 5 shall be null and void *ab initio*.

(e) For the avoidance of doubt, no Holder other than an Investor Party shall have or be permitted to exercise any right of the Investor Parties under this Agreement, including pursuant to Section 3 and Section 21(c).

Section 6. Legend.

(a) All certificates or other instruments representing the Acquired Shares shall bear a legend substantially to the following effect:

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO TRANSFER RESTRICTIONS SET FORTH IN AN INVESTOR RIGHTS AGREEMENT, DATED AS OF [●], A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE COMPANY.

(b) Upon request of any Investor Party, upon receipt by the Company of an opinion of counsel reasonably satisfactory to the Company to the effect that such legend is no longer required under the Securities Act and applicable state securities Laws, the Company shall promptly cause the first paragraph of the legend to be removed from any certificate for Acquired Shares to be Transferred in accordance with the terms of this Agreement and (ii) the second paragraph of the legend shall be removed upon the expiration of such transfer restrictions set forth in this Agreement (and, for the avoidance of doubt, immediately prior to any termination of this Agreement).

Section 7. General Resale Registration Statement.

(a) *Effectiveness of General Resale Registration Statement*. Subject to Section 10, the Company will (i) prepare and file a General Resale Registration Statement with the SEC; and (ii) use commercially reasonable efforts to cause such General Resale Registration Statement to (x) become effective under the Securities Act no later than the General Resale Registration Statement Effectiveness Deadline Date; and (y) remain continuously effective, and usable for the resale or other transfer of all of the Registrable Securities, under the Securities Act throughout the General Resale Registration Statement Effectiveness Period.

(b) *Contents of and Requirements for General Resale Registration Statement*. The Company will cause the General Resale Registration Statement to satisfy the following requirements:

(i) The General Resale Registration Statement will register, under the Securities Act, the offer and resale, from time to time on a continuous basis under Rule 415, of all Registrable Securities by the Holders thereof as provided in Sections 7(b)(ii) and 7(c).

(ii) When it first becomes effective under the Securities Act, the General Resale Registration Statement will cover resales of all Registrable Securities of Notice Holders identified in all Notice and Questionnaires delivered to the Company on or before the Initial Notice and Questionnaire Deadline Date. Thereafter, the General Resale Registration Statement will cover resales of all Registrable Securities of Notice Holders as provided in Section 7(c). Each Holder as to which any General Resale Registration Statement is being effected agrees to furnish to the Company all information with respect to such Holder necessary to make the information previously furnished to the Company by such Holder not materially misleading. No Holder shall be permitted to include any of its Registrable Securities in any General Resale Registration Statement pursuant to this Agreement unless and until it complies with the terms of this Section 7(b)(ii).

(iii) The General Resale Registration Statement will provide for a plan of distribution in customary form (and reasonably satisfactory to the Holders) for resale registration statements of the type contemplated by this Agreement, including coverage for market transactions on a national securities exchange, privately negotiated transactions and transactions through broker-dealers acting as agent or principal. In addition, if the rules under the Securities Act then so permit, such plan of distribution will permit underwritten offerings (including "block" trades) through one or more registered broker-dealers acting as underwriters to be effected pursuant to one or more prospectus supplements that identify such underwriters (in addition to any other information that may then be required pursuant to the Securities Act); provided, however, that the Company will be under no obligation to effect any such underwritten offering pursuant to the General Resale Registration Statement except pursuant to Section 10.

(iv) If the resales contemplated by the General Resale Registration Statement are then eligible to be registered by the Company on Form S-3, then the General Resale Registration Statement will be on such Form S-3. In the event that Form S-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall (i) register the resale of the Registrable Securities on Form S-1 or another appropriate form reasonably acceptable to the Holders and (ii) undertake to register the resale of the Registrable Securities on Form S-3 as soon as such form is available, provided that the Company shall maintain the effectiveness of any General Resale Registration Statement then in effect until such time as a General Resale Registration Statement on Form S-3 covering the resale of all the Registrable Securities has been declared effective by the SEC and the prospectus contained therein is available for use.

(c) *Obligation to Make Filings to Name Additional Notice Holders*. If any Holder delivers a Notice and Questionnaire to the Company after the Initial Notice and Questionnaire Deadline Date, then, subject to Section 10 and the other provisions of this Section 7(c), the Company will make such filing(s) with the SEC (including, if applicable, (w) a post-effective amendment, (x) a prospectus supplement, (y) any document that will be incorporated by reference in the General Resale Registration Statement upon its filing or (z) a new General Resale Registration Statement; provided, that the Company will effect such filing by means of a prospectus supplement or a document referred to in the preceding clause (y) instead of a post-effective amendment or a new General Resale Registration Statement, if reasonably practicable and then permitted by the rules of the SEC) so as to enable such Holder to sell or otherwise transfer such Holder's Registrable Securities identified in such Notice and Questionnaire pursuant to the applicable General Resale Registration Statement and the related prospectus and, if applicable, prospectus supplement in accordance with the plan of distribution set forth therein. Subject to the next sentence, the Company will make such filing(s) as follows: (i) within sixty (60) calendar days after the date of such delivery (or, if such Notice and Questionnaire is delivered before the initial effective date of the General Resale Registration Statement or during a Blackout Period, such effective date or the last day of such Blackout Period, respectively), if a new General Resale Registration Statement is required (and the Company will use commercially reasonable efforts to cause such new General Resale Registration Statement to become effective under the Securities Act as soon as reasonably practicable); and (ii) in all other cases, within fifteen (15) calendar days after the date of such delivery (or, if such Notice and Questionnaire is delivered before the initial effective date of the General Resale Registration Statement or during a Blackout Period, such effective date or the last day of such Blackout Period, respectively). Notwithstanding anything to the contrary in this Section 7(c), the Company will in no event be required pursuant to this Section 7(c) to file more than one (1) new General Resale Registration Statement within any twelve (12) month period or more than one (1) other filing in any one (1) month period.

(d) *Filing of New General Resale Registration Statement; Designation of Existing Registration Statement*. To the extent the Company deems doing so to be desirable or necessary to satisfy its obligations under this Agreement or to comply with applicable law (including, if applicable, to comply with Rule 415(a)(5)), the Company may file one or more new General Resale Registration Statements or designate an existing registration statement of the Company to constitute a General Resale Registration Statement for purposes of this Agreement, provided that each such new General Resale Registration Statement or existing registration statement satisfies the requirements of this Agreement, and provided further that the Company shall maintain the effectiveness of any General Resale Registration Statement then in effect until such time as such new or existing registration statement covering the resale of all Registrable Securities has been declared effective by the SEC and the prospectus contained therein is available for use by the Holders. Each reference in this Agreement to the General Resale Registration Statement will, if applicable, be deemed to include each such new General Resale Registration Statement or existing registration statement, if any, *mutatis mutandis*. In addition, the first date any such existing registration statement is amended or supplemented to permit the offer and resale of Registrable Securities in the manner contemplated by this Agreement will be deemed, for purposes of Sections 9(b) and 9(e) and any related definitions, to be the initial filing date of such existing registration statement, and the first date such amended or supplemented existing registration statement is effective under the Securities Act and permits such the offers and resales will be deemed, for purposes of Sections 7(b)(ii), 7(c) and 11(e) and any related definitions, to be the initial effective date of such existing registration statement.

(e) Notwithstanding anything to the contrary in this Section 7, if the applicable rules under the Securities Act, or interpretations thereof published by the staff of the SEC, are amended so as to permit Holders to resell their Registrable Securities pursuant to the General Resale Registration Statement without being named as a selling securityholder therein or in any related prospectus or prospectus supplement, then the Company may, at its election, amend any applicable General Resale Registration Statement Documents to identify the Holders generically in accordance with such rules and interpretations, in which event the Company will no longer have any obligation thereafter make any filings pursuant to Section 7(c) to the extent such filings are not necessary to permit any Holder to sell its Registrable Securities pursuant to the General Resale Registration Statement.

Section 8. Demand Underwriting Registration Rights.

(a) *Right to Demand Underwriting Registrations*. Subject to the other provisions of this Section 8, Notice Holders will have the right, exercisable by written notice satisfying the requirements of Section 8(b) (a "Demand Underwriting Registration Notice") to the Company by one or more Notice Holders (such Notice Holders, the "Demanding Notice Holders"), to require the Company to register, under the Securities Act, a firmly underwritten public offering (a "Demand Underwritten Offering") of Registrable Securities in accordance with this Section 8; provided, however, that:

(i) no Demand Underwriting Registration Notice may be delivered, or will be effective, unless, at the time it is delivered, the Company has an effective registration statement on Form S-3 on file with the SEC (including, if applicable, the General Resale Registration Statement) that is available and permitted to be used to register the applicable Demand Underwritten Offering by means of one or more prospectus supplements to such registration statement;

(ii) no Demand Underwriting Registration Notice may be delivered, or will be effective, if:

(1) a prior Demand Underwritten Offering is pending or in process, and is not completed or withdrawn, at the time such Demand Underwriting Registration Notice is delivered;

(2) a "Demand Underwritten Offering" as defined in the ECP Registration Rights Agreement is pending or in process, and is not completed or withdrawn, at the time such Demand Underwriting Registration Notice is delivered; *provided*, *however*, that, notwithstanding the foregoing, the number of consecutive calendar days during which this Section 8(a)(ii)(2) may operate to prevent the delivery or effectiveness of a Demand Underwriting Registration Notice will in no event exceed twenty-eight (28) (regardless of the number of such "Demand Underwritten Offerings" pending, in process, completed or withdrawn during such period); *provided*, *further*, that Section 8(a)(ii)(2) will not apply, and will have no force or effect, at any time when the ECP Registration Rights Agreement does not contain a reciprocal provision substantially to the effect of the foregoing with respect to the execution of a "Demand Underwritten Offering" as defined under the ECP Registration Rights Agreement while a Demand Underwritten Offering under this Agreement is pending or in process, and is not completed or withdrawn;

(3) it is delivered during a Blackout Period;

(4) two (2) or more Demand Underwritten Offerings have been effected, during the eighteen (18) months immediately preceding the date on which such Demand Underwriting Registration Notice is delivered;

(5) the Company has already effected five (5) or more Demand Underwritten Offerings pursuant to this Agreement; or

(6) the aggregate market value of the Registrable Securities of such Notice Holder(s) to be included in the requested Demand Underwritten Offering is less than forty million dollars ($40,000,000); and

(iii) at any time when a Holder has an Investor Designee serving as an Investor Director, such Holder will not be entitled to deliver a Demand Underwriting Registration Notice, and no Demand Underwriting Registration Notice of such Holder will be effective, in respect of a Demand Underwritten Offering proposed to be conducted during any period in which the Company Trading Policy would not permit such Holder to sell any of its Registrable Underlying Securities in such Demand Underwritten Offering.

(b) *Contents of Demand Underwriting Registration Notice*. Each Demand Underwriting Registration Notice sent by any Demanding Notice Holder(s) must state the following:

(i) the name of, and contact information for, each such Demanding Notice Holder(s) and the number of Acquired Shares that are held by each such Demanding Notice Holder;

(ii) (1) the name of, and contact information for, a single natural Person (in such capacity, the "Demand Underwritten Offering Holder Representative") who is appointed to serve as the representative of all Notice Holders in respect of the requested Demand Underwritten Offering with authority to make the decisions in respect thereof provided in this Section 8; and (2) a statement that each such Demanding Notice Holder consents to such appointment and authority;

(iii) (1) the name of, and contact information for, a single counsel (in such capacity, the "Demand Underwritten Offering Designated Holder Counsel") that is designated and appointed to serve as counsel for all Notice Holders in respect of the requested Demand Underwritten Offering; and (2) a statement that each such Demanding Notice Holder consents to such designation and appointment;

(iv) the desired date of the Offering Launch Time for the requested Demand Underwritten Offering, which desired date cannot (without the Company's consent, which will not be unreasonably withheld or delayed) be earlier than three (3) Business Days after the date such Demand Underwriting Registration Notice is delivered to the Company;

(v) the number of Registrable Securities that are proposed to be sold by each such Demanding Notice Holder.

(c) *Participation by Notice Holders Other Than the Demanding Notice Holder(s)*. If the Company receives a Demand Underwriting Registration Notice sent by one or more Demanding Notice Holders but not by all Notice Holders, then:

(i) the Company will, within two (2) Business Days, send a copy of such Demand Underwriting Registration Notice to each Notice Holder, if any, other than such Demanding Notice Holders; and

(ii) subject to Section 8(f), the Company will use commercially reasonable efforts to include, in the related Demand Underwritten Offering, Registrable Securities of any such Notice Holder that has requested such Registrable Securities to be included in such Demand Underwritten Offering pursuant to a joinder notice that complies with the next sentence.

To include any of its Registrable Securities in such Demand Underwritten Offering, a Notice Holder must deliver to the Company, no later than the Business Day after the date on which the Company sent a copy of such Demand Underwriting Registration Notice pursuant to subsection (i) above, a written instrument, executed by such Notice Holder, joining in such Demand Underwriting Registration Notice, which instrument contains the information set forth in Section 8(b)(v) with respect to such Notice Holder.

(d) *Certain Procedures Relating to Demand Underwritten Offerings*.

(i) *Obligations and Rights of the Company*. Subject to the other terms of this Agreement, upon its receipt of a Demand Underwriting Registration Notice, the Company will (1) designate a Demand Underwriting Registration Statement, in accordance with the definition of such term and this Section 8, for the related Demand Underwritten Offering; and (2) use commercially reasonable efforts to effect such Demand Underwritten Offering in accordance with the reasonable requests set forth in such Demand Underwriting Registration Notice or the reasonable requests of the Demand Underwritten Offering Holder Representative, and cooperate in good faith with the Demand Underwritten Offering Holder Representative in connection therewith. Notwithstanding anything to the contrary in this Agreement, the Company will not be obligated to effect, or take any actions in respect of, any Demand Underwritten Offering during a Blackout Period or at any time when the securities proposed to be sold pursuant to such Demand Underwritten Offering are subject to any lock-up agreement (including pursuant to a prior Demand Underwritten Offering) that has not been waived or released. The Company will be entitled to rely on the authority of the Demand Underwritten Offering Holder Representative of any Demand Underwritten Offering to act on behalf of all Notice Holders that have requested any securities to be included in such Demand Underwritten Offering.

(ii) *Designation of the Underwriting Syndicate*. The Managing Underwriters, and any other underwriter, for any Demand Underwritten Offering will be selected by the applicable Demand Underwritten Offering Holder Representative with the approval of the Company (which will not be unreasonably withheld or delayed).

(iii) *Authority of the Demand Underwritten Offering Holder Representative*. The Demand Underwritten Offering Holder Representative for any Demand Underwritten Offering will have the following rights with respect to such Demand Underwritten Offering, which rights, if exercised, will be deemed to have been exercised on behalf of all Notice Holders that have requested any securities to be included in such Demand Underwritten Offering:

(1) in consultation with the Managing Underwriters for such Demand Underwritten Offering, to determine the Offering Launch Time, which date must comply with limitations thereon set forth in Section 8(b)(iv);

(2) to determine the structure of the offering, provided such structure is reasonably acceptable to the Company;

(3) to negotiate any related underwriting agreement and it terms, including the amount of securities to be sold by the applicable Notice Holders pursuant thereto and the offering price of, and underwriting discount for, such securities; provided, however, that the Company will have the right to negotiate in good faith all of its representations, warranties and covenants, and indemnification and contribution obligations, set forth in any such underwriting agreement; and

(4) withdraw such Demand Underwritten Offering by providing written notice of such withdrawal to the Company.

(e) *Conditions Precedent to Inclusion of a Notice Holder's Registrable Securities*. Notwithstanding anything to the contrary in this Section 8, the right of any Notice Holder to include any of its Registrable Securities in any Demand Underwritten Offering will be subject to the following conditions:

(i) the execution and delivery, by such Notice Holder or it is duly authorized representative or power of attorney, of any related underwriting agreement and such other agreements or instruments (including customary "lock-up" agreements, custody agreements and powers of attorney), if any, as may be reasonably requested by the Managing Underwriters for such Demand Underwritten Offering; and

(ii) the provision by such Notice Holder, no later than the Business Day immediately after the request therefor, of any information reasonably requested by the Company or such Managing Underwriters in connection with such Demand Underwritten Offering.

(f) *Priority of Securities in Demand Underwritten Offerings*. If the total number of securities requested to be included in a Demand Underwritten Offering pursuant to this Section 8 exceeds the Maximum Successful Underwritten Offering Size for such Demand Underwritten Offering, then:

(i) the number of securities to be included in such Demand Underwritten Offering will be reduced to an amount that does not exceed such Maximum Successful Underwritten Offering Size; and

(ii) to effect such reduction,

(1) the number of Non-Holder Securities included in such Demand Underwritten Offering will be reduced; provided, that the Company will have the right, in its sole discretion, to allocate such reduction of the Non-Holder Securities requested to be included in such Demand Underwritten Offering; and

(2) if, after excluding all Non-Holder Securities from such Demand Underwritten Offering, the number of Registrable Securities of Notice Holders that have duly requested such Registrable Securities to be included in such Demand Underwritten Offering in accordance with this Section 8 exceeds such Maximum Successful Underwritten Offering Size, then number of Registrable Securities to be included in such Demand Underwritten Offering will be allocated pro rata based on the total number of Registrable Securities so requested by each such Notice Holder to be included in such Demand Underwritten Offering.

(g) *Covenant Regarding Piggyback Rights with Respect to Demand Underwritten Offering*. The Company will not grant any Person (other than a Holder or Notice Holder) the right to include any securities of such Person in any Demand Underwritten Offering.

Section 9. Piggyback Registration Rights.

(a) *Notice of Piggyback Underwritten Offering and Right to Participate Therein*. Subject to the other provisions of this Section 9, if the Company proposes to engage in a Piggyback Underwritten Offering, then:

(i) no later than the Piggyback Underwritten Offering Notice Deadline Date for such Piggyback Underwritten Offering, the Company will send to each Notice Holder written notice (the "Piggyback Underwritten Offering Notice") of such Piggyback Underwritten Offering setting forth the anticipated Offering Launch Time for the related Piggyback Underwritten Offering and the deadline (determined as provided in subsection (ii) below) by which the related Piggyback Right may be exercised; and

(ii) each Notice Holder will have the right (the "Piggyback Right") to include all or any portion of its Registrable Securities in such Piggyback Underwritten Offering, which right is exercisable by delivering, no later than three (3) Business Days after the date the Company sends such Piggyback Underwritten Offering Notice pursuant to subsection (i) above, written notice to the Company setting forth (1) the name of, and contact information for, such Notice Holder; and (2) the number of such Notice Holder's Registrable Securities that such Notice Holder requests to be included in such Piggyback Underwritten Offering.

(b) *Certain Procedures Relating to Piggyback Underwritten Offerings*.

(i) Subject to the other terms of this Agreement, upon exercise of any Piggyback Rights to include any Notice Holder's Registrable Securities in a Piggyback Underwritten Offering, the Company will use commercially reasonable efforts to include such Registrable Securities in such Piggyback Underwritten Offering and will cooperate in good faith with such Notice Holder in connection therewith.

(ii) The Managing Underwriters, and any other underwriter, for any Piggyback Underwritten Offering will be selected by the Company in its sole discretion.

(iii) Notwithstanding anything to the contrary in this Agreement, the Company will have the following rights with respect to each Piggyback Underwritten Offering:

(1) to determine the Offering Launch Time and timing for such Piggyback Underwritten Offering;

(2) to determine the structure of the offering, provided such structure is reasonable and customary;

(3) to negotiate any related underwriting agreement and it terms, including the amount of securities to be sold by the Company or persons other than Notice Holders pursuant thereto and the offering price of, and underwriting discount for, such securities; provided, however, that the Notice Holders whose Registrable Securities are included in such Piggyback Underwritten Offering will have the right negotiate in good faith all of their respective representations, warranties and covenants, and indemnification and contribution obligations, set forth in any such underwriting agreement; and

(4) to terminate such Piggyback Underwritten Offering in its sole discretion, provided that the Company will provide notice of any such termination to all Notice Holders whose Registrable Securities were to be included in such Piggyback Underwritten Offering.

(c) *Conditions Precedent to Inclusion of a Notice Holder's Registrable Securities*. Notwithstanding anything to the contrary in this Section 9, the right of any Notice Holder to include any of its Registrable Securities in any Piggyback Underwritten Offering upon exercise of the Piggyback Rights therefor will be subject to the following conditions:

(i) the execution and delivery, by such Notice Holder or it is duly authorized representative or power of attorney, of any related underwriting agreement and such other agreements or instruments (including customary "lock-up" agreements, custody agreements and powers of attorney), if any, as may be reasonably requested by the Managing Underwriters for such Piggyback Underwritten Offering; and

(ii) the provision, by such Notice Holder no later than the Business Day immediately after the request therefor, of any information reasonably requested by the Company or such Managing Underwriters in connection with such Piggyback Underwritten Offering.

(d) *Priority of Securities in Piggyback Underwritten Offerings*. If the total number of securities proposed to be included in a Piggyback Underwritten Offering pursuant to this Section 9 exceeds the Maximum Successful Underwritten Offering Size for such Piggyback Underwritten Offering, then:

(i) the number of securities to be included in such Piggyback Underwritten Offering will be reduced to an amount that does not exceed such Maximum Successful Underwritten Offering Size, with such number to be allocated:

(1) *first*, to the Company or such other Person(s) initiating such Piggyback Underwritten Offering; and

(2) *second*, pro rata among (A) the Notice Holders that have duly requested that all or any portion of their Registrable Securities be included in such Piggyback Underwritten Offering in accordance with this Section 9, allocated pro rata based on the total number of Registrable Securities so requested by each such Notice Holder to be included in such Piggyback Underwritten Offering, and (B) the Other Holders, if any, that are exercising piggyback rights in connection with such Piggyback Underwritten Offering, such that the reduction resulting from such allocation shall not represent a greater fraction of the number of securities proposed to be included in such Piggyback Underwritten Offering by such Other Holders than the fraction of similar reductions imposed on the Notice Holders pursuant to clause (A) over the amount of Registrable Shares that such Notice Holders proposed to be included in such Piggyback Underwritten Offering; and

(3) *third*, to other Persons that are exercising piggyback rights in connection with such Piggyback Underwritten Offering (other than pursuant to this Agreement or the ECP Registration Rights Agreement) in such manner as determined by the Company.

(e) *Filing of General Shelf Registration Statements*. If, at any time when any Piggyback Rights then exist and have not lapsed in accordance with Section 15, the Company files a registration statement (a "General Primary Registration Statement") under the Securities Act on Form S-3 that contemplates a primary offering by the Company that would also constitute a Piggyback Underwritten Offering (whether immediately or on a delayed basis in accordance with Rule 415 under the Securities Act), then the Company will include, in such General Primary Registration Statement, such statements or disclosures, if any, that would be necessary to be included therein at the time of its effectiveness under the Securities Act to permit offers and sales of Registrable Securities by Notice Holders to be made pursuant to such General Primary Registration Statement in accordance with this Section 9 if Piggyback Rights with respect thereto were exercised; provided, however, that this Section 9(e) will not apply:

(i) at any time when the General Resale Registration Statement (or any other registration statement of the Company that would then permit offers and sales of Registrable Securities as described above) is effective under the Securities Act, and a common prospectus or prospectus supplement is eligible to be used pursuant to Rule 429 under the Securities Act (or any successor rule) with the General Resale Registration Statement (or such other registration statement) and the General Primary Registration Statement in manner that would permit offers and sales of Registrable Securities as described above; or

(ii) offers and sales of Registrable Securities as described above would be permitted to be made by a prospectus supplement, to the prospectus included in such General Primary Registration Statement, filed in accordance with Rule 430B under the Securities Act, without the need to include any additional statements or disclosures in such General Primary Registration Statement at the time of its effectiveness.

Section 10. Blackout Periods.

(a) Generally(b). Notwithstanding anything to the contrary in this Agreement, but subject to Section 10(b), if there occurs or exists any pending corporate development, filing with the SEC or any other event, in each case that, in the Company's reasonable judgment, makes it appropriate to suspend the availability of any Registration Statement or any pending or potential Demand Underwritten Offering, then:

(i) the Company will send notice (a "Blackout Commencement Notice") to each Notice Holder of such suspension;

(ii) the Company's obligations under Section 7 or otherwise with respect to the General Resale Registration Statement, under Section 8 or otherwise with respect to any Demand Underwriting Registration Notice, or under Section 9 or otherwise with respect to any Piggyback Underwritten Offering, in each case including and any related obligations of the Company under Section 11, will be suspended until the related Blackout Period has terminated;

(iii) upon its receipt of such Blackout Commencement Notice, each Holder agrees to comply with its obligations set forth in Section 13(c); and

(iv) upon the Company's determination that such suspension is no longer needed or appropriate, the Company will send notice (a "Blackout Termination Notice," and the period from, and including, the date the Company sends such Blackout Commencement Notice to, and including, the date the Company sends such Blackout Termination Notice, a "Blackout Period") to each Notice Holder of the termination of such suspension.

(b) Limitation on Blackout Periods(c). No single Blackout Period can extend beyond forty five (45) calendar days, and the total number of calendar days in all Blackout Periods cannot exceed an aggregate of ninety (90) (or, with respect to any Holder whose Investor Designee is an Investor Director, one hundred twenty (120)) calendar days in any period of twelve (12) full calendar months.

Section 11. Certain Registration and Related Procedures.

(a) *Compliance with Registration Obligations and Securities Act; SEC Staff Comments*. Subject to Section 10, the Company will use commercially reasonable efforts to make such filings with the SEC as may be necessary to comply with its obligations under Section 7, Section 8 and Section 9 and to cause each Registration Statement to comply with the Securities Act and other applicable law, including, if applicable, the filing of any Registration Statement Documents to comply with Section 10(a)(3) of the Securities Act and Rule 3-12 of Regulation S-X under the Securities Act, to amend such Registration Statement to cause the same to be on a form for which the Company and the transactions contemplated thereby are eligible, and to address any comments received from the staff of the SEC. The Company will otherwise comply in all material respects with the Securities Act and other applicable law in the discharge of its obligations under Section 7, Section 8 and Section 9.

(b) *Opportunity for Review by Notice Holders*. The Company will provide each Notice Holder with a reasonable opportunity to comment on draft copies of the initial filing of the General Resale Registration Statement, each pre-effective and post-effective amendment thereto, and each related prospectus supplement, before the same is filed with the SEC, and the Company will use commercially reasonable efforts to give effect to comments timely received by it from such Notice Holders in its reasonable discretion; provided, however, that in the case of a prospectus supplement that solely supplements or amends selling securityholder information and is filed pursuant to Rule 424(b)(7) under the Securities Act (or any successor rule), the Company need only provide such opportunity to those Notice Holders named therein. Each Notice Holder whose Registrable Securities are to be sold pursuant to a Demand Underwriting Registration Statement in accordance with Section 8 or a Piggyback Registration Statement in accordance with Section 9 will be afforded the same rights set forth in the preceding sentence with respect to any prospectus supplement or other Registration Statement Document relating to such Registration Statement, which prospectus supplement or other Registration Statement Document names such Notice Holder.

(c) *Blue Sky Qualification*. The Company will use commercially reasonable efforts to qualify the offer and sale of Registrable Securities in the manner contemplated by the General Resale Registration Statement (or any other applicable Registration Statement, to the extent any Registrable Securities are to be sold pursuant thereto in accordance with Section 8 or Section 9, as applicable) under the securities or "blue sky" laws of those jurisdictions within the United States as the Notice Holders or the Managing Underwriters, as applicable, may reasonably request in writing and to maintain such qualification, once obtained, during the General Resale Registration Statement Effectiveness Period (in the case of the General Resale Registration Statement) or until the completion of the offering contemplated thereby (in the case of any other Registration Statement), and the Company will use commercially reasonable efforts to cooperate with such Notice Holders or the Managing Underwriters, as applicable, in connection with the same, except, in each case, to the extent such qualification is not required in connection with such offer and sale (including as a result of preemption by federal law pursuant to Section 18 of the Securities Act (or any successor provision)); provided, however, that the Company will not be required to (i) qualify generally to do business in any jurisdiction where it is not then so qualified; (ii) take any action that would subject it to general service of process in suits (other than those arising out of the offer or sale of Registrable Securities or in connection with this Agreement) in any jurisdiction where it is not then so subject; or (iii) take any action that would subject it to taxation in any jurisdiction where it is not then so subject.

(d) *Prevention and Lifting of Suspension Orders*. The Company will use commercially reasonable efforts to prevent the issuance (or, if issued, to obtain the withdrawal as promptly as practicable) of any order suspending the effectiveness of the General Resale Registration Statement (or any other Registration Statement, to the extent any Registrable Securities are to be sold pursuant thereto in accordance with Section 8 or Section 9, as applicable) under the Securities Act or suspending any qualification referred to in Section 11(c).

(e) *Notices of Certain Events*. The Company will provide notice of the following events to each Notice Holder as soon as reasonably practicable:

(i) the filing with the SEC of the General Resale Registration Statement, any pre- or post-effective amendment thereto or any related prospectus, prospectus supplement or "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act);

(ii) the effectiveness under the Securities Act, of the General Resale Registration Statement or any amendment thereto;

(iii) the receipt by the Company of any request by the staff of the SEC or any other governmental authority for any amendment or supplement to the General Resale Registration Statement;

(iv) the issuance, by the SEC or any other governmental authority, of any stop order suspending the effectiveness of the General Resale Registration Statement or the receipt by the Company of any written notice that proceedings for such purpose have been initiated or threatened;

(v) the receipt by the Company of any written notice (x) of the suspension of the qualification or exemption from qualification of the offer and sale of the Registrable Securities in any jurisdiction; or (y) that proceedings for such purpose have been initiated or threatened;

(vi) the withdrawal or lifting of any suspension referred to in clause (iv) or (v) above; and

(vii) that the Company has determined that the use of the General Resale Registration Statement must be suspended (which notice may, at the Company's discretion, state that it constitutes a Blackout Commencement Notice), including as a result of the occurrence of any event that causes any of the General Resale Registration Statement Documents to have a Material Disclosure Defect or to cease to comply with applicable law;

provided, however, that (x) the Company need not provide any such notice during a Blackout Period; and (y) in no event will this Section 11(e) require the Company to, and in no event will the Company, provide any information that they in good faith determine would constitute material non-public information.

In addition, during the pendency of any Demand Underwritten Offering pursuant to Section 8 or any Piggyback Underwritten Offering pursuant to Section 9, but other than during a Blackout Period, each Notice Holder whose Registrable Securities are to be sold in such offering pursuant to the related Demand Underwriting Registration Statement or Piggyback Registration Statement, as applicable, will be afforded the same notice set forth in the preceding sentence with respect to the events set forth in clauses (i) through (vii), inclusive, of this Section 11(e) relating to such Registration Statement.

(f) *Remediation of Material Disclosure Defects*. Subject to Section 10, the Company will, as promptly as practicable after determining that any Registration Statement Document contains a Material Disclosure Defect, prepare and file with the SEC (and, if applicable, use commercially reasonable efforts to cause the same to become effective under the Securities Act as promptly as practicable) such appropriate additional Registration Statement Document(s) so as to cause the applicable Registration Statement Document(s) to thereafter not contain any Material Disclosure Defect.

(g) *Listing of Registrable Securities*. The Company will use commercially reasonable efforts to cause the Registrable Securities to be listed for trading on each U.S. national securities exchange, if any, on which securities of the same class of the Company are then so listed.

(h) *Provision of Copies of the Prospectus*. At its expense, the Company will provide, to Notice Holders and the Managing Underwriters, if any, such number of copies of the prospectus relating to the applicable Registration Statement or any related prospectus supplement or "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act) as such Notice Holders or Managing Underwriters, as applicable, may reasonably request; provided, however, that the Company need not provide any document pursuant to this Section 11(h) that is publicly available on the SEC's EDGAR system (or any successor thereto).

(i) *Holders Cannot Be Identified as Underwriters Without Consent*. The Company will not expressly name or identify any Holder as an "underwriter" in any Registration Statement Document without such Holder's prior written consent (including consent provided in a Notice and Questionnaire); provided, however, that nothing in this Section 11(i) will require the consent of any Holder in connection with the inclusion in any Registration Statement Document of customary language, without specifically naming any Holder, that selling securityholders may in certain circumstances be considered to be underwriters under federal securities laws.

(j) *Due Diligence Matters*. Upon reasonable notice and at reasonable times during normal business hours, the Company will make available for inspection, by a representative of each Notice Holder, and the Managing Underwriters, if any, and attorneys or accountants retained by such Notice Holder or Managing Underwriters, as applicable, customary due diligence information.

(k) *Earnings Statement*. The Company will use commercially reasonable efforts to comply with its reporting obligations under Section 13(a) or 15(d) of the Exchange Act in such manner, as contemplated under Rule 158 under the Securities Act, so as to make generally available to its securityholders an earnings statement covering the twelve (12) month period referred to in Section 12(a) of the Securities Act, as it relates to each applicable Registration Statement, in the manner contemplated by, and otherwise in compliance with, such Section 11(a).

(l) *Settlement of Transfers and De-Legending*. The Company will use commercially reasonable efforts to cause the Company's transfer agent (or any other securities custodian for any Registrable Securities) to cooperate in connection with the settlement of any transfer of Registrable Securities pursuant to any Registration Statement, including through the applicable Depositary. If any such Registrable Securities so transferred are represented by a certificate bearing a legend referring to transfer restrictions under the Securities Act, then the Company will, if appropriate, cause such Registrable Securities to be reissued in the form of one or more certificates not bearing such a legend.

(m) *Certain Covenants Relating to Underwritten Offerings*. The following covenants will apply, in each case to the extent applicable, in connection with any Piggyback Underwritten Offering that includes any Registrable Securities, or any Demand Underwritten Offering:

(i) *Underwriting Agreement and Related Matters*. The Company will (1) execute and deliver any customary underwriting agreement or other agreement or instrument reasonably requested by the Managing Underwriters for such offering; (2) use commercially reasonable efforts to cause such customary legal opinions, comfort letters, "lock-up" agreements and officers' certificates to be delivered in connection therewith; and (3) cooperate in good faith with such Managing Underwriters in connection with the disposition of Registrable Securities pursuant to such offering.

(ii) *Marketing and Roadshow Matters*. The Company will cooperate in good faith with the Managing Underwriters for such offering in connection with any marketing activities relating to such offering.

(iii) *FINRA Matters*. The Company will cooperate and assist in any filings required to be made with the Financial Industry Regulatory Authority, Inc. in connection with such offering.

Section 12. **Expenses**. All Company Registration Expenses will be borne by Company. All fees and expenses that are incurred by any Holder in connection with this Agreement, and that are not Company Registration Expenses, will be borne by such Holder.

Section 13. **Certain Agreements and Representations of the Holders.**

(a) *Provision of Information*. Notwithstanding anything to the contrary in this Agreement, no Holder will be entitled to have any of its Registrable Securities included in any Registration Statement until it has executed and delivered a Notice and Questionnaire to the Company. Each Holder represents that the information included in any such Notice and Questionnaire is accurate in all material respects and covenants, for so long as such Holder's Registrable Securities are included in any effective Registration Statement during the term of this Agreement, to promptly provide notice to the Company if any such information thereafter ceases to be accurate in all material respects. Each Holder authorizes the Company to assume the accuracy and completeness of all information contained in the most recent Notice and Questionnaire executed and delivered by such Holder. Each Holder will (i) provide, as soon as reasonably practicable, such other information as the Company may reasonably request in connection with the performance of the Company's obligations under this Agreement; and (ii) promptly notify the Company upon becoming aware that any information relating to such Holder and included in any Registration Statement Document contains a Material Disclosure Defect.

(b) *Use of Offering Materials*. Each Holder agrees that, without the prior written consent of the Company, it will not offer or sell any Registrable Securities by means of any written communication other than the latest prospectus or prospectus supplement provided to such Holder by the Company (or on file on SEC's EDGAR system (or any successor thereto)) relating to the applicable Registration Statement, and any related "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act) authorized for such use by the Company.

(c) *Covenants Relating to Blackout Periods*. Each Holder agrees that, upon its receipt of a Blackout Commencement Notice given in accordance with the terms of this Agreement, such Holder will not effect any sale or other transfer of Registrable Securities pursuant to any Registration Statement, and will not distribute any Registration Statement Document, until such Holder has received a subsequent Blackout Termination Notice.

Section 14. Indemnification and Contribution.

(a) *Indemnification by the Company*. The Company will indemnify, defend and hold harmless each Holder Indemnified Person from and against (and will reimburse such Holder Indemnified Person, as incurred, for) any Losses that, jointly or severally, such Holder Indemnified Person may incur under the Securities Act, the Exchange Act, the common law or otherwise, insofar as such Losses arise out of or are based on (i) any Material Disclosure Defect or alleged Material Disclosure Defect in any Registration Statement Document; or (ii) any violation by the Company of the Securities Act, the Exchange Act or any other U.S. federal securities laws, or any U.S. state securities or "blue sky" laws, in connection with any Registration Statement Document; provided, however, that the Company will have no obligations under this Section 14(a) in respect of any Losses insofar as such Losses arise out of or are based on (A) any sale by such Holder, pursuant to the Resale Registration Statement, of Registrable Securities either (x) during a Blackout Period in breach of such Holder's covenant set forth in Section 10(b)(iii); or (y) without delivery, if required by the Securities Act, of the most recent related prospectus or prospectus supplement provided to such Holder by the Company pursuant to Section 11(h) (or on file on SEC's EDGAR system (or any successor thereto)), except, in the case of this clause (y), to the extent the same is deemed to have been delivered through compliance with Rule 172 under the Securities Act or any similar rule; or (B) any Material Disclosure Defect or alleged Material Disclosure Defect included in any Registration Statement Document in conformity with the Holder Information of any Holder; or (iii) any matters arising out of or relating to the Merger Agreement. Notwithstanding anything in this Agreement to the contrary, this Section 14 relates solely to the specific subject matter of this Agreement and shall not apply to the Merger Agreement or the transactions contemplated thereby, which shall be governed exclusively by the terms of the Merger Agreement.

(b) *Indemnification by the Holders*. Each Person that is a Holder that is a signatory to this Agreement or that is a Notice Holder, severally and not jointly, will indemnify, defend and hold harmless each Company Indemnified Person from and against (and will reimburse such Company Indemnified Person, as incurred, for) any Losses that, jointly or severally, such Company Indemnified Person may incur under the Securities Act, the Exchange Act, the common law or otherwise, insofar as such Losses arise out of or are based on (i) any Material Disclosure Defect or alleged Material Disclosure Defect in any Registration Statement Document, which Material Disclosure Defect or alleged Material Disclosure Defect is included therein in conformity with the Holder Information of such Holder; and (ii) any sale by such Holder, pursuant to the General Resale Registration Statement, of Registrable Securities either (x) during a Blackout Period in breach of such Holder's covenant set forth in Section 10(b)(iii); or (y) without delivery, if required by the Securities Act, of the most recent related prospectus or prospectus supplement provided to such Holder by the Company pursuant to Section 11(h) (or on file on SEC's EDGAR system (or any successor thereto)), except, in the case of this clause (y), to the extent the same is deemed to have been delivered through compliance with Rule 172 under the Securities Act or any similar rule; provided, however, that in no event will the liability of any Holder pursuant to this Section 14(b) exceed a dollar amount equal to the proceeds received by such Holder (less any related discounts, or commissions) from the sale of the Registrable Securities giving rise to the related indemnification obligation under this Section 14(b).

(c) *Indemnification Procedures*.

(i) *Notice of Proceedings*. If any claim, action, suit or proceeding (each, a "Proceeding") is made or commenced against any Indemnified Person in respect of which indemnity is or may be sought from any Person (in such capacity, the "Indemnifying Party") pursuant to Section 14(a) or Section 14(b), then such Indemnified Person will promptly notify the such Indemnifying Party in writing of such Proceeding; provided, however, that the failure to so notify such Indemnifying Party will not relieve such Indemnifying Party from any liability that it may have to such Indemnified Person or otherwise, except to the extent that such Indemnifying Party is materially prejudiced by such failure, as determined by a court of competent jurisdiction in a non-appealable, final judgment.

(ii) *Defense of Proceedings; Employment of Counsel*. Subject to the next sentence, upon its receipt of the notice referred to in Section 14(c)(i) in respect of a Proceeding, the Indemnifying Party will assume the defense of such Proceeding, including the employment of counsel reasonably satisfactory to the Indemnified Person and payment of all fees and expenses. Such Indemnified Person will also have the right to employ its own counsel in such Proceeding at such Indemnified Person's expense; provided, however, that such Indemnifying Party will be responsible for, and pay as incurred, the reasonable and documented fees and expenses of such counsel if (1) such Indemnifying Party authorized, in writing, the employment of such counsel in connection with the defense of such Proceeding; (2) such Indemnifying Party fails, within thirty (30) days after its receipt of the notice referred to in Section 14(c)(i), to employ counsel to defend such Proceeding; or (3) such Indemnified Person reasonably concludes that there may be defenses available to such Indemnified Person that are different from, in addition to, or in conflict with, those available to such Indemnifying Party (in which case of this clause (3), such Indemnifying Party will not have the right to direct the defense of such Proceeding on behalf of such Indemnified Person). Notwithstanding anything to the contrary in this Section 14(c)(ii), in no event will any Indemnifying Party be liable for the fees or expenses of more than one separate counsel (in addition to any local counsel) in any one Proceeding or series of related Proceedings in the same jurisdiction representing the Indemnified Person(s) who are parties to such Proceeding.

(iii) *Settlements of Proceedings*. An Indemnifying Party will not be liable pursuant to Section 14(a) or Section 14(b), as applicable, or this Section 14(c) for any settlement of any Proceeding except as provided in the next sentence. If any Proceeding is settled, then the Indemnifying Party will indemnify and hold harmless each Indemnified Person that is subject to such settlement from and against any Losses incurred by such Indemnified Person by reason of such settlement, if:

(1) such Indemnifying Party effected, or otherwise provided its written consent to, such settlement (which consent will not be unreasonably withheld or delayed); or

(2) (A) such Indemnified Person has requested such Indemnifying Party to reimburse such Indemnified Person for any fees and expenses of counsel as contemplated by Section 14(c)(ii); (B) such settlement is entered into more than sixty (60) Business Days after such Indemnifying Party has received such request; (C) such Indemnifying Party has not fully reimbursed such Indemnified Person in accordance with such request before the date of such settlement; and (D) such Indemnified Person has given such Indemnifying Party at least thirty (30) days' prior notice of its intention to settle.

The Indemnifying Party will not effect any settlement of any Proceeding without the prior written consent of the applicable Indemnified Person(s), unless such settlement (1) includes an unconditional release of such Indemnified Person(s) from all liability on the claims that are the subject matter of such Proceeding; (2) does not include an admission of fault or culpability or a failure to act by or on behalf of such Indemnified Person(s); and (3) does not purport to bind the Indemnified Persons(s) to perform or refrain from performing any act (excluding any provision providing for the payment of money by the Indemnified Persons(s), which, for the avoidance of doubt, will be subject to the indemnity provided in the second sentence of this Section 14(c)(iii)).

(d) *Contribution Where Indemnification Not Available*. If the indemnification provided for in this Section 14 is unavailable to any Indemnified Person, or is insufficient to hold any Indemnified Person harmless, in respect of any Losses referred to in the preceding provisions of this Section 14, then each applicable Indemnifying Party, severally and not jointly, will contribute to the amount paid or payable by such Indemnified Person as a result of such Losses in such proportion as is appropriate to reflect the relative fault of the Company, on the one hand, and of the Holders, on the other hand, in connection with the statements or omissions, or the actions or non-actions, as applicable, that resulted in such Losses, as well as other relevant equitable considerations. The relative fault of the Company, on the one hand, and of the Holders, on the other hand, will be determined by reference to, among other things, whether any applicable Material Disclosure Defect or alleged Material Disclosure Defect, or any relevant action or non-action, as applicable, relates to information supplied, or was taken or made, as applicable, by the Company or by the Holders and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such Material Disclosure Defect or alleged Material Disclosure Defect, or such action or non-action, as applicable. The amount paid or payable by an Indemnified Person as a result of any Losses referred to in this Section 14(d) will include any legal or other fees or expenses reasonably incurred by such Indemnified Person in connection with investigating, preparing to defend or defending the related Proceeding.

The Company and the Holders agree that it would not be just and equitable if contribution pursuant to this Section 14(d) were determined by pro rata allocation (even if the Holders were treated as one Person for such purpose) or by any other allocation method that does not take account of the equitable considerations referred to in the preceding paragraph. Notwithstanding anything to the contrary in the preceding paragraph, no Holder will be required to contribute any amount in excess of the amount by which the proceeds received by such Holder (less any related discounts, commissions, transfer taxes, fees or other expenses) from the sale of Registrable Securities giving rise to the related contribution obligation under this Section 14(d) exceeds the amount of any damage that such Holder has otherwise been required to pay by reason of the relevant Material Disclosure Defect or alleged Material Disclosure Defect, or the relevant action or non-action, as applicable. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The Holders' obligations to contribute pursuant to this Section 14(d) are several and not joint.

(e) *Remedies Not Exclusive*. The remedies provided for in this Section 14 are not exclusive and will not limit, and will be in addition to, any rights or remedies that may otherwise be available to any Indemnified Person at law or in equity.

Section 15. Termination of Registration Rights. Notwithstanding anything to the contrary in this Agreement, Section 7 through Section 11 and Section 13 of this Agreement will terminate upon the first date on which no Registrable Securities remain outstanding.

Section 16. Rule 144. With a view towards enabling the Holders to resell their Registrable Securities pursuant to Rule 144 under the Securities Act, the Company agree that, until its obligations pursuant to Section 7 have terminated pursuant to Section 15, (a) the Company will use commercially reasonable efforts to timely file (after giving effect to any available grace periods) such reports with the SEC as may be necessary to satisfy the requirements of Rule 144(c) for so long as such requirements would be applicable to the resale of Registrable Securities pursuant to Rule 144; and (b) take such further action as any Notice Holder may reasonably request to enable such Notice Holder sell its Registrable Securities pursuant to Rule 144.

Section 17. Subsequent Holders. Each Person that acquires any Registrable Securities from any Holder will, to the extent such securities continue to constitute Registrable Securities in the hands of such Person, become a Holder until such time as such person thereafter ceases to satisfy the definition of such term; provided, however, that such Person will not be entitled to the benefits of this Agreement (and will be deemed not to be a Holder or a Notice Holder) unless such Person promptly, and in any event within five (5) Business Days after acquiring such securities, execute and deliver a Notice and Questionnaire to the Company agreeing to be bound by the terms of this Agreement.

Section 18. Preemptive Rights.

(a) From and after the Closing and unless an Investor Party has sold, transferred or otherwise disposed of any of the Acquired Shares, if the Company or any of its Subsidiaries makes any public or non-public offering of any capital stock of, other equity or voting interests in, or equity-linked securities of the Company or any securities that are convertible or exchangeable into (or exercisable for) capital stock of, other equity or voting interests in, or equity-linked securities of the Company (collectively "Preemptive Securities"), including, for the purposes of this Section 18(a), warrants, options or other such rights (any such security, a "New Security") (other than (i) issuances by the Company of Preemptive Securities to directors, officers, employees, consultants or other agents of the Company, (ii) issuances by the Company of Preemptive Securities pursuant to an employee stock option plan, management incentive plan, restricted stock plan, stock purchase plan or stock ownership plan or similar benefit plan, program or agreement, (iii) issuances by the Company made as consideration for any acquisition (by sale, merger in which the Company is the surviving corporation, or otherwise) by the Company or any of its Subsidiaries of equity in, or assets of, another Person, business unit, division or business, (iv) issuances of any securities issued as a result of a stock split, stock dividend, reclassification or reorganization or similar event, (v) issuances by the Company of Preemptive Securities in connection with a bona fide strategic partnership or commercial arrangement with a Person that is not an Affiliate of the Company or any of its Subsidiaries (other than (x) any such strategic partnership or commercial arrangement with a private equity firm, venture capital firm, asset management firm or similar financial institution or (y) an issuance the primary purpose of which is the provision of financing), (vi) shares of a Subsidiary of the Company issued to the Company (or a wholly owned Subsidiary of the Company), (vii) shares of Exchangeable Preferred to be issued to the ECP Investors (including shares of Exchangeable Preferred to be issued in connection with the closing of the ECP Investment or as the accumulation of payment in kind dividends), and (viii) Preemptive Securities to be issued upon exchange of any shares of Exchangeable Preferred, an Investor Party that then owns the Acquired Shares (in the case of an issuance of New Securities by the Company) shall be afforded the opportunity to acquire from the Company, as applicable, the Preemptive Rights Portion of such New Securities for the same price per share as that offered to the other purchasers of such New Securities; provided, that an Investor Party shall not be entitled to acquire any New Securities pursuant to this Section 18(a) to the extent the issuance of such New Securities to such Investor Party would require approval of the stockholders of the Company as a result of the status, if applicable, of such Investor Party as an Affiliate of the Company or pursuant to the rules and listing standards of Nasdaq, and in the event such Investor Party is not eligible to acquire such New Securities because of the limitations set forth in this proviso (or such Investor Party does not acquire all of the New Securities to which it is entitled pursuant to the terms of Section 18(a) because of such limitations), the Company may consummate the proposed issuance of New Securities (or, as applicable, that portion of New Securities that such Investor Party not subject to such limitations does not otherwise acquire) to other Persons prior to obtaining approval of the stockholders the Company (subject to compliance by the Company with Section 18; provided further, that, in the event that prior to the closing of the transactions contemplated by the Merger Agreement, the Company or any of its Subsidiaries has entered into an agreement to issue any equity securities, the Preemptive Right shall not apply with respect to such issuance.

(b) Subject to the foregoing proviso in Section 18(a), the amount of New Securities that an Investor Party shall be entitled to purchase shall be determined by multiplying (1) the total number of such offered shares of New Securities by (2) in the case of an issuance of New Securities by the Company, a fraction, the numerator of which is the total of the number of Acquired Shares then owned by such Investor Party and the denominator of which is the aggregate number of Issued and Outstanding Common Stock as of such date (such amount, the "Preemptive Rights Portion"); provided, that such Investor Party shall, in its sole discretion, allocate among any of its Affiliates any portion of the aggregate Preemptive Rights Portion of New Securities of the Company to which such Investor Party and its Affiliates are collectively entitled pursuant to this Section 18(b).

(c) If the Company proposes to offer New Securities, it shall give the Investor Parties written notice of its intention, describing the anticipated price (or range of anticipated prices), anticipated amount of New Securities and other material terms and timing upon which the Company proposes to offer the same (including, in the case of a registered public offering and to the extent possible, a copy of the prospectus included in the registration statement filed with respect to such offering) at least seven (7) Business Days prior to such issuance (or, in the case of a registered public offering, at least seven (7) Business Days prior to the commencement of such registered public offering) (provided, that, to the extent the terms of such offering cannot reasonably be provided seven (7) Business Days prior to such issuance, notice of such terms may be given as promptly as reasonably practicable but in any event prior to such issuance). The Company may provide such notice to the Investor Parties on a confidential basis prior to public disclosure of such offering. Other than in the case of a registered public offering, the Investor Parties may notify the Company in writing at any time on or prior to the second (2nd) Business Day immediately preceding the date of such issuance (or, if notice of all such terms has not been given prior to the second (2nd) Business Day immediately preceding the date of such issuance, at any time prior to such issuance) whether the Investor Parties will exercise such preemptive rights and as to the amount of New Securities the Investor Parties desires to purchase, up to the maximum amount calculated pursuant to Section 18(b). In the case of a registered public offering, the Investor Parties may notify the Company in writing at any time prior to the second (2nd) Business Day immediately preceding the date of commencement of such registered public offering (or, if notice of all such terms has not been given prior to the second (2nd) Business Day immediately preceding the date of commencement of such registered public offering, at any time prior to the date of commencement of such registered public offering) whether the Investor Parties will exercise such preemptive rights and as to the amount of New Securities the Investor Parties desires to purchase, up to the maximum amount calculated pursuant to Section 18(b). Such notice to the Company shall constitute a binding commitment by the Investor Parties to purchase the amount of New Securities so specified at the price and other terms set forth in the Company's notice to it. Subject to receipt of the requisite notice of such issuance by the Company, the failure of the Investor Parties to respond prior to the time a response is required pursuant to this Section 18(c) shall be deemed to be a waiver of the Investor Parties's purchase rights under this Section 18 only with respect to the offering described in the applicable notice.

(d) Each Investor Party shall purchase the New Securities that it has elected to purchase under this Section 18 concurrently with the related issuance of such New Securities by the Company (subject to the receipt of any required approvals from any Governmental Authority to consummate such purchase by such Investor Party); provided, that if such related issuance is prior to the twentieth (20th) Business Day following the date on which such Investor Party has notified the Company that it has elected to purchase New Securities pursuant to this Section 18, then such Investor Party shall purchase such New Securities within twenty (20) Business Days following the date of the related issuance. If the proposed issuance by the Company of securities which gave rise to the exercise by such Investor Party of its preemptive rights pursuant to this Section 18 shall be terminated or abandoned by the Company without the issuance of any New Securities, then the purchase rights of such Investor Party pursuant to this Section 18 shall also terminate as to such proposed issuance by the Company (but not any subsequent or future issuance), and any funds in respect thereof paid to the Company by such Investor Party in respect thereof shall be promptly refunded in full.

(e) In the case of the offering of securities for consideration in whole or in part other than cash, including securities acquired in exchange therefor (other than securities by their terms so exchangeable), the consideration other than cash shall be deemed to be the fair value thereof as reasonably determined by the Board; provided, however, that such fair value as determined by the Board shall not exceed the aggregate market price of the securities being offered as of the date the Board authorizes the offering of such securities.

(f) In the event that any Investor Party is not entitled to acquire any New Securities pursuant to this Section 18 because such issuance would require the Company to obtain stockholder approval in respect of the issuance of such New Securities to such Investor Party as a result of such Investor Party's status, if applicable, as an Affiliate of the Company or pursuant to the rules and listing standards of Nasdaq, the Company shall, upon such Investor Party's reasonable request delivered to the Company in writing within seven (7) Business Days following its receipt of the written notice of such issuance to such Investor Party pursuant to this Section 18(f), at such Investor Party's election, (i) waive the restrictions set forth in Section 18(c) solely to the extent necessary to permit such Investor Party to acquire such number of New Securities equivalent to its Preemptive Rights Portion of such issuance such Investor Party would have been entitled to purchase had it been entitled to acquire such New Securities pursuant to Section 18; (ii) consider and discuss in good faith modifications proposed by such Investor Party to the terms and conditions of such portion of the New Securities which would otherwise be issued to such Investor Party such that the Company would not be required to obtain stockholder approval in respect of the issuance of such New Securities as so modified; and/or (iii) solely to the extent that stockholder approval is required in connection with the issuance of New Securities to Persons other than the Investor Parties; and/or (iii) use reasonable best efforts to seek stockholder approval in respect of the issuance of any New Securities to the Investor Parties.

(g) The election by any Investor Parties to not exercise its subscription rights under this Section 18 in any one instance shall not affect its rights as to any subsequent proposed issuance.

(h) The Company and the Investor Parties shall cooperate in good faith to facilitate the exercise of the Investor's rights pursuant to this Section 18 including using reasonable best efforts to secure any required approvals or consents.

Section 19. Standstill. Each Investor Party agrees with the Company that, until the Fall-Away of Investor Rights, without the prior written approval of the Board, each Investor Party shall not, directly or indirectly (provided, that, nothing in this Section 19 shall apply to any acquisition by any Investor Party of any equity securities of any mutual, hedge or other fund that holds Common Stock), and shall cause its Affiliates who have actually received Confidential Information (provided that, for the avoidance of doubt, no Affiliate shall be deemed to have received Confidential Information from the Investor solely based on the fact that such Affiliate shares a common manager with such Investor Party and, provided, that no Confidential Information is used by or on behalf of such Affiliate) not to:

(a) acquire, offer to acquire or agree to acquire, by purchase or otherwise, directly or indirectly, beneficial ownership of any Common Stock or other securities of the Company or any of its Subsidiaries, including through any Hedge (in each case, except as may be permitted by the proviso to this Section 19) with respect to securities of the Company or any of its Subsidiaries (solely to the extent that, after giving effect to any such acquisition, the Investor would beneficially own more than the percentage of the outstanding Common Stock owned by the Investor as of the Closing);

(b) propose or seek, whether alone or in concert with others, any "solicitation" (as such term is defined under the Exchange Act) of proxies or consents to vote any securities (including in derivative form) of the Company or become a "participant" (as such term is defined in Instruction 3 to Item 4 of Schedule 14A promulgated under the Exchange Act) in any such solicitation of proxies or consents (including, without limitation, by initiating, encouraging or participating in any requests or consents that seek to call a special meeting, action by written consent, or "withhold" or similar campaign), or seek to control or influence the management or board of directors of the Company with respect to the policies or affairs of the Company, including by encouraging or advising any Person to take any such actions but excluding any private communications between the Investor Director or Investor Observer and the Board in their capacities as such;

(c) propose (i) any merger, consolidation, business combination, tender or exchange offer, share exchange, purchase of the Company's assets or businesses or similar transactions involving the Company or any of its Subsidiaries or (ii) any recapitalization, restructuring, liquidation or other extraordinary transaction with respect to the Company or any of its Subsidiaries (collectively, a transaction specified in clauses (i) and (ii) hereof involving a majority of the Company's outstanding capital stock or consolidated assets, is referred to as a "Business Combination"); provided, that the foregoing shall not restrict the Investor from voting on, tendering shares, receiving payment for shares or otherwise participating in any such transaction on the same basis as other shareholders of the Company;

(d) form, join or act in concert with any partnership, limited partnership, syndicate or other group, including a "group" as defined pursuant to Section 13(d) of the Exchange Act, with respect to any securities of the Company (other than with any Affiliates of such Investor Party);

(e) make or be the proponent of any shareholder proposal (pursuant to Rule 14a-8 under the Exchange Act or otherwise) with respect to the Company;

(f) make any request for stock list materials or other books and records of the Company under Virginia law or otherwise;

(g) make any public announcement or communication regarding the possibility of any of the events described in clauses (a) through (f) above, or take any action that could reasonably be expected to require the Company to make a public announcement in respect thereof; provided, however, that nothing in this Section 19 shall be violated by (i) any general statement about market, industry or economic circumstances, conditions or trends, (ii) any statement required to be made by applicable Law, (iii) any statement protected by the whistleblower protection provisions of any applicable Law, (iv) any statement that is made in response to legal process or in the context of any action or proceeding by or before any Governmental Authority or arbitrator (including any such action or proceeding to enforce the terms of the this Agreement or other such action or proceeding in connection with the transactions contemplated hereby), (v) any statement that is reasonably necessary in connection with the enforcement of rights under this Agreement, or any other written agreement involving the parties hereto, or (vi) any statement that is made by the Investor Designee or Investor Director in his or her capacity as such made in good faith;

(h) advise, assist, knowingly encourage or direct any Person to do, or to advise, assist, knowingly encourage or direct any other Person to do, any of the foregoing; or

(i) request the Company or any of its Representatives, directly or indirectly, to amend or waive any provision of this Section 19 if such amendment or waiver would reasonably be expected to require the Company (or any of its Representatives) to make a public announcement regarding any of the types of matters set forth in this Section 19; provided, however, that this clause shall not prohibit such Investor Party from making a confidential request to the Company seeking an amendment or waiver of the provisions of this Section 19, which the Company may accept or reject in its sole discretion, so long as any such request is made in a manner that does not require public disclosure thereof by any Person;

provided, however, that nothing in this Section 19 will (x) limit such Investor Party's ability to (1) vote, Transfer or Hedge (subject to this Agreement, including Section 4 and Section 5) shares of Common Stock, (2) privately make and submit to the Board any proposal that is intended by such Investor Party to be made and submitted on a non publicly disclosed or announced basis (and would not reasonably be expect to require public disclosure by any Person), including with respect to any transaction involving a Business Combination, (3) participate in rights offerings made by the Company to all holders of Common Stock or acquire Preemptive Securities and take such other actions permitted by Section 18, (4) receive any dividends or similar distributions with respect to any securities of the Company held by such Investor Party, (5) tender shares of Common Stock into any tender or exchange offer (subject to Section 5), (6) otherwise exercise rights under its Common Stock that are not the subject of this this Section 19, (7) make a bona fide proposal to the Company or the Board for a transaction involving a Business Combination following the public announcement by the Company that it has entered into a definitive agreement with a third party for a transaction involving a Business Combination or (8) communicate solely and exclusively with the Board with respect to making an offer to purchase the Company, all or substantially all assets or equity of the Company, or any business or division of the Company, or (y) limit the ability of (1) such Investor Party to designate and have an [Investor Observer or] Investor Director serve on the Board pursuant to Section 3 or (2) such Investor Party Director to vote or otherwise exercise his or her legal duties or otherwise act in his or her capacity as a member of the Board. Notwithstanding anything to the contrary in this Agreement, if at any time after the date of this Agreement, (i) the Company or any of its Subsidiaries enters into a definitive agreement with a third party for a transaction involving a Business Combination, (ii) any person unaffiliated with any Investor Party commences a tender offer or exchange offer that would result in a change of control of the Company or any of its Subsidiaries or (iii) the Company or any of its Subsidiaries becomes subject to any voluntary or involuntary reorganization or restructuring process, proposal or petition under applicable laws relating to bankruptcy, insolvency or the protection of creditors generally, then (A) in the case of clauses (i) and (ii), the terms of this this Section 19 shall be suspended and of no force or effect while such definitive agreement, tender offer or exchange offer remains pending and (B) in the case of clause (iii), the terms of this this Section 19 shall immediately terminate and be of no further force or effect in any respect.

Section 20. Tax Matters.

(a) Promptly following the date of this Agreement or, in the case of a Permitted Transferee, the date such Permitted Transferee first acquires any Acquired Shares, the T**ransferring** Investor Party shall deliver to the Company or its paying agent a duly executed, accurate and properly completed Internal Revenue Service ("IRS") Form W-9 or an appropriate IRS Form W-8, as applicable.

(b) Subject to the provisions of this Section 19, the Company, as applicable, will be entitled to deduct and withhold from the amounts otherwise payable pursuant to this Agreement to the Transferring Investor Party (or any other recipient, including any Permitted Transferee) all amounts required under the Code or any applicable provision of any state, local or foreign Tax Law to be deducted and withheld, and to collect any necessary Tax forms, including IRS Forms W-8 or W-9, as and when applicable, or any similar information, from such Investor Party (or any other recipient, including any Permitted Transferee). To the extent that any such amount is so deducted and withheld by the Company such amount shall be treated for all purposes of this Agreement as having been paid to the Person who otherwise would have been entitled to receive such amount.

(c) The Company shall pay any and all documentary, stamp and similar issue or transfer Tax, which foregoing taxes do not include any withholding, income, or similar taxes, due on the issue of the Acquired Shares.

(d) Upon the Transferring Investor's reasonable request in connection with a potential sale of the Acquired Shares, and to the extent permitted by applicable Law as determined by the Company in good faith, the Company shall (i) provide a duly executed and correctly completed statement, in accordance with Treasury Regulations Sections 1.897-2(h) and 1.1445-2(c)(3) (or any successor Treasury Regulations thereto), that the Acquired Shares are not a U.S. real property interest for the relevant period described in Section 897(c)(1)(A)(ii) of the Code, or (ii) advise the Transferring Investor Party that the Acquired Shares are or were a U.S. real property interest during the relevant period described in Section 897(c)(1)(A)(ii) of the Code. At the request of the Transferring Investor Party in connection with the delivery of such statements, the Company shall provide any information reasonably necessary to enable such Investor Party to determine whether the Company is, or has been during the relevant time period described in Section 897(c)(1)(A)(ii) of the Code, a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code. The Company and any its Subsidiaries, as relevant, (i) shall not be bound by any such determination by such Investor Party and (ii) shall be entitled to make in good faith and in its sole discretion its own determination and to take any action required by Law pursuant to such determination.

Section 21. Public Disclosure; Confidentiality; Information Rights.

(a) *Public Disclosure*. During the period from the date of this Agreement until one (1) year after the Fall-Away of Investor Rights, the Investor Parties and the Company shall, and shall cause their respective Affiliates to, consult with each other before issuing, and give each other the opportunity to review and comment upon, any press release or other public statements with respect to the transactions contemplated by this Agreement, and shall not, and shall cause their respective Affiliates not to, issue any such press release or make any such public statement prior to such consultation, except as may be required by applicable Law, judgment, court process or the rules and regulations of any national securities exchange or national securities quotation system. Notwithstanding the foregoing, this Section 21(a) shall not apply to any press release or other public statement made by the Company or the Investor Parties (i) which does not contain any information relating to the transactions contemplated by this Agreement that has not been previously announced or made public in accordance with the terms of this Agreement (including, for the avoidance of doubt, the fact that the Company is an investment of the Investor Parties and that the Investor Parties may include the Company's name and its logo as part of its ordinary course disclosures of its investments and in a manner that is not adverse to the Company), (ii) is made in the ordinary course of business and does not relate specifically to the signing of this Agreement or the transactions contemplated by this Agreement or (iii) involving any information disclosed to Investor pursuant to Section 21(c)(iii) regarding (x) the number of unionized employees, (y) an estimate of hours of work performed by unionized employees and (z) hours performed by unionized contractors in connection with construction. Notwithstanding anything to the contrary in this Agreement, in no event shall either this Section 21(a) or Section 21(b) limit disclosure by Investor Parties and their respective Affiliates of ordinary course communications regarding this Agreement and the transactions contemplated by this Agreement to its existing or prospective general and limited partners, direct or indirect equityholders or limited partners, members, managers and investors of any Affiliates of such Person who are subject to a confidentiality obligation with respect thereto, or disclosing public information about the transactions contemplated by this Agreement on its website in the ordinary course of business or as part of any sales and Transfers to any co-investors consummated in accordance with this Agreement.

(b) *Confidentiality*. During the period from the date of this Agreement until one (1) year after the Fall-Away of Investor Rights, Investor Parties will, and will cause its Affiliates and Representatives who actually receive Confidential Information to, keep confidential any information (including oral, written and electronic information) concerning the Company, its Subsidiaries or its Affiliates that may be furnished to Investor Parties, its Affiliates or its or their respective Representatives by or on behalf of the Company or any of its Representatives, including any such information provided pursuant to Section 21(c) ("Confidential Information") and to use the Confidential Information solely for the purposes of monitoring, administering or managing Investor Parties' investment in the Company; provided, that Confidential Information will not include information that (i) was or becomes available to the public other than as a result of a breach of any confidentiality obligation in this Agreement by Investor Parties or its Affiliates or their respective Representatives, (ii) was or becomes available to Investor Parties or its Affiliates or their respective Representatives from a source other than the Company or its Representatives; provided, that such source is reasonably believed by Investor Parties or such Affiliates not to be subject to an obligation of confidentiality (whether by agreement or otherwise), (iii) at the time of disclosure is already in the possession of Investor Parties or its Affiliates or their respective Representatives from a source other than the Company or any of its Subsidiaries or any of their respective Representatives; provided, that such source is reasonably believed by Investor Parties or such Affiliates not to be subject to an obligation of confidentiality (whether by agreement or otherwise), (iv) was independently developed by Investor Parties or its Affiliates or their respective Representatives without reference to, incorporation of, or other use of any Confidential Information or (v) from and after the Closing, Investor Parties' participation in the transactions contemplated by this Agreement; provided, that Investor Parties may disclose Confidential Information (1) to its attorneys, accountants, consultants and financial and other professional advisors to the extent necessary to obtain their services in connection with its investment in the Company, (2) to any Permitted Transferee or prospective purchaser of any Acquired Shares from Investor Parties, in each case, as long as such Permitted Transferee or prospective purchaser, as applicable, agrees to be bound by similar confidentiality or non-disclosure terms as are contained in this Agreement (with the Company as an express third party beneficiary of such agreement), (3) to any Affiliate, partner, member, direct or indirect equity holders or limited partners, prospective partners or co-investors, or related investment fund of Investor Parties and their Affiliates and their respective directors, officers, employees, consultants, financing sources and representatives, in each case in the ordinary course of business (provided, that the recipients of such confidential information are directed to abide by the confidentiality and non-disclosure obligations contained herein), (4) as may be reasonably determined by Investor Parties to be necessary in connection with Investor Parties's enforcement of its rights in connection with this Agreement or its investment in the Company, or (5) as may otherwise be required by law or legal, judicial or regulatory process; and provided, further, that (x) any breach of the confidentiality and use terms herein by any Person to whom Investor Parties and its Permitted Transferees may disclose Confidential Information pursuant to clauses (1) and (3) of the preceding proviso shall be attributable to Investor Parties for purposes of determining Investor Parties's compliance with this Section 21(b), except those who have entered into a separate confidentiality or non-disclosure agreement or obligation with the Company and (y) Investor Parties takes commercially reasonable steps to minimize the extent of any required disclosure described in clause (5) of the preceding proviso.

(c) *Information Rights*. From and after the Closing and until the Fall-Away of Investor Rights, in order to facilitate Investor Parties's compliance with legal and regulatory requirements applicable to the beneficial ownership by Investor Parties and its Affiliates of equity securities of the Company, the Company shall provide to Investor Parties:

(i) within ninety (90) days after the end of each fiscal year of the Company, (A) an audited, consolidated balance sheet of the Company and its Subsidiaries as of the end of such fiscal year, (B) an audited, consolidated income statement of the Company and its Subsidiaries for such fiscal year and (C) an audited, consolidated statement of cash flows of the Company and its Subsidiaries for such fiscal year; provided that this requirement shall be deemed to have been satisfied if on or prior to such date the Company files its annual report on Form 10-K for the applicable fiscal year with the SEC;

(ii) within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of the Company, (A) an unaudited, consolidated balance sheet of the Company and its Subsidiaries as of the end of such fiscal quarter, (B) an unaudited, consolidated income statement of the Company and its Subsidiaries for such fiscal quarter and (C) an unaudited, consolidated statement of cash flows of the Company and its Subsidiaries for such fiscal quarter; provided that this requirement shall be deemed to have been satisfied if on or prior to such date the Company files its quarterly report on Form 10-Q for the applicable fiscal year with the SEC;

(iii) [within seventy five (75) days after the end of each calendar year, the information set forth on Exhibit B][3]; and

[3] Note to Draft: The Parties to discuss and agree to which line items in the report and the scope of the specific line items to be included in the report based on, among other things, whether the Company currently tracks such line items, the practicality and the cost of tracking such information post-closing, and the data, format and level of detail for each line item.

(iv) at the request of Investor Parties, such other reports and information as may be reasonably requested by Investor Parties;

provided, that the Company shall not be obligated to provide such access or materials if the Company determines, in its reasonable judgment, that doing so would reasonably be expected to (1) violate applicable Law, an applicable order or a contract or obligation of confidentiality owing to a third party or (2) jeopardize the protection of an attorney-client privilege, attorney work product protection or other legal privilege (provided, however, that the Company shall use reasonable efforts to provide alternative, redacted or substitute documents or information in a manner that would not result in the loss of the ability to assert attorney-client privilege, attorney work product protection or other legal privileges); provided, further, that the Company shall use its commercially reasonable efforts to disclose such information in a manner that would not violate the foregoing.

Section 22. **Section 16 Matters**. If the Company becomes a party to a consolidation, merger or other similar transaction, or if the Company proposes to take or omit to take any other action under Section 18 (including granting to the Investor Parties or its Affiliates the right to participate in any issuance of securities) or otherwise or if there is any event or circumstance that may result in any Investor Party, its Affiliates and/or the Investor Director being deemed to have made a disposition or acquisition of equity securities of the Company or derivatives thereof for purposes of Section 16 of the Exchange Act (including the purchase by such Investor Party or any of its Affiliates of any securities under Section 18), and if the Investor Director is serving on the Board at such time or has served on the Board during the preceding six (6) months (a) the Board or a committee thereof composed solely of two or more "non-employee directors" as defined in Rule 16b-3 of the Exchange Act will pre-approve such acquisition or disposition of equity securities or derivatives thereof for the express purpose of exempting such Investor Party and its Affiliates' and the Investor Director's interests (for the Investor Parties and/or their respective Affiliates, to the extent such persons may be deemed to be "directors by deputization") in such transaction from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder and (b) if the transaction involves (i) a merger or consolidation to which the Company is a party and the Common Stock is, in whole or in part, converted into or exchanged for equity securities of a different issuer, (i) a potential acquisition or deemed acquisition, or disposition or deemed disposition, by such Investor Party, its Affiliates, and/or the Investor Director of equity securities of such other issuer or derivatives thereof and (iii) an Affiliate or other designee of such Investor Party or any of its Affiliates will serve on the board of directors (or its equivalent) of such other issuer pursuant to the terms of an agreement to which the Company is a party (or if such Investor Party notifies the Company of such service a reasonable time in advance of the closing of such transactions), then if the Company requires that the other issuer pre-approve any acquisition of equity securities or derivatives thereof for the express purpose of exempting the interests of any director or officer of the Company or any of its Subsidiaries in such transactions from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder, the Company shall require that such other issuer pre-approve any such acquisitions of equity securities or derivatives thereof for the express purpose of exempting the interests of such Investor Party, its Affiliates and the Investor Director (for Investor Parties and/or its respective Affiliates, to the extent such persons may be deemed to be "directors by deputization" of such other issuer) in such transactions from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder.

Section 23. **Corporate Opportunities**. In recognition and anticipation that (a) certain directors, principals, officers, employees and/or other representatives of the Investor Parties and their Affiliates may serve as directors [or board observers] of the Company and (b) the Investor Parties and their Affiliates may now engage and may continue to engage in the same or similar activities or related lines of business as those in which the Company, directly or indirectly, may engage and/or other business activities that overlap with or compete with those in which the Company, directly or indirectly, may engage or proposes to engage, the provisions of this Section 23 are set forth to regulate and define the conduct of certain affairs of the Company with respect to certain classes or categories of business opportunities as they may involve the Investor Parties, the Investor Director[, the Investor Observer] or their respective Affiliates, as applicable, and the powers, rights, duties and liabilities of the Company and its directors, officers and stockholders in connection therewith. None of (i) the Investor Parties or any of their Affiliates, or (ii) any Investor Director [or Investor Observer] or his or her Affiliates (the Persons identified in clauses (i) and (ii) being referred to, collectively, as "Identified Persons" and, individually, as an "Identified Person") shall, to the fullest extent permitted by law, have any duty to refrain from, directly or indirectly, (A) engaging in the same or similar business activities or lines of business in which the Company or any of its Affiliates now engages or proposes to engage or (B) otherwise competing with the Company or any of its Affiliates, and, to the fullest extent permitted by law, no Identified Person shall be liable to the Company or its stockholders or to any Affiliate of the Company for breach of any fiduciary duty solely by reason of the fact that such Identified Person engages in any such activities. To the fullest extent permitted by law, the Company hereby renounces any interest or expectancy in, or right to be offered an opportunity to participate in, any business opportunity that may be a corporate opportunity for an Identified Person and the Company or any of its Affiliates. Subject to the following sentence, in the event that any Identified Person acquires knowledge of a potential transaction or other business opportunity that may be a corporate opportunity for itself, herself or himself and the Company or any of its Affiliates, such Identified Person shall, to the fullest extent permitted by law, have no duty to communicate or offer such transaction or other business opportunity to the Company or any of its Affiliates and, to the fullest extent permitted by law, shall not be liable to the Company or its stockholders or to any Affiliate of the Company for breach of any fiduciary duty as a stockholder, director or officer of the Company solely by reason of the fact that such Identified Person pursues or acquires such corporate opportunity for itself, herself or himself, or offers or directs such corporate opportunity to another Person or does not communicate information regarding such corporate opportunity to the Company. Notwithstanding the foregoing, the Company does not renounce its interest in any corporate opportunity offered to any Identified Person (including any Identified Person who serves as an officer of the Company) if such opportunity is offered to such person solely in his or her capacity as a director or officer of the Company, and this Section 23 shall not apply to any such corporate opportunity. In addition to and notwithstanding the foregoing provisions of this Agreement, to the fullest extent permitted by law, a potential corporate opportunity shall not be deemed to be a corporate opportunity for the Company if it is a business opportunity that (x) the Company is neither financially or legally able, nor contractually permitted to undertake, (y) from its nature, is not in the line of the Company's business or is of no practical advantage to the Company, or (z) is one in which the Company has no interest or reasonable expectancy.

Section 24. Miscellaneous.

(a) *Notices*. The Company will send all notices or communications to any Holder pursuant to this Agreement either (a) in writing by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to such Holder's address as set forth in the latest Notice and Questionnaire of such Notice Holder delivered to the Company (or, if such Holder has not delivered any Notice and Questionnaire, as set forth in the Company's registrar); or (b) by email to the email address specified in such Notice and Questionnaire (which email will be deemed to constitute notice in writing for purposes of this Agreement).

Any notice or communication by any Holder to the Company will be deemed to have been duly given if in writing by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to offices of the Company at the following address (or at such other address as may be hereafter specified by notice to the Holders by the Company):

Shenandoah Telecommunications Company
500 Shentel Way
Edinburg, Virginia 22824
Attention: General Counsel
Email: [***]

with a copy (which will not constitute notice) to:

Name:	Hunton Andrews Kurth LLP
Address:	951 East Byrd Street
	Richmond, VA 23219
Email:	shaas@huntonak.com
Attention:	Steven M. Haas
Address:	600 Travis Street
	Suite 4200
	Houston, TX 77002
Email:	j.a.glaccum@huntonak.com
Attention:	J.A. Glaccum

(b) *Amendments and Waivers*. This Agreement, or any provision of this Agreement, may be amended, modified, waived or superseded only by a written instrument that is executed by the Company and by one or more Holders of the majority of the Acquired Shares, and any such amendment, modification, waiver or supersession so executed will be binding upon the Company and all Holders; provided, however, that:

(i) a waiver with respect to any particular Holder's rights under this Agreement will be effective as to such Holder if reflected in a written instrument executed by such Holder, provided such waiver does not adversely affect the rights of any other Holder;

(ii) a waiver of any rights of the Holders in respect of any Piggyback Underwritten Offering will be effective if reflected in a written instrument executed by Notice Holders holding a majority of the total number of Registrable Securities of Notice Holders proposed to be sold in such Piggyback Underwritten Offering;

(iii) Piggyback Rights with respect to any particular registration statement under the Securities Act may be waived, on behalf of all Holders, by a written instrument executed by one or more Holders who beneficially own a majority of the Acquired Shares; and

(iv) a waiver of any rights of the Holders in respect of any Demand Underwritten Offering will be effective if reflected in a written instrument executed by Notice Holders holding a majority of the total number of Registrable Securities of Notice Holders proposed to be sold in such Demand Underwritten Offering.

For purposes of determining whether any such amendment, modification, waiver or supersession is executed by Holders of the requisite number of securities, the Company may, absent manifest error, conclusively rely on information contained in its registrar or in any Notice and Questionnaire.

No delay on the part of any party in exercising any right, power or privilege pursuant to this Agreement will operate as a waiver thereof, and no waiver, or single or partial exercise of, any such right, power or privilege will preclude any other or further exercise thereof or the exercise of any other right, power or privilege pursuant to this Agreement.

(c) *Third Party Beneficiaries*. Subject to Section 17, this Agreement will be binding on, inure to the benefit of and be enforceable by, each Holder and its successors and assigns.

(d) *Governing Law; Waiver of Jury Trial*. THIS AGREEMENT, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE. EACH OF THE COMPANY AND EACH HOLDER (BY ITS EXECUTION AND DELIVERY OF THIS AGREEMENT, A JOINDER TO THIS AGREEMENT OR A NOTICE AND QUESTIONNAIRE) IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

(e) *Submission to Jurisdiction.* Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated by this Agreement shall be heard and determined in the Chancery Court of the State of Delaware (or, if the Chancery Court of the State of Delaware declines to accept jurisdiction over any Action, any state or federal court within the State of Delaware) (collectively, the "Specified Courts"), and each of the Company and each Holder irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to the address of the relevant party set forth in Section 21(a) will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company and each Holder (by its execution and delivery of this Agreement, a joinder to this Agreement or a Notice and Questionnaire) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

(f) *No Adverse Interpretation of Other Agreements*. This Agreement may not be used to interpret any other agreement of the Company or its Subsidiaries or of any other Person, and no such agreement may be used to interpret this Agreement.

(g) *Successors*. All agreements of the Company in this Agreement will bind its successors.

(h) *Severability*. If any provision of this Agreement is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired thereby.

(i) *Counterparts*. The parties may sign any number of copies of this Agreement. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Agreement by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually executed counterpart.

(j) *Table of Contents, Headings, Etc*. The table of contents and the headings of the Sections and Subsections of this Agreement have been inserted for convenience of reference only, are not to be considered a part of this Agreement and will in no way modify or restrict any of the terms or provisions of this Agreement.

(k) *Entire Agreement*. This Agreement, including Exhibit A, constitutes the entire agreement of the parties with respect to the specific subject matter of this Agreement and supersedes in their entirety all other agreements or understandings (whether written or oral) between or among the parties with respect to such specific subject matter.

(l) *Specific Performance*. The Company (a) agrees that any failure by it to comply with its obligations under this Agreement may result in material irreparable injury to the Holders for which there is no adequate remedy at law, and, that upon any such failure, any Holder may obtain such relief as may be required to specifically enforce the Company's obligations under this Agreement; and (b) hereby waives the defense in any action for specific performance that a remedy at law would be adequate.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be duly executed as of the date first written above.

Shenandoah Telecommunications Company

By: _____
Name:
Title:

LIF VISTA, LLC

By: _____
Name:
Title:

EXHIBIT A

FORM OF NOTICE AND QUESTIONNAIRE

The undersigned (the "**Selling Securityholder**") beneficial holder of common stock, no par value (the "**Common Stock**"), of Shenandoah Telecommunications Company, a Virginia corporation (the "**Company**"), or other Registrable Securities (as defined in the Investor Rights Agreement referred to below) understands that the Company has filed, or intends to file, with the Securities and Exchange Commission (the "**SEC**") a registration statement (the "**Registration Statement**") under the Securities Act of 1933, as amended (the "**Securities Act**") to register the resale of Registrable Securities, in accordance with the terms of the Investor Rights Agreement, dated as of [*closing date*] (the "**Investor Rights Agreement**"), among the Company and the securityholders named therein. The Company will provide a copy of the Investor Rights Agreement upon request at the address set forth below. All capitalized terms used in this Notice and Questionnaire without definition have the respective meanings given to them in the Investor Rights Agreement.

To sell or otherwise dispose of any Registrable Securities pursuant to the Registration Statement, the beneficial owner of those Registrable Securities generally must be named as a selling securityholder in the related prospectus, deliver a prospectus to the purchasers of the Registrable Securities and be bound by those provisions of the Investor Rights Agreement applicable to such beneficial owner (including certain indemnification provisions, as described below). Beneficial owners that do not complete this Notice and Questionnaire and deliver it to the Company as provided below will not be named as selling securityholders in the prospectus and will not be permitted to sell any Registrable Securities pursuant to the Registration Statement. Beneficial owners are encouraged to complete and deliver this Notice and Questionnaire as soon as possible.

Certain legal consequences arise from being named as a selling securityholder in the Registration Statement and the related prospectus. Accordingly, registered holders and beneficial owners of Registrable Securities should consult their legal counsel regarding the consequences of being named or not being named as a selling securityholder in the Registration Statement and the related prospectus.

NOTICE

By signing and returning this Notice and Questionnaire, the Selling Securityholder:

- notifies the Company of its intention to sell or otherwise dispose of Registrable Securities beneficially owned by it and listed below in Item 3 (except as otherwise specified under such Item 3) pursuant to the Registration Statement; and

- agrees to be bound by the terms and conditions of this Notice and Questionnaire and the Investor Rights Agreement.

Pursuant to the Investor Rights Agreement, the Selling Securityholder has agreed to indemnify and hold harmless the Company and its affiliates, the partners, directors, officers, members, stockholders, employees, advisors or other representatives of the Company or its respective affiliates, and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), from and against certain claims and losses arising in connection with (i) sales by the Selling Securityholder of Registrable Securities pursuant to the Registration Statement either (x) during a Blackout Period of which the Company has provided notice to the Selling Securityholder; or (y) without delivering, if required by the Securities Act, the most recent prospectus relating to the Registration Statement; or (ii) statements or omissions concerning the Selling Securityholder made in the Resale Registration Statement or the related prospectus in reliance upon the information provided in this Notice and Questionnaire.

The Selling Securityholder hereby provides the following information to the Company and represents and warrants that such information is accurate and complete.

QUESTIONNAIRE

1. Selling Securityholder Information:

   (a) Full legal name of the Selling Securityholder:

   _____

   (b) If the Registrable Securities listed in Item 3 below are held in certificated form and not "in street name," state the full legal name of the registered holder through which the Registrable Securities listed in Item 3 below are held:

   _____

   (c) If the Registrable Securities listed in Item 3 below are held "in street name," state the full legal name of the Depository Trust Company participant through which the Registrable Securities listed in Item 3 below are held:

   _____

   (d) Taxpayer identification or social security number of the Selling Securityholder:

   _____

2. Address and Contact Information for Notices to the Selling Securityholder:

   _____

   _____

   _____

   Telephone: _____

   Fax: _____

   Email Address: _____

   _____

Contact Person:

3. Beneficial Ownership of Common Stock:

Check each of the following that applies to the Selling Securityholder.

[_] The Selling Securityholder owns Common Stock:

Number of Shares: _____

4. Beneficial Ownership of Other Securities of the Company:

Except as set forth below in this Item 4, the Selling Securityholder is not the beneficial or registered owner of any securities of the Company other than the securities listed in Item 3 above.

Type and amount of other securities beneficially owned by the Selling Securityholder:

Title of Security Amount Beneficially Owned CUSIP No(s). (If Any)

5. Relationships with the Company:

(a) Has the Selling Securityholder or any of its affiliates, officers, directors or principal equity holders (owners of 5% or more of the equity securities of the Selling Securityholder) held any position or office or had any other material relationship with the Company (or its predecessors or affiliates) during the past three years?

[_] Yes.

[_] No.

(b) If the response to (a) above is "Yes," then please state the nature and duration of the relationship with the Company:

6. Plan of Distribution:

Check the following box confirming the intended plan of distribution of the Registrable Securities:

[_] The Selling Securityholder (including its donees and pledgees) does not intend to distribute the Registrable Securities listed in Item 3 above pursuant to the Shelf Resale Registration Statement except as follows (if at all):

The Registrable Securities may be sold from time to time directly by the Selling Securityholder or, alternatively, through underwriters, broker-dealers or agents. If the Registrable Securities are sold through broker-dealers or agents, the Selling Securityholder will be responsible for underwriting discounts or commissions or agents' commissions. The Registrable Securities may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at varying prices determined at the time of sale or at negotiated prices. Such sales may be effected in transactions (which may involve block transactions) (1) on any national securities exchange or quotation service on which the Registrable Securities may be listed or quoted at the time of sale; (2) in the over-the-counter market; (3) otherwise than on such exchanges or services or in the over-the-counter market; or (4) through the writing of options. In connection with sales of the Registrable Securities or otherwise, the Selling Securityholder may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the Registrable Securities in the course of the hedging positions they assume. The Selling Securityholder may also sell Registrable Securities short and deliver Registrable Securities to close out short positions or loan or pledge Registrable Securities to broker-dealers that in turn may sell such securities. Notwithstanding anything to the contrary, in no event will the methods of distribution take the form of an underwritten offering of the Registrable Securities without the prior agreement of the Company.

State any exceptions:

_____

_____

_____

7. Broker-Dealers and Their Affiliates:

The Company may have to identify the Selling Securityholder as an underwriter in the Registration Statement or related prospectus if:

l the Selling Securityholder is a broker-dealer and did not receive the Registrable Securities as compensation for underwriting activities or investment banking services or as investment securities; or

l the Selling Securityholder is an affiliate of a broker-dealer and either (1) did not acquire the Registrable Securities in the ordinary course of business; or (2) at the time of its purchase of the Registrable Securities, had an agreement or understanding, directly or indirectly, with any person to distribute the Registrable Securities.

Persons identified as underwriters in the Registration Statement or related prospectus may be subject to additional potential liabilities under the Securities Act and should consult their legal counsel before submitting this Notice and Questionnaire.

(a) Is the Selling Securityholder a broker-dealer registered pursuant to Section 15 of the Exchange Act?

[_] Yes.

[_] No.

(b) If the response to (a) above is "No," is the Selling Securityholder an "affiliate" of a broker-dealer that is registered pursuant to Section 15 of the Exchange Act?

[_] Yes.

[_] No.

For the purposes of this Item 7(b), an "affiliate" of a registered broker-dealer includes any company that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such broker-dealer.

(c) Did the Selling Securityholder acquire the securities listed in Item 3 above in the ordinary course of business?

[_] Yes.

[_] No.

(d) At the time of the Selling Securityholder's purchase of the securities listed in Item 3 above, did the Selling Securityholder have any agreements or understandings, directly or indirectly, with any person to distribute the securities?

[_] Yes.

[_] No.

(e) If the response to (d) above is "Yes," then please describe such agreements or understandings:

_____

_____

_____

(f) Did the Selling Securityholder receive the securities listed in Item 3 above as compensation for underwriting activities or investment banking services or as investment securities?

[_] Yes.

[_] No.

(g) If the response to (f) above is Yes," then please describe the circumstances:

_____

_____

_____

8. Nature of Beneficial Ownership:

The purpose of this section is to identify the ultimate natural person(s) or publicly held entity(ies) that exercise(s) sole or shared voting or dispositive power over the Registrable Securities.

(a) Is the Selling Securityholder a natural person?

[_] Yes.

[_] No.

(b) Is the Selling Securityholder required to file, or is it a wholly owned subsidiary of an entity that is required to file, periodic and other reports (for example, Forms 10-K, 10-Q and 8-K) with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act?

[_] Yes.

[_] No.

(c) Is the Selling Securityholder an investment company, or a subsidiary of an investment company, registered under the Investment Company Act of 1940, as amended?

[_] Yes.

[_] No.

(d) If the Selling Securityholder is a subsidiary of such an investment company, please identify the investment company:

_____

_____

(e) Identify below the name of each natural person or entity that has sole or shared investment or voting control over the securities listed in Item 3 above:

PLEASE NOTE THAT THE SEC REQUIRES THAT THESE NATURAL PERSONS AND ENTITIES BE NAMED IN THE PROSPECTUS

9. Securities Received from Named Selling Securityholder:

(a) Did the Selling Securityholder receive the Registrable Securities listed above in Item 3 as a transferee from selling securityholder(s) previously identified in the Registration Statement?

[_] Yes.

[_] No.

(b) If the response to (a) above is "Yes," then please answer the following two questions:

(i) Did the Selling Securityholder receive the Registrable Securities listed above in Item 3 from the named selling securityholder(s) prior to the effectiveness of the Registration Statement?

[_] Yes.

[_] No.

(ii) Identify below the names of the selling securityholder(s) from whom the Selling Securityholder received the Registrable Securities listed above in Item 3 and the date on which such securities were received.

If more space is needed for responses, then please attach additional sheets of paper. Please indicate the Selling Securityholder's name and the number of the item being responded to on each such additional sheet of paper, and sign each such additional sheet of paper, before attaching it to this Notice and Questionnaire. The Selling Securityholder may be asked to answer additional questions depending on the responses to the above questions.

ACKNOWLEDGEMENTS

The Selling Securityholder acknowledges its obligation to comply with the provisions of the Exchange Act and the rules thereunder relating to stock manipulation, particularly Regulation M thereunder (or any successor rules or regulations), in connection with any offer or sale of Registrable Securities. The Selling Securityholder agrees that neither it nor any person acting on its behalf will engage in any transaction in violation of such provisions.

The Selling Securityholder acknowledges its obligations under the Investor Rights Agreement to indemnify and hold harmless certain persons as set forth therein.

Pursuant to the Investor Rights Agreement, the Company has agreed under certain circumstances to indemnify the Selling Securityholder against certain liabilities.

In accordance with the Selling Securityholder's obligation under the Investor Rights Agreement to provide such information as may be required by law for inclusion in the Registration Statement, the Selling Securityholder agrees to promptly notify the Company of any inaccuracies or changes in the information provided in this Notice and Questionnaire that may occur after the date of this Notice and Questionnaire at any time while the Registration Statement remains effective.

Notices to the Selling Securityholder relating to this Notice and Questionnaire or pursuant to the Investor Rights Agreement will be made by email, or in writing, at the email or physical address set forth in Item 2 above.

By signing below, the Selling Securityholder consents to the disclosure of the information contained in this Notice and Questionnaire in its answers to Items 1 through 9 and the inclusion of such information in the Registration Statement and the related prospectus. The Selling Securityholder understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and the related prospectus.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

The Selling Securityholder has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated: _____

Legal Name of Selling Securityholder:

By: _____

Name: _____

Title: _____

_____

PLEASE RETURN THE COMPLETED AND EXECUTED NOTICE
AND QUESTIONNAIRE TO SHENANDOAH TELECOMMUNICATIONS COMPANY AT:

Shenandoah Telecommunications Company
500 Shentel Way
Edinburg, Virginia 22824
Attention: General Counsel
Facsimile: [__]
Email: [__]

EXHIBIT B

[To come].

EXHIBIT C

Definition of "Competitor"

[***]

EXHIBIT C

ACCOUNTING PRINCIPLES

EXHIBIT D

DISPOSABLE INVENTORY

EXHIBIT E

INTERIM PERIOD CAPX PLAN

Exhibit 2.2

Confidential
Execution Version

INVESTMENT AGREEMENT

by and among

SHENANDOAH TELECOMMUNICATIONS COMPANY,

SHENTEL BROADBAND HOLDING INC.,

ECP FIBER HOLDINGS, LP

and, solely for the limited purposes specified herein,

HILL CITY HOLDINGS, LP

Dated as of October 24, 2023

TABLE OF CONTENTS

EXHIBITS

This INVESTMENT AGREEMENT, dated as of October 24, 2023 (this "Agreement"), is made and entered into by and among Shenandoah Telecommunications Company, a Virginia corporation ("Parent"), Shentel Broadband Holding Inc., a Delaware corporation and direct, wholly owned Subsidiary (as defined below) of Parent (the "Company" and, together with Parent, "Sellers", and each, a "Seller"), ECP Fiber Holdings, LP, a Delaware limited partnership (the "Investor"), and, solely for purposes of Sections 5.02, 5.04, 5.05, 5.07, 5.10, 5.11, 5.12(e), 5.14, 5.16, 5.17, 5.18 and Article VIII, Hill City Holdings, LP, a Delaware limited partnership Affiliated (as defined below) with the Investor ("Hill City").

RECITALS

WHEREAS, Parent and the Company desire that the Company issue, sell and deliver to the Investor, and the Investor desires to purchase and acquire from the Company, pursuant to the terms and conditions set forth in this Agreement, an aggregate of 81,000 shares of the Company's Series A Participating Exchangeable Perpetual Preferred Stock, par value $0.01 per share (the "Series A Preferred Stock"), having the powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof specified in the form of Certificate of Designations attached hereto as Exhibit A (the "Certificate of Designations");

WHEREAS, prior to the Closing and as a condition to the Investor's obligations in respect thereof, Parent and the Company intend to effect each of the transactions set forth in Exhibit B (the "Reorganization") (other than Clause 3 set forth in Exhibit B, which will be completed pursuant to the terms hereof and thereof immediately following the consummation of the Acquisition), such that, immediately following completion of the Reorganization, all of the Subsidiaries of Parent, other than the Company, will be direct or indirect Subsidiaries of the Company and will own all of the operating assets currently owned by Parent, except for any Holding Company Assets; and

WHEREAS, in order to induce Sellers to enter into this Agreement, and as additional consideration therefor, concurrently with the execution and delivery hereof, the Investor has delivered the Equity Commitment Letter to Sellers.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. (a) As used in this Agreement (including the recitals hereto), the following terms shall have the following meanings:

"Acquisition" means the acquisition by Parent, directly or indirectly through one or more of its wholly owned Subsidiaries, of the Target Company, as contemplated by the Acquisition Agreement.

"Acquisition Agreement" means that certain Agreement and Plan of Merger executed on or about the date hereof in respect of the Acquisition, a copy of which is attached hereto as Exhibit C.

"Acquisition Ancillary Agreements" means, collectively, each material agreement, document, instrument and/or certificate (including any debt commitment letters, redacted as customary or if and as required by the applicable counterparties thereto, including with respect to any fees, pricing caps and economic terms and any other commercially sensitive information) contemplated by the Acquisition Agreement to be executed and delivered by the parties thereto in connection with the Acquisition and the other transactions contemplated thereby, including that certain Investor Rights Agreement, in the form attached to the Acquisition Agreement as Exhibit B thereto (the "Investor Rights Agreement").

"Activist Shareholder" means, as of any date of determination, a Person (other than the Investor Parties (including for these purposes, Hill City) and their respective Affiliates) that has, directly or indirectly through its Affiliates, whether individually or as a member of a "group" (as defined in Section 13(d)(3) of the Exchange Act), within the three (3)-year period immediately preceding such date of determination (i) called or publicly sought to call a meeting of the stockholders or other equityholders of any Person not publicly approved (at the time of the first such action) by the board of directors or similar governing body of such Person, (ii) publicly initiated any proposal for action by stockholders or other equityholders of any Person initially publicly opposed by the board of directors or similar governing body of such Person, (iii) publicly sought election to, or to place a director or representative on, the board of directors or similar governing body of a Person, or publicly sought the removal of a director or other representative from such board of directors or similar governing body, in each case which election or removal was not recommended or approved publicly (at the time such election or removal is first sought) by the board of directors or similar governing body of such Person, (iv) made, engaged in or been a participant in any "solicitation" of "proxies", as such terms are used in the proxy rules of the SEC promulgated under Section 14 of the Exchange Act, with respect to the matters set forth in clauses (i) through (iii), or (v) publicly disclosed any intention, plan or arrangement to do any of the foregoing. For the avoidance of doubt, neither the Investor Parties (including for these purposes, Hill City) nor their Permitted Transferees (or their respective Affiliates) are Activist Shareholders.

"Affiliate" (and its correlated meanings such as "Affiliated") means, as to any Person, any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Person; provided, however, (i) that Parent and its Subsidiaries, on the one hand, and any Investor Party (including for these purposes, Hill City) or any of its Affiliates, on the other hand, shall not be deemed to be Affiliates of each other and (ii) the Investor Director shall not be deemed to be an Affiliate of any Investor Party (including for these purposes, Hill City), Parent or any of Parent's Subsidiaries. For this purpose, "control" (including its correlative meanings, "controlling", "controlled by" and "under common control with"), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee or executor, by Contract or otherwise.

"Anti-Money Laundering Laws" means any U.S. federal, state or local or foreign or multinational anti-money laundering-related Laws and codes of practice applicable to Parent and its Subsidiaries and their operations from time to time, and any Laws or instructions implementing or interpreting the same.

"as exchanged basis" means, with respect to the calculation of any shares of Series A Preferred Stock or shares of Parent Common Stock, the amount of shares of Series A Preferred Stock or shares of Parent Common Stock, as applicable, outstanding assuming the exchange in full of the outstanding shares of Series A Preferred Stock for shares of Parent Common Stock calculated without regard to any provision in the Certificate of Designations that would either (x) cause any shares of Parent Common Stock otherwise issuable upon such exchange to be paid in cash in lieu of shares of Parent Common Stock; or (y) limit the ability of any holder of Series A Preferred Stock from exercising its right to exchange such Series A Preferred Stock.

"Bankruptcy Law" means Title 11, United States Code, or any similar U.S. federal or state or non-U.S. Law for the relief of debtors.

Any Person shall be deemed to "beneficially own", to have "beneficial ownership" of, or to be "beneficially owning" any securities (which securities shall also be deemed "beneficially owned" by such Person) that such Person is deemed to "beneficially own" within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act; provided, that any Person shall be deemed to beneficially own any securities that such Person has the right to acquire, whether or not such right is exercisable immediately (including assuming the exchange of all Series A Preferred Stock, if any, owned by such Person to Parent Common Stock). For the avoidance of doubt, for purposes of this Agreement, an Investor Party (including for these purposes, Hill City) (or any other Person) shall at all times be deemed to have beneficial ownership of the Parent Common Stock or the Series A Preferred Stock, including shares of Parent Common Stock issuable upon the exchange of the Series A Preferred Stock, directly or indirectly held by it, irrespective of any restrictions on transfer or voting contained in this Agreement or the Certificate of Designations.

"Beneficial Ownership Requirement" means that the Investor Parties (including for these purposes, Hill City) continue to beneficially own at all times shares of Series A Preferred Stock and/or shares of Parent Common Stock that represent (in the aggregate and on an as exchanged basis) at least 7.5% of the issued and outstanding shares of Parent Common Stock.

"Board" means the Board of Directors of Parent.

"Business Day" means any day except a Saturday, a Sunday or any other day on which the SEC or banks in the City of New York are authorized or required by Law to be closed with respect to the provision of "essential services" (as defined by any applicable Governmental Authority from time to time).

"Charter Documents" means (i) with respect to Parent (the "Parent Charter Documents"), Parent's articles of incorporation and bylaws, each as amended to the date of this Agreement, and (ii) with respect to the Company (the "Company Charter Documents"), the Company's certificate of incorporation and bylaws, each as amended to the date of this Agreement, and shall include the Certificate of Designations, as filed with the Secretary of State of the State of Delaware prior to the Closing.

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Company Common Stock" means the Company's common stock, par value $0.01 per share.

"Competing Securities Issuance" means any proposal or offer from any Person relating to any direct or indirect issuance or sale by Parent or any of its Subsidiaries of any debt or equity securities of Parent or any of its Subsidiaries (or options, rights or warrants to purchase, or securities convertible into or exchangeable for, such securities) (other than equity grants under the Parent Plan in the ordinary course of business to directors, employees, officers, consultants or other service providers of Parent or any of its Subsidiaries). For the avoidance of doubt, a "Competing Securities Issuance" does not include any Parent Common Stock issuable pursuant to the Acquisition Agreement (subject to the terms and conditions thereof) in connection with the Acquisition.

"Competitor" means any Person set forth on Section 1.01(a)(i) of the Parent Disclosure Letter.

"consent of the Investor" or "consent of the Investor Parties" (or term of similar meaning) means the approval of the Investor Parties (including for these purposes, Hill City) that directly own at the applicable time shares of Series A Preferred Stock and/or shares of Parent Common Stock representing a majority of the Parent Common Stock (in the aggregate and on an as exchanged basis) held by such Persons.

"Equity Commitment Letter" means that certain Equity Commitment Letter, dated as of the date hereof, by and among the Investor and the other parties thereto, pursuant to which such other parties have committed, subject only to the terms and conditions thereof, to invest the amounts set forth therein.

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

"Exchange" has the meaning set forth in the Certificate of Designations.

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

"Exchange Price" has the meaning set forth in the Certificate of Designations.

"Existing Credit Agreement" means the Credit Agreement, dated as of July 1, 2021, by and among Parent (as the Borrower), the Guarantors party thereto from time to time, the Lenders party thereto from time to time and CoBank ACB, in its capacity as the Administrative Agent and as an Issuing Lender and Swing Line Lender, and each of Bank of America, N.A., Citizens Bank, N.A., Fifth Third Bank, National Association and Truist Securities, Inc. as Joint Lead Arrangers, as amended by Amendment No. 1 to Credit Agreement, dated as of May 17, 2023, and Consent and Amendment No. 2 to Credit Agreement, dated as of the date hereof.

"Fall-Away of Investor Rights" means the first day on which the Investor Parties (including for these purposes, Hill City) no longer meet the Beneficial Ownership Requirement.

"FCC" means the Federal Communications Commission, or any successor to its functions.

"Flow-Through Dividend" means any dividend or distribution on the Parent Common Stock paid by Parent solely with the proceeds of a Company Common Stock Participating Dividend (as defined in the Certificate of Designations) received by the Parent; provided, however, that such dividend or distribution will not be deemed to be a Flow-Through Dividend if the Company has not paid a corresponding Company Participating Dividend (as defined in the Certificate of Designations) on the Series A Preferred Stock pursuant to Section 5(b)(i) of the Certificate of Designations.

"Fraud" means actual, not constructive, common law fraud (under the laws of the State of Delaware), committed with scienter, in the making of the representations and warranties expressly given in this Agreement or in the certificates to be delivered pursuant to Section 6.02(c) or Section 6.03(c).

"GAAP" means generally accepted accounting principles, as in effect in the United States, consistently applied by Parent.

"Governmental Authority" means any government, court, regulatory or administrative agency, commission, tribunal, arbitrator or authority or other legislative, executive or judicial governmental official or entity (in each case including any self-regulatory organization), whether U.S. federal, state or local, foreign or multinational.

"Holder" has the meaning set forth in the Certificate of Designations.

"Holding Company Assets" means those certain non-revenue-generating assets, properties or rights as may be necessary to be held by a publicly traded holding company to facilitate its operations and existence as such.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

"Investor" has the meaning set forth in the Preamble.

"Investor Designee" means an individual designated in writing by the consent of the Investor Parties (including for these purposes, Hill City) to be appointed or nominated by Parent for election to the Board pursuant to Section 5.10, as applicable.

"Investor Director" means a member of the Board who was appointed or elected to the Board as an Investor Designee.

"Investor Material Adverse Effect" means any effect, change, event or occurrence that, individually or in the aggregate, would or would reasonably be expected to, prevent, materially delay, interfere with, hinder or impair (i) the consummation by the Investor of any of the Transactions or (ii) the compliance by the Investor Parties (including for these purposes, Hill City) with their obligations under this Agreement.

"Investor Parties" means each of (i) the Investor and each Permitted Transferee of the Investor to whom shares of Series A Preferred Stock or Parent Common Stock issued upon exchange of shares of Series A Preferred Stock are transferred pursuant to Section 5.08(b)(i) and (ii) solely for purposes of Sections 5.02, 5.04, 5.05, 5.07, 5.10, 5.11, 5.16, 5.17 and 5.18, as used therein, Hill City or any member of the Sponsor Group to whom Hill City Transfers its shares of Parent Common Stock.

"IT Assets" means all hardware, software, code, systems, networks, websites, applications, databases and other information technology assets and equipment.

"Investor Rights Agreement" shall have the meaning set forth in the definition of Acquisition Ancillary Agreements.

"Knowledge of Parent" means, with respect to Parent and the Company, the actual knowledge of the individuals listed on Section 1.01(a)(ii) of the Parent Disclosure Letter, after reasonable inquiry of their respective direct reports.

"Liens" means any mortgage, pledge, lien, charge, encumbrance, security interest, adverse ownership interest or other restriction of any kind or nature, whether based on common law, statute or contract.

"Lock-Up Period" means the period commencing on the Closing Date and ending on the one (1)-year anniversary of the Closing Date.

"Material Adverse Effect" means any effect, change, event or circumstance that, individually or in the aggregate, has had, or would reasonably be expected to (i) have a material adverse effect on the business, assets, properties, condition (financial or otherwise) or results of operation of Parent and its Subsidiaries, taken as a whole; provided, however, that any changes or events resulting from the following items shall not be considered when determining whether a Material Adverse Effect has occurred: (a) changes in economic, political, regulatory, financial or capital market conditions generally or in the industries in which Parent and its Subsidiaries operate, (b) any acts of war, sabotage, terrorist activities or changes imposed by a Governmental Authority associated with national security, (c) epidemics, pandemics or disease outbreaks, weather or meteorological events or other natural disasters (or worsening or escalation of any of the foregoing), (d) any change of applicable Law, accounting standards, regulatory policy or industry standards after the date of this Agreement, (e) the announcement, execution or delivery of this Agreement, the Acquisition Agreement or the consummation of the Transactions or the Acquisition (it being understood that this clause (e) shall not apply to a breach of any representation or warranty set forth in Section 3.01, Section 3.03 or Section 3.05), (f) changes in the price or trading volume of the Parent Common Stock or any change in the credit ratings of Parent (but, for purposes of clarity, the underlying cause or causes of such change may be deemed to constitute a Material Adverse Effect and may be taken into consideration when determining whether a Material Adverse Effect has occurred to the extent such change or changes are not otherwise excluded by another clause of this definition) or (g) any failure by the Company to meet projections or forecasts or revenue or earnings predictions for any period (but, for the purposes of clarity, not the underlying cause of such failure), except, solely with respect to clauses (a), (b), (c) and (d), to the extent Parent and its Subsidiaries, taken as a whole, are materially and disproportionately affected thereby relative to other participants in the industry or industries in which Parent and its Subsidiaries operate (in which case only the incremental material and disproportionate effect or effects may be taken into account in determining whether there has been a Material Adverse Effect), or (ii) prevent, materially delay, interfere with, hinder or impair the ability of Parent or the Company to perform their respective obligations under this Agreement or to timely consummate the transactions contemplated by this Agreement.

"Nasdaq" means The Nasdaq Stock Market.

"Parent Common Stock" means Parent's common stock, no par value.

"Parent Common Stock Equivalent Percentage" shall have the meaning set forth in the Certificate of Designations.

"Parent Plan" means each plan, program, policy, agreement or other arrangement covering current or former employees, directors or consultants, that is (i) an employee welfare plan within the meaning of Section 3(1) of ERISA, (ii) an employee pension benefit plan within the meaning of Section 3(2) of ERISA, other than any plan which is a "multiemployer plan" (as defined in Section 4001(a)(3) of ERISA), (iii) a stock option, stock purchase, stock appreciation right or other stock-based agreement, program or plan, (iv) an individual employment, consulting, severance, retention or other similar agreement or (v) a bonus, incentive, deferred compensation, profit-sharing, retirement, post-retirement, vacation, severance or termination pay, benefit or fringe-benefit plan, program, policy, agreement or other arrangement, in each case that is sponsored, maintained or contributed to by Parent or any of its Subsidiaries or to which Parent or any of its Subsidiaries is obligated to contribute to or has or may have any liability, other than any plan, program, policy, agreement or arrangement sponsored and administered by a Governmental Authority.

"Parent RSU" means a time-vesting restricted stock unit with respect to Parent Common Stock.

"Parent RTSR PSU" means a Relative Total Shareholder Return performance-vesting share unit with respect to Parent Common Stock.

"Parent Strategic Retention PSU" means a performance share unit with respect to Parent Common Stock based on Parent's achievement of key performance metrics.

"Permitted Transferee" means (i) any Affiliate of the Sponsor, (ii) any successor entity of the Investor Party or (iii) any investment fund, vehicle, holding company or similar entity for separately managed accounts with respect to which a member of the Sponsor Group thereof serves as a general partner, managing member, manager or advisor, or any successor entity of the Persons described in this clause (iii), for so long as the Sponsor Group continues to retain control of the voting and disposition of the Series A Preferred Stock or Parent Common Stock (for clarity, it being understood that at such time the Sponsor Group no longer retains such control, that such event shall constitute a Transfer to a Person who is not a Permitted Transferee); provided, however, that in no event shall (x) any "portfolio company" (as such term is customarily used in the private equity industry) other than Hill City or (y) any Competitor or Activist Shareholder (whether or not an Affiliate of any Investor Party) constitute a "Permitted Transferee."

"Person" means any individual, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, any other form of entity or any group comprised of two or more of the foregoing.

"Registration Rights Agreement" means that certain Registration Rights Agreement to be entered into by Parent and the Investor on the Closing Date, the form of which is set forth as Exhibit D hereto, as it may be amended, supplemented or otherwise modified.

"Registration Statement" has the meaning set forth in the Registration Rights Agreement.

"Representatives" means, with respect to any Person, its officers, directors, principals, partners, managers, members, employees, consultants, agents, financial advisors, investment bankers, attorneys, accountants, other advisors and other representatives.

"SEC" means the Securities and Exchange Commission.

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

"Sponsor" means ECP ControlCo, LLC, a Delaware limited liability company.

"Sponsor Group" means (i) Affiliates of any Investor Party (including for these purposes, Hill City), (ii) any fund controlled by Energy Capital Partners IV GP, LP, a Delaware limited partnership, ECP V GP, LP, a Delaware limited partnership, or Sponsor, (iii) any investment fund, continuation fund or other vehicle or account sponsored by Energy Capital Partners Management, LP, a Delaware limited partnership, or otherwise controlled by Sponsor and (iv) any investment vehicle or other arrangement investing on a parallel basis with the Persons in the foregoing clauses (ii) and (iii).

"Subsidiary" means with respect to any entity, (i) any corporation of which a majority of the securities entitled to vote generally in the election of directors thereof, at the time as of which any determination is being made, are owned by such entity, either directly or indirectly, and (ii) any joint venture, general or limited partnership, limited liability company or other legal entity in which such entity is the record or beneficial owner, directly or indirectly, of a majority of the voting interests or the general partner. As used herein, for the avoidance of doubt, the Company shall be deemed for all purposes herein to be a Subsidiary of Parent at all times.

"Target Company" means Horizon Acquisition Parent LLC.

"Tax" or "Taxes" mean all taxes, imposts, levies, duties, deductions, withholdings (including backup withholding), assessments, fees or other like assessments or charges, in each case in the nature of a tax, imposed by a Governmental Authority, together with all interest, penalties and additions imposed with respect to such amounts.

"Tax Return" means any report, return, information return, filing, claim for refund or other information filed or required to be filed with a Governmental Authority in connection with Taxes, including any schedules or attachments thereto, and any amendments to any of the foregoing.

"Total Net Leverage Ratio" shall have the meaning set forth in the Existing Credit Agreement.

"Transaction Documents" means this Agreement, the Certificate of Designations, the Registration Rights Agreement, the Equity Commitment Letter and all other documents, certificates or agreements executed in connection with the transactions contemplated by this Agreement, the Certificate of Designations, the Registration Rights Agreement and the Equity Commitment Letter.

"Transactions" means the Purchase and the other transactions expressly contemplated by this Agreement and the other Transaction Documents, including the exercise by any Investor Party of the right to exchange Acquired Shares into shares of Parent Common Stock.

"Transfer" means, directly or indirectly, to sell, transfer, assign, pledge, encumber, hypothecate or similarly dispose of, either voluntarily or involuntarily, or to enter into any contract, option or other arrangement or understanding with respect to the sale, transfer, assignment, pledge, encumbrance, hypothecation or similar disposition of, any shares of equity securities beneficially owned by a Person or any interest in any shares of equity securities beneficially owned by a Person; provided, however, that, notwithstanding anything to the contrary in this Agreement, a Transfer shall not include (i) the exchange of one or more shares of Series A Preferred Stock into shares of Parent Common Stock pursuant to the Certificate of Designations, (ii) the redemption or other acquisition of Parent Common Stock or Series A Preferred Stock by the Company or Parent, as applicable, (iii) the direct or indirect transfer of any limited or general partnership interests, membership interests, stock or other equity interests in any member of the Sponsor Group (other than clause (i) of the definition thereof) that owns a direct or indirect interest in any Investor Party (including for these purposes, Hill City), including the direct or indirect transfer of any interest in (x) the managing member or similar controlling entity(ies) of the general partner or similar controlling entity(ies) of the general partner or similar controlling entity(ies) of any member of the Sponsor Group (other than clause (i) of the definition thereof), (y) the general partner or similar controlling entity(ies) of the general partner or similar controlling entity(ies) of any member of the Sponsor Group (other than clause (i) of the definition thereof), or (z) any direct or indirect member of any managing member or similar controlling entity identified in clauses (x) or (y), or (iv) the direct transfer of any limited or general partnership interests, membership interests, stock or other equity interests in any Investor Party (including for these purposes, Hill City) (provided that if any transferor or transferee referred to in this clause (iv) ceases to be controlled (directly or indirectly) by the Person (directly or indirectly) controlling such Person immediately prior to such transfer, such event shall be deemed to constitute a "Transfer").

"VSCA" means the Virginia Stock Corporation Act, as amended, supplemented or restated from time to time.

(b) In addition to the terms defined in Section 1.01(a), the following terms have the meanings assigned thereto in the Sections set forth below:

Term	Section
Acquired Shares	2.01
Action	3.08
Agreement	Preamble
Anti-Corruption Laws	3.09(b)
Balance Sheet Date	3.06(c)
Bankruptcy and Equity Exception	3.03(a)
Business Combination	5.07(c)
Capitalization Date	3.02(b)
Certificate of Designations	Recitals
Charter Amendment	5.10(a)
Closing	2.02(a)
Closing Date	2.02(a)
Company	Preamble
Company Preferred Stock	3.02(a)
Confidential Information	5.05
Confidentiality Agreement	5.05
Contract	3.03(b)
Director Indemnitee	5.10(i)
Disclosure Schedules	Article III
DOJ	5.02(a)
Filed SEC Documents	Article III
FTC	5.02(a)
Hedge	5.08(a)
Hill City	Preamble
HSR Form	5.02(b)
Identified Persons	5.17
Initial Press Release	5.04
Investor	Preamble
Investor Observer	5.10(b)
IRS	5.12(a)
Issuer Agreement	5.14
Judgments	3.08
Laws	3.09(a)
New Security	5.16(a)
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Purchase Price	2.01
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Restraints	6.01(a)
Seller	Preamble
Seller Securities	3.02(c)
Series A Participating Dividend	5.12(g)(i)
Series A Preferred Stock	Recitals
Termination Date	7.01(b)

ARTICLE II
PURCHASE AND SALE

Section 2.01 Purchase and Sale. On the terms of this Agreement and subject to the satisfaction (or, to the extent permitted by applicable Law, waiver by the party entitled to the benefit thereof) of the conditions set forth in Article VI, at the Closing, the Investor shall purchase and acquire from the Company, and the Company shall issue, sell and deliver to the Investor, an aggregate of 81,000 shares of Series A Preferred Stock (the "Acquired Shares") for a purchase price per Acquired Share equal to $1,000.00 representing an aggregate purchase price of $81,000,000 (such aggregate purchase price, the "Purchase Price"); provided, however, that in the event the Acquired Shares (on an as exchanged basis) together with the shares of Parent Common Stock owned by Hill City would represent 10% or more of the issued and outstanding shares of Parent Common Stock as of immediately after the Closing (the "Ownership Limit"), then (a) the number of the Acquired Shares issuable pursuant to this Agreement shall be reduced as necessary to ensure that the Acquired Shares (on an as exchanged basis) together with the shares of Parent Common Stock owned by Hill City will represent less than the Ownership Limit and (b) the Purchase Price shall be reduced by $1,000.00 for each share of Series A Preferred Stock not purchased as a result of any such reduction; provided, however, that regardless of the Ownership Limit, the amount of any such reduction pursuant to the preceding clause (a) shall not exceed 1,000 Acquired Shares. The purchase and sale of the Acquired Shares pursuant to this Section 2.01 is referred to as the "Purchase".

Section 2.02 Closing.

(a) On the terms of this Agreement, the closing of the Purchase (the "Closing") shall occur via electronic exchange of documents and funds commencing at 8:00 a.m. New York local time on the sixth (6th) Business Day following such date on which the conditions to the Closing set forth in Article VI of this Agreement have been satisfied or, to the extent permitted by applicable Law, waived by the party entitled to the benefit thereof (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at such time), and shall be conducted remotely via the electronic exchange of documents and signatures, or at such other place, time and date as shall be agreed between Parent and the Investor (the date on which the Closing occurs, the "Closing Date"); provided, however, that the Closing shall occur substantially concurently with the satisfaction of the condition set forth in Section 6.01(b) to the extent that (i) all of the other conditions set forth in Article VI have been satisfied, or to the extent permitted by applicable Law, waived by the party entitled to the benefit thereof (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of those conditions at such time); and (ii) Parent has delivered written notice to the Investor at least five (5) Business Days in advance of the anticipated satisfaction of the condition set forth in Section 6.01(b). The Closing shall be deemed to have been consummated at 12:01 a.m. New York local time on the Closing Date.

(b) At the Closing:

(i) Parent and the Company shall deliver to the Investor (A) the Acquired Shares, free and clear of all Liens, except restrictions imposed by the Certificate of Designations, the Securities Act, Section 5.08 and any applicable securities Laws, (B) evidence of the issuance of the Acquired Shares to the Investor and (C) the Registration Rights Agreement, duly executed by Parent; and

(ii) (A) the Investor shall pay the Purchase Price to the Company, by wire transfer of immediately available U.S. federal funds, to the account designated by the Company in writing at least two (2) Business Days prior to the Closing Date and (B) the Investor and Hill City shall deliver to the Company the Registration Rights Agreement, duly executed by the Investor and Hill City.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF SELLERS

Parent and the Company, jointly and severally, represent and warrant to the Investor as of the date of this Agreement and as of the Closing (except to the extent made only as of a specified date, in which case such representation and warranty is made as of such date) that, except as (A) set forth in the confidential disclosure letter delivered by Parent to the Investor prior to the execution of this Agreement (the "Parent Disclosure Letter") or the confidential disclosure schedules to the Acquisition Agreement delivered to Parent in connection with the Acquisition (the "Disclosure Schedules") (it being understood that any information, item or matter set forth on one section or subsection of the Parent Disclosure Letter or the Disclosure Schedules shall be deemed to apply to and qualify the section or subsection of this Agreement to which it corresponds in number (in the case of the Parent Disclosure Letter) and each other section or subsection of this Agreement to the extent that it is reasonably apparent on its face that such information, item or matter is relevant to such other section or subsection (in the case of the Parent Disclosure Letter or the Disclosure Schedules)) or (B) disclosed in any report, schedule, form, statement or other document (including exhibits) of Parent filed with, or furnished to, the SEC (and publicly available) after November 2, 2022, and prior to the date of this Agreement (the "Filed SEC Documents"), other than any risk factor disclosures in any such Filed SEC Document contained in the "Risk Factors" section or any forward-looking statements within the meaning of the Securities Act or the Exchange Act thereof (it being acknowledged that nothing disclosed in the Filed SEC Documents shall be deemed to qualify or modify the representations and warranties set forth in Sections 3.01, 3.02, 3.03, 3.11 and 3.12):

Section 3.01 Organization; Standing.

(a) Parent is a corporation duly organized and validly existing under the Laws of the Commonwealth of Virginia, the Company is a corporation duly organized and validly existing under the Laws of the State of Delaware, and each such Seller is in good standing and has all requisite corporate power and authority necessary to own, lease and operate its properties and to carry on its business as it is now being conducted, except (other than with respect to such Seller's due organization and valid existence) as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each Seller is duly licensed or qualified to do business and is in good standing (where such concept is recognized under applicable Law) in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. True, correct and complete copies of the Parent Charter Documents are included in the Filed SEC Documents, each of which is in full force and effect as of the date of this Agreement. The Company has made available to the Investor true, correct and complete copies of the Company Charter Documents, each of which is in full force and effect as of the date of this Agreement.

(b) Each of Parent's Subsidiaries is duly organized, validly existing and in good standing (where such concept is recognized under applicable Law) under the Laws of the jurisdiction of its organization, except where the failure to be so organized, existing and in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each of Parent's Subsidiaries is duly licensed or qualified to do business and is in good standing (where such concept is recognized under applicable Law) in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 3.02 Capitalization.

(a) The authorized capital stock of the Company consists of 400,000 shares of Company Common Stock, par value $0.01 per share, and 100,000 shares of preferred stock, par value $0.01 per share ("Company Preferred Stock"). As of the date of this Agreement, (i) 400,000 shares of Company Common Stock are issued and outstanding and (ii) no shares of Company Preferred Stock are issued or outstanding. Parent owns all of the issued and outstanding Company Common Stock.

(b) The authorized capital stock of Parent consists of 96,000,000 shares of Parent Common Stock, no par value per share. At the close of business on October 19, 2023 (the "Capitalization Date"), (i) 50,264,477 shares of Parent Common Stock were issued and outstanding, (ii) 745,860 Parent RSUs were outstanding, (iii) 293,381 Parent RTSR PSUs were outstanding and (iv) 100,449 Parent Strategic Retention PSUs were outstanding.

(c) Except as described in this Section 3.02 or Section 3.02 of the Parent Disclosure Letter, there are (i) no outstanding shares of capital stock of, or other equity or voting interests of any character in, (x) Parent, other than shares that have become outstanding after the Capitalization Date which were reserved for issuance as of the Capitalization Date as set forth in Section 3.02(b), or up to 4,081,633 shares of Parent Common Stock, plus additional shares of Parent Common Stock in an amount equal to the quotient of (A) the Cash Dividend Adjustment Amount divided by (B) the Parent Stock Price (as such terms are defined in the Acquisition Agreement), to be issued in the Acquisition, and (y) the Company, (ii) no outstanding securities of any Seller or any Subsidiary thereof convertible into or exercisable or exchangeable for shares of capital stock of, or other equity or voting interests of any character in, such Seller or such Subsidiary thereof, (iii) no outstanding obligations, options, warrants, rights, pledges, calls, puts, phantom equity, preemptive rights, or other rights, commitments, agreements or arrangements of any character to acquire from any Seller or any Subsidiary thereof, or that obligate any Seller or any Subsidiary thereof to issue or grant, any capital stock of, or other equity or voting interests (or voting debt) in, equity or equity-based awards with respect to, or any securities convertible into or exercisable or exchangeable for shares of capital stock of, or other equity or voting interests (or voting debt) in, such Seller or any Subsidiary thereof, (iv) no obligations of any Seller or any Subsidiary thereof to grant, extend or enter into any subscription, warrant, right, convertible or exchangeable security or other similar agreement or commitment relating to any capital stock of, or other equity or voting interests (or voting debt) in, such Seller or any Subsidiary thereof (the items in clauses (i), (ii), (iii) and (iv) being referred to collectively as "Seller Securities") and (v) no other obligations by Parent or any of its Subsidiaries to make any payments based on the price or value of any Seller Securities. Except as provided in the Acquisition Agreement, there are no outstanding agreements of any kind which obligate Parent or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Seller Securities, or obligate any Seller to grant, extend or enter into any such agreements relating to any Seller Securities, including any agreements granting any preemptive rights, subscription rights, anti-dilutive rights, rights of first refusal or similar rights with respect to any Seller Securities. Except as provided in the Acquisition Agreement, none of Parent, the Company or any Subsidiary of the Company is a party to any stockholders' agreement, voting trust agreement, registration rights agreement or other similar agreement or understanding relating to any Seller Securities or any other agreement relating to the disposition, voting or dividends with respect to any Seller Securities. All outstanding shares of Company Common Stock and Parent Common Stock have been duly authorized and validly issued and are fully paid, nonassessable and were not issued in violation of any purchase option, call option, right of first refusal, subscription right, preemptive or similar rights of a third Person, the Charter Documents or any agreement to which any Seller is a party. All of the outstanding shares of capital stock or equity interests of Parent's Subsidiaries have been duly authorized, validly issued, fully paid and non-assessable and none of such capital stock or equity interests are subject to or were issued in violation of any applicable Laws and are not subject to and have not been issued in violation of any stockholders agreement, proxy, voting trust or similar agreement, or any preemptive rights, rights of first refusal or similar rights of any Person, except as would not reasonably be expected to be material to Parent and its Subsidiaries, taken as a whole.

Section 3.03 Authority; Noncontravention.

(a) Each Seller has all necessary power and authority to execute and deliver this Agreement and the other Transaction Documents and to perform its obligations hereunder and thereunder and to consummate the Transactions. The execution, delivery and performance by each Seller of this Agreement and the other Transaction Documents, and the consummation by it of the Transactions, have been duly authorized and approved by all necessary action and no other action, approval or authorization on the part of such Seller or by any of its stockholders, partners, members or other equity owners, as the case may be, is necessary to authorize the execution, delivery and performance by such Seller of this Agreement and the other Transaction Documents and the consummation by it of the Transactions. This Agreement has been and at the Closing, as applicable, the other Transaction Documents will be, duly executed and delivered by each Seller and, assuming due authorization, execution and delivery hereof or thereof, as applicable, by the Investor and the other parties hereto or thereto, each constitutes (or in the case of the other Transaction Documents, as applicable, at the Closing will constitute) a legal, valid and binding obligation of such Seller, enforceable against such Seller in accordance with its terms, except that such enforceability (i) may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other similar Laws of general application affecting or relating to the enforcement of creditors' rights generally and (ii) is subject to general principles of equity, whether considered in a proceeding at law or in equity (the "Bankruptcy and Equity Exception").

(b) Neither the execution and delivery of this Agreement or the other Transaction Documents by any Seller, nor the consummation by such Seller of the Transactions, nor performance or compliance by such Seller with any of the terms or provisions hereof or thereof, will (i) conflict with or violate any provision of (A) the Charter Documents or (B) the similar organizational documents of any of Parent's Subsidiaries or (ii) assuming the accuracy of the representations in Section 4.05 and that the authorizations, consents and approvals referred to in Section 3.05 are obtained prior to the Closing Date and the filings referred to in Section 3.05 are made and any waiting periods thereunder have terminated or expired prior to the Closing Date, (x) violate any Law or Judgment applicable to Parent or any of its Subsidiaries or (y) violate or constitute a default (or constitute an event which, with notice or lapse of time or both, would violate or constitute a default) under, result in the termination of or a right of termination or cancellation under, result in the loss of any benefit or require a payment or incur a penalty under, any of the terms or provisions of any loan or credit agreement, indenture, debenture, note, bond, mortgage, deed of trust, lease, sublease, license, contract or other agreement (each, a "Contract") to which Parent or any of its Subsidiaries is a party or by which it is bound or accelerate Parent's or the Company's or, if applicable, any of their respective Subsidiaries' obligations under any such Contract, except, in the case of clause (ii), as would not, individually or in the aggregate, have or reasonably be expected to have, a Material Adverse Effect.

Section 3.04 Reorganization. Upon completion of the Reorganization in accordance with the terms hereof, as of immediately prior to the Closing (other than to the extent contemplated by Clause 3 set forth in Exhibit B, which shall be completed pursuant to the terms hereof and thereof immediately following the consummation of the Acquisition), the Company will own, directly or indirectly, (a) all of the other Subsidiaries of Parent existing as of the date hereof (other than Subsidiaries whose existence terminates in accordance with the terms of the Acquisition Agreement) and (b) all of the other assets, properties and rights of Parent not directly held by Parent as of the date hereof (other than any Holding Company Assets).

Section 3.05 Governmental Approvals. Except for (a) the filing of the Certificate of Designations with the Secretary of State of the State of Delaware, (b) filings required by the FCC and compliance with the applicable requirements of the HSR Act to permit the issuance and subsequent exchange of the Acquired Shares, (c) compliance with any applicable state public utility, communications, securities or blue sky laws, if required, (d) filings with the SEC that may be required in respect of the Transactions and (e) those filings, consents or approvals required by the Acquisition Agreement, no consent or approval of, or filing, license, permit or authorization, declaration or registration with, any Governmental Authority is necessary for the execution and delivery of this Agreement and the other Transaction Documents by each Seller, the performance by such Seller of its obligations hereunder and thereunder and the consummation by Seller of the Transactions, other than such other consents, approvals, filings, licenses, permits or authorizations, declarations or registrations that, if not obtained, made or given, would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 3.06 Parent SEC Documents; Undisclosed Liabilities.

(a) Parent (i) has filed with, or furnished to, the SEC, on a timely basis, all required reports, schedules, forms, statements and other documents required to be filed or furnished by Parent with the SEC pursuant to the Exchange Act since January 1, 2021, and prior to the date hereof and (ii) will file with, or furnish to, the SEC, on a timely basis, all required reports, schedules, forms, statements and other documents required to be filed or furnished by Parent with the SEC pursuant to the Exchange Act after the date hereof and prior to the Closing Date (clauses (i) and (ii) collectively, the "Parent SEC Documents"). As of their respective SEC filing dates, the Parent SEC Documents complied in all material respects with the requirements of the Securities Act, the Exchange Act and the Sarbanes-Oxley Act of 2002 (and the regulations promulgated thereunder), as the case may be, applicable to such Parent SEC Documents, and none of the Parent SEC Documents as of such respective dates (or, if amended prior to the date of this Agreement, the date of the filing of such amendment, with respect to the disclosures that are amended) contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(b) The consolidated financial statements of Parent and its Subsidiaries (including all related notes or schedules) included or incorporated by reference in the Parent SEC Documents complied as to form, as of their respective dates of filing with the SEC, in all material respects with the published rules and regulations of the SEC with respect thereto, have been prepared in accordance with GAAP (except, in the case of unaudited quarterly statements, as permitted by Form 10-Q of the SEC or other rules and regulations of the SEC) applied on a consistent basis during the periods involved (except (i) as may be indicated in the notes thereto or (ii) as permitted by Regulation S-X) and present fairly, in all material respects, the consolidated financial position of Parent and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods shown (subject, in the case of unaudited quarterly financial statements, to normal year-end adjustments, which are not reasonably expected to be materially adverse individually or in the aggregate to Parent and its Subsidiaries, taken as a whole).

(c) None of Parent or any of its Subsidiaries has any liabilities of any nature (whether accrued, absolute, contingent or otherwise) that would be required under GAAP to be reflected on a consolidated balance sheet of Parent (including the notes thereto) except liabilities (i) reflected or reserved against in the balance sheet (or the notes thereto) of Parent and its Subsidiaries as of June 30, 2023 (the "Balance Sheet Date") included in the Filed SEC Documents, (ii) incurred after the Balance Sheet Date in the ordinary course of business and that do not arise from any material breach of a Contract, (iii) as expressly contemplated by this Agreement or otherwise incurred in connection with the Transactions or the Acquisition, (iv) that have been discharged or paid prior to the date of this Agreement or (v) as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(d) Parent has established and maintains, and at all times since January 1, 2021, has maintained, disclosure controls and procedures and a system of internal controls over financial reporting (as such terms are defined in paragraphs (e) and (f), respectively, of Rule 13a-15 under the Exchange Act) as required by Rule 13a-15 under the Exchange Act relating to Parent and its consolidated Subsidiaries sufficient to provide reasonable assurance that (a) transactions are executed in accordance with Parent management's general or specific authorization, (b) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP, consistently applied, and to maintain accountability for assets, (c) access to assets is permitted only in accordance with Parent management's general or specific authorization and (d) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences. There are no "significant deficiencies" or "material weaknesses" (as defined by the Public Company Accounting Oversight Board) in the design or operation of Parent's internal controls over, and procedures relating to, financial reporting which would reasonably be expected to adversely affect in any material respect Parent's ability to record, process, summarize and report financial data, in each case which has not been subsequently remediated. Since January 1, 2021, there has not been any Fraud, whether or not material, that involves management or other employees of Parent or any of its Subsidiaries who have a significant role in Parent's internal controls over financial reporting. As of the date of this Agreement, to the Knowledge of Parent, there is no reason that Parent's outside auditors and its chief executive officer and chief financial officer will not be able to give the certifications and attestations required pursuant to the rules and regulations adopted pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, without qualification, when next due.

(e) There is no transaction, arrangement or other relationship between Parent and/or any of its Subsidiaries and an unconsolidated or other off-balance sheet entity that is required by applicable Law to be disclosed by Parent in its Parent SEC Documents and is not so disclosed.

Section 3.07 Absence of Certain Changes. (a) Since the Balance Sheet Date through the date of this Agreement, except for the execution and performance of this Agreement, the Acquisition Agreement and any other agreements contemplated hereby and thereby and the discussions, negotiations and transactions related hereto and thereto, the business of Parent and its Subsidiaries has been carried on and conducted in all material respects in the ordinary course of business, and (b) since the Balance Sheet Date, there has not been any Material Adverse Effect or any event, change or occurrence that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 3.08 Legal Proceedings. Except as would not, individually or in the aggregate, be or reasonably be expected to have a Material Adverse Effect, there is no (a) pending or, to the Knowledge of Parent, threatened legal, regulatory or administrative proceeding, suit, dispute, audit, investigation, arbitration or action (an "Action") against Parent or any of its Subsidiaries or (b) outstanding order, judgment, injunction, ruling, writ or decree of any Governmental Authority ("Judgments") imposed upon Parent or any of its Subsidiaries or any of their respective assets, in each case, by or before any Governmental Authority. To the Knowledge of Parent, as of the date of this Agreement, there is no pending or threatened claim or dispute relating (and none of Parent or any of its Subsidiaries has received notice of any third-party objection) to the Transactions.

Section 3.09 Compliance with Laws; Permits.

(a) Parent and each of its Subsidiaries are and since January 1, 2021, have been, in compliance with all (i) U.S. federal, state or local, foreign or multinational laws, common law, statutes, ordinances, orders, circulars, codes, rules, decrees or regulations or other similar requirement enacted, adopted, promulgated, or applied by any Governmental Authority ("Laws") and (ii) Judgments, in each case of clauses (i) and (ii), that are applicable to Parent or any of its Subsidiaries, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Parent and each of its Subsidiaries hold all licenses, franchises, permits, certificates, approvals and authorizations from Governmental Authorities ("Permits") necessary for the lawful conduct of their respective businesses and all such Permits are valid, binding and in full force and effect, except where the failure to hold such Permits or for such Permits not to be valid, binding and in full force and effect would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Parent, each of its Subsidiaries, and each of their respective officers, directors and, to the Knowledge of Parent, employees and agents acting on their behalf is, and since January 1, 2021, has been, in compliance in all material respects with (i) the Foreign Corrupt Practices Act of 1977 and any rules and regulations promulgated thereunder and (ii) any other Laws applicable to Parent and its Subsidiaries that address the prevention of corruption, bribery, terrorism or money laundering (collectively, the "Anti-Corruption Laws"). None of Parent, any of its Subsidiaries or any director, officer, or, to the Knowledge of Parent, any agent, employee, or other person associated with or acting on behalf of Parent or its Subsidiaries has, since January 1, 2021, (i) made, offered, promised or authorized any material unlawful contribution, gift, entertainment or other unlawful expense; (ii) made, offered, promised or authorized any direct or indirect material unlawful payment; or (iii) violated or is in violation of any provision of any Anti-Corruption Laws in any material respect.

(c) Parent, each of its Subsidiaries and each of their respective officers, directors and, to the Knowledge of Parent, employees and agents acting on their behalf is, and since January 1, 2021, has been, in material compliance with Anti-Money Laundering Laws.

(d) Neither Parent nor any of its Subsidiaries is party to any actual or threatened in writing (or, to the Knowledge of Parent, verbally) Action or outstanding enforcement action relating to any breach or suspected breach of Anti-Corruption Laws or Anti-Money Laundering Laws.

(e) Parent and its Subsidiaries have instituted and maintain policies and procedures designed to ensure compliance with all applicable Anti-Corruption Laws. No Action by or before any court or governmental agency, authority or body or any arbitrator involving Parent or any of its Subsidiaries with respect to Anti-Corruption Laws is pending or, to the Knowledge of Parent, threatened.

Section 3.10 Tax Matters. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (a) Parent and each of its Subsidiaries has prepared (or caused to be prepared) and timely filed (taking into account valid extensions of time within which to file) all Tax Returns required to be filed by it, and all such filed Tax Returns (taking into account all amendments thereto) are true, complete and accurate, (b) all Taxes owed by Parent and each of its Subsidiaries that are due (whether or not shown on any Tax Return) have been timely paid, except for Taxes that are being contested in good faith by appropriate proceedings and that have been adequately reserved against in accordance with GAAP, (c) no examination or audit of any Tax Return relating to any Taxes of Parent or any of its Subsidiaries or with respect to any Taxes due from Parent or any of its Subsidiaries by any Governmental Authority is currently in progress or threatened in writing, (d) none of Parent or any of its Subsidiaries has liability for the Taxes of any other Person (other than Parent and its Subsidiaries) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, by contract or otherwise and (e) none of Parent or any of its Subsidiaries has engaged in any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4(b)(2).

Section 3.11 No Rights Agreement; Anti-Takeover Provisions.

(a) As of the date of this Agreement, none of Parent or any of its Subsidiaries is party to a stockholder rights agreement, "poison pill" or similar anti-takeover agreement or plan.

(b) The Board has taken all necessary actions to ensure that no restrictions included in any "control share acquisition," "fair price," "moratorium," "business combination" or other state anti-takeover Law (including any applicable provisions of the VSCA) is, or as of the Closing will be, applicable to the Transactions, including Parent's issuance of shares of Parent Common Stock upon the exchange of the Series A Preferred Stock and any issuance pursuant to Section 5.16.

Section 3.12 Brokers and Other Advisors. Except as set forth on Section 3.12 of the Parent Disclosure Letter, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the Transactions based upon arrangements made by or on behalf of Parent or any of its Affiliates.

Section 3.13 Sale of Securities. Assuming the accuracy of the representations and warranties set forth in Section 4.08, the offer, sale and issuance of the shares of Series A Preferred Stock at the Closing pursuant to this Agreement is and will be exempt from the registration and prospectus delivery requirements of the Securities Act and the rules and regulations thereunder. Without limiting the foregoing, neither Parent nor any other Person authorized by Parent to act on its behalf, has engaged in a general solicitation or general advertising (within the meaning of Regulation D of the Securities Act) of investors with respect to offers or sales of Series A Preferred Stock, and neither Parent nor any Person acting on its behalf has made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause the offering or issuance of Series A Preferred Stock under this Agreement to be integrated with prior offerings by Parent for purposes of the Securities Act that would result in none of Regulation D or any other applicable exemption from registration under the Securities Act to be available, nor will Parent take any action or steps that would cause the offering or issuance of Series A Preferred Stock under this Agreement to be integrated with other offerings by Parent.

Section 3.14 Listing and Maintenance Requirements. The Parent Common Stock is registered pursuant to Section 12(b) of the Exchange Act and listed on Nasdaq, and Parent has taken no action designed to, or which to the Knowledge of Parent is reasonably likely to have the effect of, terminating the registration of the Parent Common Stock under the Exchange Act or delisting the Parent Common Stock from Nasdaq, nor has Parent received any notification that the SEC or Nasdaq is contemplating terminating such registration or listing. Parent is in compliance in all material respects with the listing and listing maintenance requirements of Nasdaq applicable to it for the continued trading of the Parent Common Stock on Nasdaq.

Section 3.15 Status of Securities. As of the Closing, the Acquired Shares and the shares of Parent Common Stock issuable upon the exchange of the Acquired Shares will be, when issued, duly authorized by all necessary corporate action on the part of the Company and Parent, as applicable, validly issued, fully paid and nonassessable and issued in compliance with all applicable federal and state securities Laws and will not be subject to preemptive rights of any other stockholder of the Company or Parent, as applicable, and will be free and clear of all Liens, except restrictions imposed by the Certificate of Designations, the Securities Act, Section 5.08 and any applicable securities Laws. The respective rights, preferences, privileges, and restrictions of the Series A Preferred Stock and the Parent Common Stock are as stated in the Charter Documents (including the Certificate of Designations), as applicable, or as otherwise provided by applicable Law. As of the Closing, all of the Acquired Shares and the shares of Parent Common Stock issuable upon the exchange of the Acquired Shares have been duly reserved by the Company and Parent, as applicable, for issuance.

Section 3.16 Certain Material Contracts(a). Parent has made available to the Investor true, correct and complete copies of the Acquisition Agreement, the Acquisition Ancillary Agreements (to the extent attached to, or incorporated by reference in, the Acquisition Agreement, or otherwise to which Grosvenor Capital Management, L.P. or any of its Affiliates is a party (including the Investor Rights Agreement)), and the Existing Credit Agreement, each as amended to the date of this Agreement. None of Parent or any of its Subsidiaries is, as of the date of this Agreement, in breach in any material respect of the Acquisition Agreement, the Existing Credit Agreement or any Acquisition Ancillary Agreement currently in effect, nor, to the Knowledge of Parent, is any other party in breach in any material respect of any such agreement. Neither Parent nor any of its Subsidiaries is, as of the date of this Agreement, in material breach of, or default or violation under, its other material indebtedness or any agreement relating to such material indebtedness.

Section 3.17 Investment Company Status. None of Parent or any of its Subsidiaries is, and immediately after the sale of the Acquired Shares hereunder, none of Parent nor any of its Subsidiaries will be, required to be registered as an “investment company” under the Investment Company Act of 1940, as amended.

Section 3.18 Ability to Pay Dividends. Except with respect to the covenants contained in the Existing Credit Agreement, none of Parent or any of its Subsidiaries is party to any material Contract, or subject to any provision in the Charter Documents or resolutions of their governing bodies that, in each case, by its terms prohibits or prevents Parent or the Company from paying dividends in form and the amounts contemplated by the Certificate of Designations.

Section 3.19 IP; Security. Parent and its Subsidiaries (i) exclusively own their proprietary Intellectual Property and IT Assets, (ii) do not infringe the Intellectual Property of any Person and (iii) take commercially reasonable actions to protect the integrity, continuous operation, redundancy and security of the IT Assets used in their business (and all data, including personal data, processed thereby), in each case, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Since January 1, 2021, there have been no violations, breaches, outages, corruptions or unauthorized uses of, or unauthorized access to same, except for instances that were resolved without material cost, liability or the duty to notify any other Person, and except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

Section 3.20 No Other Seller Representations or Warranties. Except for the representations and warranties made by Parent and the Company in this Article III (as modified by the Parent Disclosure Letter) and in the certificate to be delivered pursuant to Section 6.03(c), none of Parent, the Company or any other Person acting on their behalf makes any other express or implied representation or warranty with respect to the Series A Preferred Stock, the Company Common Stock, the Parent Common Stock, Parent or any of its Subsidiaries or their respective businesses, operations, properties, assets, liabilities, condition (financial or otherwise) or prospects, notwithstanding the delivery or disclosure to the Investor or its Representatives of any documentation, forecasts or other information with respect to any one or more of the foregoing, and the Investor acknowledges and agrees to the foregoing. In particular, and without limiting the generality of the foregoing, except for the representations and warranties made by the Company in this Article III (as modified by the Parent Disclosure Letter) and in the certificate to be delivered pursuant to Section 6.03(c), none of Parent, the Company or any other Person makes or has made any express or implied representation or warranty to the Investor or its Representatives with respect to (a) any financial projection, forecast, estimate, budget or prospect information relating to Parent, any of its Subsidiaries or their respective businesses or (b) any oral or written information presented to the Investor or its Representatives in the course of its due diligence investigation of Parent and its Subsidiaries, the negotiation of this Agreement or the course of the Transactions or any other transactions or potential transactions involving Parent, its Subsidiaries and the Investor. Nothing in this Section 3.20 or elsewhere in this Agreement shall constitute a waiver of any claim for Fraud.

Section 3.21 No Other Investor Representations or Warranties. Except for the representations and warranties expressly set forth in Article IV and in the certificate to be delivered pursuant to Section 6.02(c), Parent and the Company hereby acknowledge and agree that neither the Investor nor any other Person, (a) has made or is making any other express or implied representation or warranty with respect to the Investor or any of its Subsidiaries or their respective businesses, operations, assets, liabilities, condition (financial or otherwise) or prospects, including with respect to any information provided or made available to Parent, the Company or any of their respective Representatives or any information developed by Parent, the Company or any of their respective Representatives or (b) will have or be subject to any liability or indemnification obligation to Parent or any of its Affiliates resulting from the delivery, dissemination or any other distribution to Parent, the Company or any of their respective Representatives, or the use by Parent, the Company or any of their respective Representatives, of any information, documents, estimates, projections, forecasts or other forward-looking information, business plans or other material developed by or provided or made available to Parent, the Company or any of their respective Representatives, including in due diligence materials, in anticipation or contemplation of any of the Transactions or any other transactions or potential transactions involving Parent or the Company, on the one hand, and the Investor, on the other hand. Parent, on behalf of itself and on behalf of its Affiliates, expressly waives any such claim relating to the foregoing matters. Nothing in this Section 3.21 or elsewhere in this Agreement shall constitute a waiver of any claim for Fraud.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE INVESTOR

The Investor represents and warrants to Sellers, as of the date of this Agreement and as of the Closing Date (except to the extent made only as of a specified date, in which case such representation and warranty is made as of such date):

Section 4.01 Organization; Standing. The Investor is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization and the Investor has all requisite entity power and authority necessary to carry on its business as it is now being conducted and, except (other than with respect to the Investor's due organization and valid existence) as would not, individually or in the aggregate, reasonably be expected to have an Investor Material Adverse Effect. The Investor is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have an Investor Material Adverse Effect.

Section 4.02 Authority; Noncontravention. The Investor has all necessary power and authority to execute and deliver this Agreement and the other Transaction Documents, to perform its obligations hereunder and thereunder and to consummate the Transactions. The execution, delivery and performance by the Investor of this Agreement and the other Transaction Documents and the consummation by the Investor of the Transactions have been duly authorized and approved by all necessary action on the part of the Investor, and no further action, approval or authorization by any of its stockholders, partners, members or other equity owners, as the case may be, is necessary to authorize the execution, delivery and performance by the Investor of this Agreement and the other Transaction Documents and the consummation by the Investor of the Transactions. This Agreement has been and at the Closing, as applicable, the other Transaction Documents will be, duly executed and delivered by the Investor and, assuming due authorization, execution and delivery hereof or thereof, as applicable, by Parent, the Company and the other parties hereto or thereto, each constitutes (or in the case of the other Transaction Documents, as applicable, at the Closing will constitute) a legal, valid and binding obligation of the Investor, enforceable against it in accordance with its terms, subject to the Bankruptcy and Equity Exception. Neither the execution and delivery of this Agreement or the other Transaction Documents by the Investor, nor the consummation of the Transactions by the Investor, nor performance or compliance by the Investor with any of the terms or provisions hereof or thereof, will (i) conflict with or violate any provision of the certificate or articles of incorporation, bylaws or other comparable charter or organizational documents of the Investor or (ii) assuming that the authorizations, consents and approvals referred to in Section 4.03 are obtained prior to the Closing Date and the filings referred to in Section 4.03 are made and any waiting periods with respect to such filings have terminated or expired prior to the Closing Date, (x) violate any Law or Judgment applicable to the Investor or any of its Subsidiaries or (y) violate or constitute a default (or constitute an event which, with notice or lapse of time or both, would violate or constitute a default) under any of the terms, conditions or provisions of any Contract to which the Investor or any of its Subsidiaries is a party or accelerate the Investor's or any of its Subsidiaries', if applicable, obligations under any such Contract, except, in the case of clause (ii), as would not, individually or in the aggregate, reasonably be expected to have an Investor Material Adverse Effect.

Section 4.03 Governmental Approvals. Except for (a) the filing by the Company of the Certificate of Designations with the Secretary of State of the State of Delaware, (b) filings required by the FCC and compliance with the applicable requirements of the HSR Act, (c) compliance with any applicable state public utility, communications, securities or blue sky laws and (d) filings with the SEC that may be required in respect of the Transactions, no consent or approval of, or filing, license, permit or authorization, declaration or registration with, any Governmental Authority is necessary for the execution and delivery of this Agreement and the other Transaction Documents by the Investor, the performance by the Investor of its obligations hereunder and thereunder and the consummation by the Investor of the Transactions, other than such other consents, approvals, filings, licenses, permits, authorizations, declarations or registrations that, if not obtained, made or given, would not, individually or in the aggregate, reasonably be expected to have an Investor Material Adverse Effect.

Section 4.04 Financing. The Investor has delivered to Parent a true, correct and complete copy of the Equity Commitment Letter. As of the date of this Agreement, the Equity Commitment Letter is in full force and effect, constitutes the enforceable, legal, valid and binding obligations of each of the parties thereto and has not been amended, restated, replaced, supplemented or otherwise modified or waived. At the Closing, assuming receipt of the funds under the Equity Commitment Letter, the Investor will have available funds necessary to consummate the Purchase and pay the Purchase Price on the terms and conditions contemplated by this Agreement. As of the date of this Agreement, the Investor is not aware of any reason why the funds sufficient to pay the Purchase Price will not be available on the Closing Date.

Section 4.05 Ownership of Parent Common Stock. As of the date of this Agreement, other than Hill City, an Affiliate of the Investor that is controlled by certain Affiliates of Sponsor and owns 2,452,384 shares of Parent Common Stock, no member of the Sponsor Group owns any shares of Parent Common Stock. No member of the Sponsor Group has any agreement, arrangement or understanding with respect to Parent, its Subsidiaries or their respective equity securities with any Person (other than Parent or another member of the Sponsor Group) that owns an equity interest in Parent or the Target Company with respect to the voting, exercise of any rights or disposition of such equity interests owned by such other Person.

Section 4.06 Brokers and Other Advisors. No broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the Transactions based upon arrangements made by or on behalf of the Investor or any of its Affiliates, except for Persons, if any, whose fees and expenses will be paid by the Investor.

Section 4.07 Non-Reliance on Company Estimates, Projections, Forecasts, Forward-Looking Statements and Business Plans. In connection with the due diligence investigation of Parent and its Subsidiaries by the Investor and its Representatives, the Investor and its Representatives have received and may continue to receive from Parent and its Representatives certain estimates, projections, forecasts and other forward-looking information, as well as certain business plan information containing such information, regarding Parent and its Subsidiaries and their businesses and operations. The Investor hereby acknowledges and agrees that there are uncertainties inherent in attempting to make such estimates, projections, forecasts and other forward-looking statements, as well as in such business plans, with which the Investor is familiar, that the Investor is making its own evaluation of the adequacy and accuracy of all estimates, projections, forecasts and other forward-looking information, as well as such business plans, so furnished to the Investor (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking information or business plans), and that except for the representations and warranties made by Parent and the Company in Article III of this Agreement (as modified by the Parent Disclosure Letter) and in the certificate to be delivered pursuant to Section 6.03(c), the Investor will have no claim against Parent and its Subsidiaries, or any of their respective Representatives with respect thereto, except with respect to Fraud.

Section 4.08 Purchase for Investment. The Investor acknowledges that the Series A Preferred Stock and the Parent Common Stock issuable upon the exchange of the Series A Preferred Stock have not been registered under the Securities Act or under any state or other applicable securities Laws. The Investor (a) acknowledges that it is acquiring the Series A Preferred Stock and the Parent Common Stock issuable upon the exchange of the Series A Preferred Stock pursuant to an exemption from registration under the Securities Act solely for investment with no intention to distribute any of the foregoing to any Person, (b) will not sell, transfer or otherwise dispose of any Series A Preferred Stock and the Parent Common Stock issuable upon the exchange of the Series A Preferred Stock, except in compliance with this Agreement and the registration requirements or exemption provisions of the Securities Act and any other applicable securities Laws, (c) has such knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of its investment in the Series A Preferred Stock and the Parent Common Stock issuable upon the exchange of the Series A Preferred Stock and of making an informed investment decision, (d) is an "accredited investor" (as that term is defined by Rule 501 of the Securities Act), and (e) (i) has been furnished with or has had access to all the information that it considers necessary or appropriate to make an informed investment decision with respect to the Series A Preferred Stock and the Parent Common Stock issuable upon the exchange of the Series A Preferred Stock, (ii) has had an opportunity to discuss with the Parent, the Company and their respective Representatives the intended business and financial affairs of the Company and to obtain information necessary to verify any information furnished to it or to which it had access and (iii) can bear the economic risk of (x) an investment in the Series A Preferred Stock and the Parent Common Stock issuable upon the exchange of the Series A Preferred Stock indefinitely and (y) a total loss in respect of such investment.

Section 4.09 No Other Investor Representations or Warranties. Except for the representations and warranties made by the Investor in this Article IV and in the certificate to be delivered pursuant to Section 6.02(c), neither the Investor nor any other Person acting on its behalf makes any other express or implied representation or warranty with respect to the Investor or any of its Subsidiaries or their respective businesses, operations, properties, assets, liabilities, condition (financial or otherwise) or prospects, notwithstanding the delivery or disclosure to Sellers or their respective Representatives of any documentation, forecasts or other information with respect to any one or more of the foregoing, and Sellers acknowledge the foregoing. In particular, and without limiting the generality of the foregoing, except for the representations and warranties made by the Investor in this Article IV and in the certificate to be delivered pursuant to Section 6.02(c), neither the Investor nor any other Person makes or has made any express or implied representation or warranty to Parent, the Company or their respective Representatives with respect to (a) any financial projection, forecast, estimate, budget or prospect information relating to the Investor, any of its Subsidiaries or their respective businesses or (b) any oral or written information presented to Parent, the Company or their respective Representatives in the course of the negotiation of this Agreement or the course of the Transactions or any other transactions or potential transactions involving the Investor, on the one hand, and the Company or Parent, on the other hand. Nothing in this Section 4.09 or elsewhere in this Agreement shall constitute a waiver of any claim for Fraud.

Section 4.10 No Other Seller Representations or Warranties. Except for the representations and warranties expressly set forth in Article III (as modified by the Parent Disclosure Letter) and in the certificate to be delivered pursuant to Section 6.03(c), the Investor hereby acknowledges that neither Parent nor any of its Subsidiaries, nor any other Person, (a) has made or is making any other express or implied representation or warranty with respect to the Series A Preferred Stock, the Parent Common Stock, Parent or any of its Subsidiaries or their respective businesses, operations, assets, liabilities, condition (financial or otherwise) or prospects, including with respect to any information provided or made available to the Investor or any of its Representatives or any information developed by the Investor or any of its Representatives, or (b) will have or be subject to any liability or indemnification obligation to the Investor resulting from the delivery, dissemination or any other distribution to the Investor or any of its Representatives, or the use by the Investor or any of its Representatives, of any information, documents, estimates, projections, forecasts or other forward-looking information, business plans or other material developed by or provided or made available to the Investor or any of its Representatives, including in due diligence materials, or management presentations (formal or informal), in anticipation or contemplation of any of the Transactions and the Investor, on behalf of itself and on behalf of its respective Affiliates, expressly waives any such claim relating to the foregoing matters. Nothing in this Section 4.10 or elsewhere in this Agreement shall constitute a waiver of any claim for Fraud.

ARTICLE V
ADDITIONAL AGREEMENTS

Section 5.01 Negative Covenants.

(a) Except as required by applicable Law, Judgment or the regulations or requirements of any stock exchange or regulatory organization applicable to Parent or any of its Subsidiaries, or as expressly contemplated, required or permitted by this Agreement or as described in Section 5.01(a) of the Parent Disclosure Letter, during the period from the date of this Agreement until the Closing Date (or such earlier date on which this Agreement may be terminated pursuant to Section 7.01), unless the Investor otherwise consents in writing (such consent not to be unreasonably withheld, conditioned or delayed), (1) Parent and the Company shall, and shall cause their Subsidiaries to, use their commercially reasonable efforts to maintain and preserve in all material respects their existing relationships with their customers, employees, independent contractors and other business relationships having material business dealings with Parent, the Company or any of their Subsidiaries and (2) Parent and the Company shall not, and shall cause their Subsidiaries not to:

(i) other than the authorization and issuance of the Series A Preferred Stock to the Investor Parties and the consummation of the other Transactions, authorize, issue, sell or grant any shares of Parent or Company capital stock or other equity or voting interests, or any securities or rights convertible into, exchangeable or exercisable for, or evidencing the right to subscribe for any shares of Parent or Company capital stock or other equity or voting interests, or any rights, warrants or options to purchase any shares of Parent or Company capital stock or other equity or voting interests; provided, that Parent may issue or grant shares of Parent Common Stock or other securities in the ordinary course of business pursuant to the terms of a Parent Plan in effect on the date of this Agreement;

(ii) redeem, purchase or otherwise acquire any of outstanding shares of Parent's or the Company's capital stock or other equity or voting interests, or any rights, warrants or options to acquire any shares of such capital stock or other equity or voting interests, other than in connection with transactions involving only wholly owned Subsidiaries of Parent, repurchases or reacquisitions of shares of Parent Common Stock pursuant to Parent's right to repurchase or reacquire shares of Parent Common Stock held by employees or other service providers of Parent or its Subsidiaries in connection with termination of such Person's employment or engagement by Parent or its Subsidiaries, in each case, pursuant to the terms of such awards;

(iii) solely with respect to Parent, establish a record date for, declare, set aside for payment or pay any dividend on, or make any other distribution in respect of, any shares of its capital stock or other equity or voting interests, except that Parent may continue the declaration and payment of a regular annual cash dividend on Parent Common Stock, not to exceed $0.09 per share for calendar year 2023, with usual record and payment dates for such annual dividend in accordance with past dividend practice;

(iv) incur, issue, assume, guarantee or otherwise become liable for any indebtedness that would cause Parent, the Company and their Subsidiaries to have a Total Net Leverage Ratio that is greater than 6.00:1.00 (as calculated in accordance with the Existing Credit Agreement);

(v) amend or supplement the Existing Credit Agreement in a manner that adversely affects the Investor's rights hereunder (including any changes to the calculation of the Total Net Leverage Ratio as set forth therein) or under the Certificate of Designations or Registration Rights Agreement;

(vi) split, combine, subdivide, recapitalize, reclassify or like change to any shares of Parent's or the Company's capital stock or other equity or voting interests;

(vii) amend or supplement the Charter Documents or make any material amendments to the organizational documents of any of Parent's Subsidiaries, in each case, in a manner that adversely affects the Series A Preferred Stock, or take or authorize any action to file for bankruptcy, liquidate its assets, wind up its affairs or otherwise dissolve;

(viii) enter into any consolidation or combination with, or merger with or into, another Person, or into any binding or statutory share exchange or reclassification involving the Series A Preferred Stock, in each case, unless (1) the Series A Preferred Stock either remains outstanding or is exchanged for preference securities of the successor entity or its parent, in each case, with no less materially favorable rights, preferences and voting powers, taken as a whole, and (2) the issuer of the Series A Preferred Stock or preference securities, as applicable, is treated as a U.S. corporation for U.S. federal income tax purposes;

(ix) without limitation of any of the foregoing, take any action that would be prohibited under Section 5.12(f);

(x) other than any Acquisition Ancillary Agreement, enter into any stockholder rights agreement or similar agreement or any other agreement that would prevent or impair the ability of parties hereunder to perform their respective obligations under this Agreement or to timely consummate the transactions contemplated by this Agreement; or

(xi) agree or commit to do any of the foregoing.

Section 5.02 Reasonable Best Efforts; Filings.

(a) The parties hereto acknowledge and agree that one (1) or more filings (i) to the FCC under applicable Law may be necessary in connection with the Closing and (ii) to the FCC under applicable Law may be necessary in connection with the issuance of shares of Parent Common Stock upon any exchange of Acquired Shares pursuant to the Certificate of Designations. Further, the parties hereto acknowledge and agree that filings under, and compliance with the applicable requirements of, the HSR Act are required in connection with the Closing. Subject to the terms and conditions of this Agreement, each of Parent, the Company and the Investor Parties shall cooperate with each other and use (and shall cause their Affiliates to use) their respective reasonable best efforts (unless, with respect to any action, another standard of performance is expressly provided for herein) to promptly (A) take, or cause to be taken, all actions, and do, or cause to be done, and assist and cooperate with each other in doing, all things necessary, proper or advisable to (1) obtain the expiration or termination of the waiting period under the HSR Act and (2) file a notice with the FCC to the extent applicable to such Investor Party under applicable Law in respect of the Closing or any such exchange, as applicable, and to consummate and make effective, in the most expeditious manner reasonably practicable, the Closing or any such exchange, as applicable, including preparing and filing promptly and fully all documentation to effect all necessary filings, notices, petitions, statements, registrations, submissions of information, applications and other documents, (B) obtain all approvals, consents, registrations, waivers, permits, authorizations, orders and other confirmations or non-objections from any Governmental Authority or third party necessary, proper or advisable to consummate the Closing or any such exchange, as applicable, and (C) execute and deliver any additional instruments necessary to consummate the Closing or any such exchange, as applicable, and (D) defend or contest in good faith any Action brought by a third party that could otherwise prevent or impede, interfere with, hinder or delay in any material respect of the consummation of the Closing or any such exchange, as applicable.

(b) Parent, the Company and the Investor Parties shall, and shall cause their Affiliates to, (i) make an appropriate filing of a Notification and Report Form ("HSR Form") pursuant to the HSR Act as promptly as practicable and in any event no later than fifteen (15) Business Days after the date of this Agreement and (ii) supply as promptly as reasonably practicable any additional information and documentary material that may be requested pursuant to the HSR Act, in connection with such other filings or by any Governmental Authority, and use reasonable best efforts to promptly take any and all steps necessary to avoid or eliminate each and every impediment and obtain all consents that may be required pursuant to the HSR Act, in connection with such other filings or other applicable Law, so as to enable the parties hereto to consummate such exchange. Notwithstanding anything to the contrary in this Section 5.02, nothing in this Section 5.02 or this Agreement shall require or obligate any Investor Party to, and Parent and the Company shall not, without prior written consent of the Investor Parties, agree to, propose, commit to, or effect, or otherwise be required to accept or undertake, by consent decree, hold separate, or otherwise, any sale, divestiture, hold separate, or any other action otherwise limiting the freedom of action in any respect of any businesses, products, rights, services, licenses, assets, or interest therein, of (A) the Investor Party or any Affiliate (including, with respect to the Investor, Sponsor and their respective Affiliates and any investment funds or investment vehicles affiliated with, or managed or advised by, any member of the Sponsor Group or any portfolio company (as such term is commonly understood in the private equity industry) or investment of any member of the Sponsor Group), or (B) Parent or any its Affiliates or Subsidiaries.

(c) Each party hereto shall, and shall cause their Affiliates to, use their respective reasonable best efforts to (i) cooperate in all respects with the other party in connection with any filing or submission with, or notice to, a Governmental Authority in connection with the Closing or any exchange of Acquired Shares pursuant to the Certificate of Designations, as applicable, and in connection with any investigation or other inquiry by or before a Governmental Authority relating to the Closing or such exchange (including to determine whether a Governmental Authority has relevant jurisdiction), as applicable, (ii) keep the other party informed in all material respects and on a reasonably timely basis of any material communication received by Parent, the Investor Parties or their Affiliates, as the case may be, from or given by Parent, the Investor Parties or their Affiliates, as the case may be, to the FCC, the Federal Trade Commission ("FTC"), the Department of Justice ("DOJ") or any other Governmental Authority, in each case regarding the Closing or such exchange, as applicable, (iii) subject to applicable Laws relating to the exchange of information, that each party hereto shall have the right to review in advance and, to the extent reasonably practicable, each will consult with the other on, and consider in good faith the views of the other in connection with, any written materials submitted or substantive communications made to, any third party and/or any Governmental Authority in connection with the transactions contemplated by this Agreement and (iv) to the extent permitted by the FCC, the FTC, the DOJ or such other applicable Governmental Authority, give the other party the opportunity to attend and participate in meetings and conferences with the FCC, the FTC, DOJ, or any other applicable Governmental Authority. Any documents or other materials provided pursuant to this Section 5.02(a) may be redacted or withheld as necessary to address reasonable privilege or confidentiality concerns, and to remove references concerning the valuation of Parent or other competitively sensitive material, and the parties may, as each deems advisable, reasonably designate any material provided under this Section 5.02(a) as "outside counsel only material".

Section 5.03 Corporate Actions.

(a) At any time that any Series A Preferred Stock is outstanding, Parent and the Company shall each, as applicable:

(i) from time to time take all lawful action within its control to cause the authorized capital stock of Parent to include a sufficient number of authorized but unissued shares of Parent Common Stock to satisfy the exchange and redemption requirements in respect of all shares of the Series A Preferred Stock then outstanding as may be required by the Certificate of Designations;

(ii) not effect any voluntary deregistration under the Exchange Act or any voluntary delisting of the Parent Common Stock from Nasdaq other than in connection with a Fundamental Change (as defined in the Certificate of Designations) pursuant to which the Company agrees to satisfy, or will otherwise cause the satisfaction, in full of its obligations under Section 8 of the Certificate of Designations.

(b) At any time that any Series A Preferred Stock is outstanding, Parent may, in its sole discretion, seek the approval of its stockholders pursuant to applicable Law and Nasdaq rules and listing standards for the issuance of Parent Common Stock upon the exchange or redemption of the Series A Preferred Stock in accordance with the Certificate of Designations.

(c) Prior to the Closing, Parent shall cause the Company to, and the Company shall, file with the Secretary of State of the State of Delaware the Certificate of Designations in the form attached hereto as Exhibit A, with such changes thereto as the parties hereto may reasonably agree.

(d) If any occurrence since the date of this Agreement until the Closing would have resulted in an adjustment to the Exchange Price pursuant to the Certificate of Designations if the Series A Preferred Stock had been issued and outstanding since the date of this Agreement, the Company shall adjust the Exchange Price, effective as of the Closing, in the same manner as would have been required by the Certificate of Designations if the Series A Preferred Stock had been issued and outstanding since the date of this Agreement.

(e) Parent shall not adopt any stockholder rights agreement, "poison pill" or similar anti-takeover agreement or plan that prohibits the Investor Parties from taking any of the actions permitted by, or exercising their rights under, this Agreement or the Certificate of Designations.

Section 5.04 Public Disclosure. During the period from the date of this Agreement until one (1) year after the Fall-Away of Investor Rights, the Investor Parties and Parent shall, and shall cause their respective Affiliates to, consult with each other before issuing, and give each other the opportunity to review and comment upon, any press release or other public statements with respect to the Transaction Documents or the Transactions, and shall not, and shall cause their respective Affiliates not to, issue any such press release or make any such public statement prior to such consultation, except as may be required by applicable Law, Judgment, court process or the rules and regulations of any national securities exchange or national securities quotation system. The initial announcement (the "Initial Press Release") with respect to the Transaction Documents or the Transactions shall be mutually agreed between the Investor Parties and Parent. Notwithstanding the foregoing, this Section 5.04 shall not apply to any press release or other public statement made by Parent or the Investor Parties (a) which does not contain any information relating to the Transactions that has not been previously announced or made public in accordance with the terms of this Agreement or (b) is made in the ordinary course of business and does not relate specifically to the signing of the Transaction Documents or the Transactions. Notwithstanding anything to the contrary in this Agreement or the Confidentiality Agreement, in no event shall either this Section 5.04, Section 5.05 or any provision of the Confidentiality Agreement limit disclosure by any Investor Party and their respective Affiliates of ordinary course communications regarding this Agreement and the Transactions to its existing or prospective general and limited partners, equityholders, members, managers and investors of any Affiliates of such Person who are subject to a confidentiality obligation with respect thereto, or disclosing public information about the Transactions on their websites in the ordinary course of business or as part of any sales and Transfers to any co-investors consummated in accordance with this Agreement.

Section 5.05 Confidentiality. During the period from the date of this Agreement until one (1) year after the Fall-Away of Investor Rights, the Investor Parties will, and will cause their respective Affiliates and Representatives who actually receive Confidential Information to, keep confidential any information (including oral, written and electronic information) concerning Parent, its Subsidiaries or its Affiliates that may be furnished to the Investor Parties, their respective Affiliates or its or their respective Representatives by or on behalf of Parent, the Company or any of their respective Representatives, including any such information provided pursuant to Section 5.14 ("Confidential Information") and to use the Confidential Information solely for the purposes of monitoring, administering or managing the Investor Parties' investment in Parent and the Company made pursuant to this Agreement; provided, that Confidential Information will not include information that (a) was or becomes available to the public other than as a result of a breach of any confidentiality obligation in this Agreement by an Investor Party or its Affiliates or their respective Representatives, (b) was or becomes available to an Investor Party or its Affiliates or their respective Representatives from a source other than Parent, the Company or their respective Representatives; provided, that such source is reasonably believed by such Investor Party or such Affiliates not to be subject to an obligation of confidentiality (whether by agreement or otherwise), (c) at the time of disclosure is already in the possession of an Investor Party or its Affiliates or their respective Representatives from a source other than Parent or any of its Subsidiaries or any of their respective Representatives; provided, that such source is reasonably believed by such Investor Party or such Affiliates not to be subject to an obligation of confidentiality (whether by agreement or otherwise), (d) was independently developed by an Investor Party or its Affiliates or their respective Representatives without reference to, incorporation of, or other use of any Confidential Information or (e) from and after the Closing, an Investor Party's participation in the transactions contemplated by this Agreement; provided, that each Investor Party may disclose Confidential Information (i) to its attorneys, accountants, consultants and financial and other professional advisors to the extent necessary to obtain their services in connection with its investment in Parent and the Company, (ii) to any Permitted Transferee or prospective purchaser of any Acquired Shares from such Investor Party, or prospective financing sources in connection with the syndication and marketing of any Permitted Loan, in each case, as long as such prospective purchaser or lender, as applicable, agrees to be bound by similar confidentiality or non-disclosure terms as are contained in this Agreement (with Parent and the Company as express third party beneficiaries of such agreement), (iii) to any Affiliate, partner, member, limited partners, prospective partners or co-investors, or related investment fund of such Investor Party and their Affiliates and their respective directors, officers, employees, consultants, financing sources and representatives, in each case in the ordinary course of business, and to Bridgepoint Group plc and its Affiliates (provided, that the recipients of such confidential information are directed to abide by the confidentiality and non-disclosure obligations contained herein), (iv) as may be reasonably determined by such Investor Party to be necessary in connection with such Investor Party's enforcement of its rights in connection with this Agreement or its investment in Parent or the Company, or (v) as may otherwise be required by law or legal, judicial or regulatory process; and provided, further, that (x) any breach of the confidentiality and use terms herein by any Person to whom such Investor Party and its Permitted Transferees may disclose Confidential Information pursuant to clauses (i) and (iii) of the preceding proviso shall be attributable to such Investor Party for purposes of determining such Investor Party's compliance with this Section 5.05, except those who have entered into a separate confidentiality or non-disclosure agreement or obligation with Parent and (y) such Investor Party takes commercially reasonable steps to minimize the extent of any required disclosure described in clause (v) of the preceding proviso. The Confidentiality Agreement, dated as of July 13, 2023, by and between Energy Capital Partners, LLC and Parent (the "Confidentiality Agreement") shall terminate simultaneously with the Closing in accordance with its terms.

Section 5.06 Nasdaq Listing of Shares. To the extent Parent has not done so prior to the date of this Agreement, Parent shall, as promptly as practicable following the date of this Agreement and, in any event, prior to the Closing, cause the aggregate number of shares of Parent Common Stock issuable upon the exchange of all the Acquired Shares (including in respect of any accrued and unpaid dividends thereon), to be approved for listing on Nasdaq. From time to time following the Closing Date, Parent shall cause the number of shares of Parent Common Stock issuable upon the exchange or redemption of the then outstanding shares of Series A Preferred Stock to be approved for listing on Nasdaq prior to such issuance.

Section 5.07 Standstill. Each Investor Party agrees with Parent, severally and not jointly, that, until the Fall-Away of Investor Rights, without the prior written approval of the Board, such Investor Party shall not, directly or indirectly, and shall cause its Affiliates who have actually received Confidential Information not to:

(a) acquire, offer to acquire or agree to acquire, by purchase or otherwise, directly or indirectly, beneficial ownership of any Parent Common Stock or other securities of Parent or any of its Subsidiaries, including through any Hedge (in each case, except as may be permitted by the proviso to this Section 5.07) with respect to securities of Parent or any of its Subsidiaries (solely to the extent that, after giving effect to any such acquisition, the Investor Parties would beneficially own, on an as exchanged basis, more than the percentage of the outstanding Parent Common Stock owned by the Investor Parties, on an as exchanged basis, as of the Closing);

(b) propose or seek, whether alone or in concert with others, any "solicitation" (as such term is defined under the Exchange Act) of proxies or consents to vote any securities (including in derivative form) of Parent or become a "participant" (as such term is defined in Instruction 3 to Item 4 of Schedule 14A promulgated under the Exchange Act) in any such solicitation of proxies or consents (including, without limitation, by initiating, encouraging or participating in any requests or consents that seek to call a special meeting, action by written consent, or "withhold" or similar campaign), or seek to control or influence the management or board of directors of Parent with respect to the policies or affairs of Parent, including by encouraging or advising any Person to take any such actions (in each case, other than with respect to the Charter Amendment and Investor Designee or as otherwise expressly permitted by this Agreement);

(c) propose (i) any merger, consolidation, business combination, tender or exchange offer, share exchange, purchase of the Parent's assets or businesses or similar transactions involving Parent or any of its Subsidiaries or (ii) any recapitalization, restructuring, liquidation or other extraordinary transaction with respect to Parent or any of its Subsidiaries (collectively, a transaction specified in clauses (i) and (ii) hereof involving a majority of Parent's outstanding capital stock or consolidated assets, is referred to as a "Business Combination"); provided, that the foregoing shall not restrict any Investor Parties from voting on, tendering shares, receiving payment for shares or otherwise participating in any such transaction on the same basis as other shareholders of Parent;

(d) form, join or act in concert with any partnership, limited partnership, syndicate or other group, including a "group" as defined pursuant to Section 13(d) of the Exchange Act, with respect to any securities of Parent (other than with any other Investor Parties and Affiliates of the Investor Parties);

(e) make or be the proponent of any shareholder proposal (pursuant to Rule 14a-8 under the Exchange Act or otherwise) with respect to Parent (other than with respect to the Charter Amendment in accordance with the terms of this Agreement);

(f) make any request for stock list materials or other books and records of Parent under Virginia law or otherwise;

(g) make any public announcement or communication regarding the possibility of any of the events described in clauses (a) through (f) above, or take any action that could reasonably be expected to require Parent to make a public announcement in respect thereof; provided, however, that nothing in this Section 5.07 shall be violated by (i) any general statement about market, industry or economic circumstances, conditions or trends, (ii) any statement required to be made by applicable Law, (iii) any statement protected by the whistleblower-protection provisions of any applicable Law, (iv) any statement that is made in response to legal process or in the context of any Action by or before any Governmental Authority or arbitrator (including any such Action to enforce the terms of the this Agreement or other such Action in connection with the transactions contemplated hereby), (v) any statement that is reasonably necessary in connection with the enforcement of rights under this Agreement, or any other written agreement involving the parties hereto, or (vi) any statement that is made by the Investor Designee in his or her capacity as such made in good faith;

(h) advise, assist, knowingly encourage or direct any Person to do, or to advise, assist, knowingly encourage or direct any other Person to do, any of the foregoing; or

(i) request Parent or any of its Representatives, directly or indirectly, to amend or waive any provision of this Section 5.07 if such amendment or waiver would reasonably be expected to require Parent (or any of its Representatives) to make a public announcement regarding any of the types of matters set forth in this Section 5.07; provided, however, that this clause shall not prohibit any Investor Party from making a confidential request to Parent seeking an amendment or waiver of the provisions of this Section 5.07, which Parent may accept or reject in its sole discretion, so long as any such request is made in a manner that does not require public disclosure thereof by any Person;

provided, however, that nothing in this Section 5.07 will (x) limit any Investor Party's ability to (1) vote, Transfer or Hedge (subject to this Agreement, including Section 5.08 and Section 5.11) shares of Series A Preferred Stock or Parent Common Stock, (2) exchange shares of Series A Preferred Stock for Parent Common Stock (subject to the terms and provisions of the Certificate of Designations), (3) Transfer pursuant to a Permitted Loan or any foreclosure thereunder or Transfer in lieu of a foreclosure thereunder, (4) privately make and submit to the Board any proposal that is intended by such Investor Party to be made and submitted on a non-publicly disclosed or announced basis (and would not reasonably be expect to require public disclosure by any Person), including with respect to any transaction involving a Business Combination, (5) participate in rights offerings made by Parent to all holders of Parent Common Stock or acquire Preemptive Securities and take such other actions permitted by Section 5.16, (6) receive any dividends or similar distributions with respect to any securities of Parent or the Company held by such Investor Party (including pursuant to any rights to participate in such dividends under the Certificate of Designations or Section 5.12), (7) tender shares of Parent Common Stock or Series A Preferred Stock into any tender or exchange offer (subject to Section 5.08), (8) effect an adjustment to the Exchange Price pursuant to the Certificate of Designations, (9) otherwise exercise rights under its Parent Common Stock or Series A Preferred Stock that are not the subject of this Section 5.07, (10) make a bona fide proposal to Parent or the Board for a transaction involving a Business Combination following the public announcement by the Parent that it has entered into a definitive agreement with a third party for a transaction involving a Business Combination or (11) communicate solely and exclusively with the Board with respect to making an offer to purchase Parent, all or substantially all assets or equity of Parent, or any business or division of Parent, or (y) limit the ability of (1) the Investor Parties to designate and have an Investor Observer or Investor Director serve on the Board pursuant to Section 5.10 or (2) the Investor Director to vote or otherwise exercise his or her legal duties or otherwise act in his or her capacity as a member of the Board. Notwithstanding anything to the contrary in this Agreement, if at any time after the date of this Agreement, (i) Parent or any of its Subsidiaries enters into a definitive agreement with a third party for a transaction involving a Business Combination, (ii) any person unaffiliated with any Investor Party or any member of the Sponsor Group commences a tender offer or exchange offer that would result in a change of control of the Parent or any of its Subsidiaries or (iii) the Parent or any of its Subsidiaries becomes subject to any voluntary or involuntary reorganization or restructuring process, proposal or petition under applicable laws relating to bankruptcy, insolvency or the protection of creditors generally, then (A) in the case of clauses (i) and (ii), the terms of this Section 5.07 shall be suspended and of no force or effect while such definitive agreement, tender offer or exchange offer remains pending (provided that, to the extent any Investor Party takes any action set forth in Section 5.07(a) through Section 5.07(i) during any such period of suspension, such actions and subsequent transactions relating directly thereto may be completed by such Investor Party and its Affiliates notwithstanding the expiration of any such period of suspension) and (B) in the case of clause (iii), the terms of this Section 5.07 shall immediately terminate and be of no further force or effect in any respect.

Section 5.08 Transfer Restrictions.

(a) Except as otherwise permitted in this Agreement, including Section 5.08(b), until the expiration of the Lock-Up Period, the Investor Parties will not (i) Transfer any Series A Preferred Stock or any Parent Common Stock issued upon the exchange of the Series A Preferred Stock or (ii) make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a short sale of or the purpose of which is to offset the loss which results from a decline in the market price of, any shares of Series A Preferred Stock or Parent Common Stock, or otherwise establish or increase, directly or indirectly, a put equivalent position, as defined in Rule 16a-1(h) under the Exchange Act, with respect to the any of the Series A Preferred Stock or Parent Common Stock or any other capital stock of Parent or the Company (any such action, a "Hedge"). Subject to Section 5.08(c), from and after the expiration of the Lock-up Period, the Investor Parties shall be free to Transfer and Hedge against any shares of Series A Preferred Stock or Parent Common Stock.

(b) Notwithstanding Section 5.08(a), each Investor Party shall be permitted to Transfer any portion or all of their Series A Preferred Stock or Parent Common Stock at any time under the following circumstances:

(i) Transfers to any Permitted Transferees, but only if the transferee agrees in writing prior to such Transfer for the express benefit of the Company (in form and substance reasonably satisfactory to the Company and with a copy thereof to be furnished to the Company) to be bound by the terms of this Agreement and if the transferee and the transferor agree for the express benefit of Parent that the transferee shall Transfer the Series A Preferred Stock or Parent Common Stock so Transferred back to the transferor at or before such time as the transferee ceases to be a Permitted Transferee of the transferor;

(ii) Transfers pursuant to a merger, tender offer or exchange offer or other business combination, acquisition of assets or similar transaction or any change of control transaction involving Parent or any Subsidiary that, in each case, is approved by the Board;

(iii) Transfers pursuant to a tender offer or exchange offer that is (A) approved by the Board, (B) for less than all of the outstanding shares of Parent Common Stock or (C) part of a two-step transaction in which a tender offer is followed by a second step merger, in which the consideration to be received in the first step of such transaction is not identical to the amount or form of consideration to be received in the second step merger;

(iv) Transfers to Parent or any of its Subsidiaries or that have been approved in writing by the Board;

(v) Transfers after commencement by Parent, the Company or a significant subsidiary (as such term is defined in Rule 12b-2 under the Exchange Act) of Parent, the Company or such significant subsidiary of bankruptcy, insolvency or other similar proceedings; and

(vi) Transfers in connection with a bona fide loan or other financing arrangement of an Investor Party, Hill City or any member of the Sponsor Group, in each case entered into with a nationally recognized financial institution, including a pledge to such a financial institution to secure a bona fide debt financing and any foreclosure by such financial institution or Transfer to such financial institution in lieu of foreclosure and subsequent sale of the securities (each, a "Permitted Loan"). Nothing contained in this Agreement or the Registration Rights Agreement shall prohibit or otherwise restrict the ability of any lender (or its securities' affiliate) or collateral agent to foreclose upon, or accept a Transfer in lieu of foreclosure of, the Series A Preferred Stock and/or shares of Parent Common Stock (including shares of Parent Common Stock received upon the exchange or redemption of the Series A Preferred Stock following foreclosure or Transfer in lieu of foreclosure on a Permitted Loan) mortgaged, hypothecated and/or pledged to secure the obligations of the borrower following an event of default under a Permitted Loan. In the event that any lender or other creditor under a Permitted Loan transaction (including any agent or trustee on their behalf) or any Affiliate of the foregoing exercises any rights or remedies in respect of the Series A Preferred Stock or the shares of Parent Common Stock or any other collateral for any Permitted Loan, no lender, creditor, agent or trustee on their behalf or Affiliate of any of the foregoing (other than, for the avoidance of doubt, any Investor Party or its Affiliates) shall have any obligations or be subject to any Transfer restrictions or limitations hereunder except and to the extent for those expressly provided for in Section 5.08(c) (which shall apply to any lender, creditor, agent or trustee on their behalf or Affiliate of any of the foregoing to the same extent as an Investor Party) and in the Registration Rights Agreement.

(c) Notwithstanding Section 5.08(a) and Section 5.08(b), each Investor Party will not at any time, including after the Lock-Up Period, knowingly (after reasonable inquiry), directly or indirectly (without the prior written consent of the Board), Transfer (x) any Parent Common Stock or any Series A Preferred Stock, including any Parent Common Stock issued or issuable upon the exchange of the Series A Preferred Stock to a Competitor or an Activist Shareholder, (y) any Parent Common Stock to any Person (other than Parent or its Subsidiaries, or any other Investor Party or Hill City) that, together with its Affiliates, to the knowledge of such Investor Party at the time it enters into such transaction (after reasonable inquiry), would hold 5% or more of the outstanding Parent Common Stock (including on an as exchanged basis with respect to the outstanding Series A Preferred Stock) after giving effect to such Transfer or (z) any Series A Preferred Stock to any Person (other than Parent or its Subsidiaries, or any other Investor Party or Hill City) that, together with its Affiliates, to the knowledge of such Investor Party at the time it enters into such transaction (after reasonable inquiry), holds 1% or more of the outstanding Parent Common Stock prior to giving effect to such Transfer; provided, that these restrictions shall not apply (i) to Transfers into the public market pursuant to a bona fide, broadly distributed underwritten public offering, in each case made pursuant to the Registration Rights Agreement or through a bona fide sale to the public without registration effectuated pursuant to Rule 144 under the Securities Act or (ii) to block trades to investment banks in the ordinary course of such investment banks' businesses (but excluding block trades to a Competitor or an Activist Shareholder). Sellers shall reasonably cooperate in good faith with the Investor Parties in connection with the private sale by any Investor Party of any Series A Preferred Stock or Parent Common Stock to a third party that is not a Competitor or an Activist Shareholder.

(d) Any attempted Transfer in violation of this Section 5.08 shall be null and void *ab initio*.

(e) For the avoidance of doubt, no Holder other than an Investor Party shall have or be permitted to exercise any right of the Investor Parties under this Agreement, including pursuant to Section 5.10 and Section 5.13.

Section 5.09 Legend.

(a) All certificates or other instruments representing the Acquired Shares or Parent Common Stock, to the extent issued upon the exchange of the Acquired Shares, shall bear a legend substantially to the following effect:

THE SECURITIES REPRESENTED BY THIS INSTRUMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT WHILE A REGISTRATION STATEMENT RELATING THERETO IS IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO TRANSFER RESTRICTIONS SET FORTH IN AN INVESTMENT AGREEMENT, DATED AS OF OCTOBER 24, 2023, A COPY OF WHICH IS ON FILE WITH THE SECRETARY OF THE ISSUER.

(b) (i) Upon request of any Investor Party, upon receipt by Parent of an opinion of counsel reasonably satisfactory to Parent to the effect that such legend is no longer required under the Securities Act and applicable state securities Laws, Parent (or the Company, as applicable) shall promptly cause the first paragraph of the legend to be removed from any certificate for Series A Preferred Stock or Parent Common Stock to be Transferred in accordance with the terms of this Agreement and (ii) the second paragraph of the legend shall be removed upon the expiration of such transfer restrictions set forth in this Agreement (and, for the avoidance of doubt, immediately prior to any termination of this Agreement).

Section 5.10 Election of Directors.

(a) At the first annual meeting of Parent's stockholders after the date hereof, Parent shall propose to the holders of Parent Common Stock (and shall recommend that the holders of Parent Common Stock vote in favor of and otherwise use its commercially reasonable efforts to obtain the approval of such holders of Parent Common Stock of) an amendment to Parent's articles of incorporation to increase the size of the Board (the "Charter Amendment") to permit more than nine (9) members thereto.

(b) From the Closing Date until the Fall-Away of Investor Rights, in the event that an Investor Director is not a member of the Board, the Investor Parties shall have the right to designate one (1) observer (including, as necessary, any substitute observer designated by the Investor) (the "Investor Observer") who shall be entitled, subject to the limitations set forth in this Agreement and applicable Laws, to attend (in person or telephonically) all meetings of the Board and, to the extent agreed by the Board, any committees thereof in a non-voting observer capacity, and to receive copies of all notices, minutes, consents, agendas and other materials distributed to the Board and any such committee thereof; provided, however, that, if Parent believes in good faith that excluding any such materials (or portions thereof) from the Investor Observer is necessary to preserve attorney-client privilege, such materials (or portions thereof) may be withheld from the Investor Observer and the Investor Observer may be excluded from any meeting or portion thereof related to such matters upon reasonable prior notice to the Investor Observer (to the extent practicable). Except as otherwise set forth herein, the Investor Observer may participate in discussions of matters brought to the Board or any committee thereof; provided, that the Investor Observer shall have no voting rights with respect to actions taken or elected not to be taken by the Board or any committee thereof and the Investor Observer shall not owe any fiduciary duty to Parent, its Subsidiaries or the holders of any class or series of Parent securities. If the Investor Observer is unable to attend any meeting of the Board or a committee thereof, the Investor Parties shall have the right to designate a substitute Investor Observer with written notice to the Board or such committee. For the avoidance of doubt, the Investor Observer shall cease to have any rights to attend any meetings of the Board or any of its committees upon effect of the appointment of the Investor Director to the Board.

(c) Beginning at the Fall-Away of Investor Rights, at the request of the Board, the Investor Director shall immediately resign, and the Investor Parties shall cause the Investor Director immediately to resign, from the Board and any committee thereof effective as of the Fall-Away of Investor Rights, and the Investor Parties shall no longer have any rights under this Section 5.10, including, for the avoidance of doubt, any designation or nomination rights under Section 5.10(d) and any rights to designate an Investor Observer. The Investor Parties shall provide prompt written notice to Parent upon the Fall-Away of Investor Rights.

(d) From and after the Closing and until the Fall-Away of Investor Rights (provided that the Charter Amendment has been or is concurrently adopted), at any annual meeting of Parent's stockholders at which the term of the Investor Director shall expire (or if no Investor Director served as a member of the Board during the period prior to such annual meeting), the Investor Parties shall have the right to designate an Investor Designee to the Board for election to the Board at such annual meeting. Parent shall include the Investor Designee designated by the Investor Parties in accordance with this Section 5.10(d) in Parent's slate of nominees (as set forth in its relevant proxy materials) for the applicable annual meeting of Parent's stockholders and shall recommend that the holders of Parent Common Stock vote in favor of any such Investor Designee's election and shall support the Investor Designee in a manner no less rigorous and favorable than the manner in which Parent supports its other nominees in the aggregate. Without the prior written consent of the Investor Parties, so long as the Investor Parties are entitled to designate an Investor Designee for election to the Board in accordance with this Section 5.10, the Board shall not remove, with or without cause, the Investor Director from his or her directorship (except as required by Law, the Certificate of Designations or the Charter Documents).

(e) Whether or not the Charter Amendment has been adopted, the Investor Parties shall, upon the request of the Board, designate an Investor Designee to the Board for election to the Board at any meeting of shareholders of Parent or for appointment by the Board to fill a vacancy on the Board; provided, however, in the event the Investor Parties waive their right under the Certificate of Designations to a higher Regular Dividend Rate (as defined therein) pursuant to the last sentence of the definition thereof (which waiver shall be revocable at any time), the Investor Parties shall not be required pursuant to the terms of this provision to so designate an Investor Designee; provided, further, that upon revocation of any such waiver by the Investor Parties, the right to such higher Regular Dividend Rate shall automatically become effective and enforceable pursuant to the terms of the Certificate of Designations effective as of the first Business Day following the next annual meeting of Parent's stockholders.

(f) In the event of the death, disability, resignation or removal of the Investor Director as a member of the Board (other than resignation pursuant to Section 5.10(c)), the Investor Parties, if the Investor Parties are entitled to nominate a director pursuant to this Section 5.10, may designate an Investor Designee to replace such Investor Director and, subject to Section 5.10(g) and any applicable provisions of the VSCA, Parent shall cause such Investor Designee to fill such resulting vacancy.

(g) Parent's obligations to have any Investor Designee elected to the Board or any committee thereof or nominate any Investor Designee for election as a director at any meeting of Parent's stockholders pursuant to this Section 5.10, as applicable, shall in each case be subject to such Investor Designee being reasonably acceptable to Parent's Board (provided that the individuals listed on Exhibit E shall be deemed reasonably acceptable to the Board, but shall be subject to the following clauses (i)-(iii)) and, unless Parent otherwise consents, must (i) qualify as an independent director pursuant to applicable listing standards, SEC rules and publicly disclosed standards used by the Board in determining independence of Parent's directors, (ii) meet all other qualifications required for service as a director under Parent's bylaws, corporate governance guidelines and stock exchange rules regarding service as a director of Parent and (iii) be subject to the same guidelines and policies applicable to Parent's other directors; provided, however, that neither an Investor Designee's relationship with the Investor Parties or their Affiliates (or any other actual or potential lack of independence resulting therefrom) nor the ownership by the Investor Parties of any shares of Series A Preferred Stock or shares of Parent Common Stock, including those issuable upon exchange of any Series A Preferred Stock, shall, in and of itself, be considered to disqualify such Investor Designee from becoming a member of the Board pursuant to Section 5.10. The Investor Parties will cause each Investor Designee to make himself or herself reasonably available for interviews and to consent to such reference and background checks or other investigations as the Board may reasonably request to determine the Investor Designee's eligibility and qualification to serve as a director of Parent. No Investor Designee shall be eligible to serve on the Board if he or she has been involved in any of the events enumerated under Item 2(d) of Schedule 13D under the Exchange Act or Item 401(f) of Regulation S-K under the Securities Act, is a "Bad Actor" as defined in Rule 506(d)(1)(i)-(viii) promulgated under the Securities Act or is subject to any Judgment prohibiting service as a director of any public company. As a condition to any Investor Designee's election to the Board or nomination for election as a director of Parent at any meeting of its stockholders, the Investor Parties and the Investor Designee (as applicable) must provide to Parent:

(i) all information requested by Parent that is required to be or is customarily disclosed for directors, candidates for directors and their respective Affiliates and Representatives in a proxy statement or other filings in accordance with applicable Law, any stock exchange rules or listing standards or the Charter Documents or corporate governance guidelines, in each case, relating to the Investor Designee's election as a director of Parent or Parent's operations in the ordinary course of business;

(ii) all information requested by Parent in connection with assessing eligibility and other criteria applicable to directors or satisfying compliance and legal or regulatory obligations, in each case, relating to the Investor Designee's nomination or election, as applicable, as a director of Parent or Parent's operations in the ordinary course of business; and

(iii) an undertaking in writing by the Investor Designee to be subject to, bound by and duly comply with Parent's Code of Business Conduct and Ethics, Corporate Governance Guidelines, Stock Ownership Guidelines (which shall be deemed satisfied by the Investor Parties' ownership of Acquired Shares) and Policy Statement on Trading Policy with such changes thereto (or such successor policies) as are applicable to all other directors, in each case, as such changes or successor policies are adopted in good faith by the Board, and do not by their terms materially, adversely and disproportionately impact the Investor Designee relative to all other directors; provided, that no such code of conduct or Policy Statement on Trading Policy shall (x) apply to the Investor Parties or any of their respective Affiliates (other than with respect to the Investor Director solely in his or her individual capacity), (y) restrict any transfer of securities of any Affiliate of the Investor Parties, provided that no Confidential Information constituting material non-public information is disclosed to or used by or on behalf of such Affiliate in connection with such transfer of securities, in each case, except to the extent that such Affiliate and transferee maintain the Confidential Information in accordance with Section 5.05 as if such Affiliate and transferee were a party to such section and abide by the restrictions imposed by the United States securities laws on the purchase or sale of securities by any person who has received material, non-public information from the issuer of such securities for so long as such Confidential Information constitutes material, non-public information, or (z) impose any share ownership requirement for the Investor Director.

(h) Subject to Section 5.10(g), Parent shall, upon effect of the appointment of the Investor Director to the Board and until the Fall-Away of Investor Rights, cause one or more committees of the Board, as Parent and the Investor Parties may mutually agree in good faith, to include the Investor Director.

(i) Parent shall indemnify the Investor Director and provide the Investor Director with director and officer insurance to the same extent as it indemnifies and provides such insurance to other members of the Board, pursuant to the Charter Documents, the VSCA or otherwise (including pursuant to customary indemnification agreements). Parent hereby acknowledges and agrees that it (1) is the indemnitor of first resort (*i.e.*, its obligations to the Investor Director are primary and any obligation of the Investor Parties or their Affiliates to advance expenses or to provide indemnification for the same expenses or liabilities incurred by the Investor Director are secondary) and (2) shall be required to advance the amount of expenses incurred by the Investor Director and shall be liable for the amount of all expenses and liabilities incurred by the Investor Director, in each case to the same extent as it advances to and indemnifies and provides such insurance to other members of the Board, pursuant to the Charter Documents, the VSCA or otherwise, without regard to any rights the Investor Director may have against any Investor Party or its Affiliates. This Section 5.10(i) shall (i) survive (A) the consummation of the Transactions, (B) the Fall-Away of Investor Rights and (C) the resignation or removal of any Investor Director pursuant to this Section 5.10 and (ii) be binding on all successors and assigns of Parent. This Section 5.10(i) is intended to be for the benefit of each Investor Director and her or her heirs and representatives (each, a "Director Indemnitee") and may be enforced by any such Director Indemnitee as if such Director Indemnitee was a party to this Agreement. The obligations of Parent under this Section 5.10(i) shall not be terminated or modified in such a manner as to adversely affect any Person to whom this Section 5.10(i) applies without the written consent of such affected Person. If Parent or any of its successors or assigns (x) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (y) transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, to the extent necessary, proper provision shall be made so that the successors and assigns of Parent shall assume the obligations set forth in this Section 5.10(i).

(j) Prior to the Fall-Away of Investor Rights, Parent shall not decrease the size of the Board or any committee of the Board on which the Investor Director sits without, in each case, the consent of the Investor Parties if such decrease would require the resignation or removal of the Investor Designee from the Board or such committee thereof.

(k) The parties hereto agree that the Investor Director (or, as applicable, the Investor Observer) shall be entitled to reimbursement from Parent for the reasonable out-of-pocket fees or expenses incurred in connection with his or her service as a director or observer of the Board, in each case, in a manner consistent with Parent's practices with respect to reimbursement for other members and observers of the Board, including reimbursement pursuant to customary indemnification arrangements.

Section 5.11 Voting. From and after the Closing and until the Fall-Away of Investor Rights, subject to any applicable Law, stock exchange rules or listing standards:

(a) At each meeting of the stockholders of Parent (including, if applicable, through the execution of one or more written consents if stockholders of Parent are requested to vote through the execution of an action by written consent in lieu of any such annual or special meeting of stockholders of Parent) and at every postponement or adjournment thereof, each Investor Party shall take such action as may be required so that all of the shares of Parent Common Stock beneficially owned, directly or indirectly, by such Investor Party or its controlled Affiliates and entitled to vote at such meeting of stockholders are voted, or consent is given or revoked, in the same manner as recommended by the Board with respect to (i) the election or removal of directors (other than any Investor Designee or Investor Director), (ii) ratification of the appointment of Parent's independent registered public accounting firm, (iii) Parent's "say-on-pay" proposals, (iv) Parent's equity incentive plans and (v) amendments to Parent's articles of incorporation proposed by the Board to increase (A) the number of authorized shares of Parent Common Stock within ISS policy guidelines or (B) the size of the Board, in each case, other than as set forth in Section 5.11(c); provided, that, for the avoidance of doubt, the Investor Parties shall not be restricted from voting in any manner on any matter not enumerated in the foregoing clauses (i)-(v). For the avoidance of doubt, each Investor Party shall ensure it is entitled to vote each share of Series A Preferred Stock or Parent Common Stock, which is then held by such Investor Party (subject to Section 5.08) on the applicable record date for each meeting of stockholders or solicitation of consents in lieu of a meeting.

(b) Each Investor Party shall be present, in person or by proxy, at all meetings of the stockholders of Parent so that all shares of Series A Preferred Stock or Parent Common Stock beneficially owned by such Investor Party or its controlled Affiliates may be counted for the purposes of determining the presence of a quorum and voted in accordance with Section 5.11(a) at such meetings (including at any adjournments or postponements thereof). The foregoing provision shall also apply to the execution by such Persons of any written consent in lieu of a meeting of holders of shares of Parent Common Stock or Series A Preferred Stock.

(c) The provisions of Section 5.11(a) shall not apply to the exclusive consent and voting rights of the holders of Series A Preferred Stock set forth in Section 9 of the Certificate of Designations. In addition, until the date on which no Acquired Shares remain outstanding, Parent shall not, without the prior written consent of the Investor:

(i) make any voluntary liquidation, dissolution or winding up of Parent or any of its Subsidiaries (including any commencement of a voluntary case or proceeding under Bankruptcy Law);

(ii) incur, issue, assume, guarantee or otherwise become liable for any indebtedness that would cause Parent and its Subsidiaries to have a Total Net Leverage Ratio that is greater than 6.00:1.00 (as calculated in accordance with the Existing Credit Agreement);

(iii) redeem or repurchase any outstanding equity securities of Parent, other than repurchases or reacquisitions of shares of Parent Common Stock pursuant to Parent's right to repurchase or reacquire shares of Parent Common Stock held by employees or other service providers of Parent or its Subsidiaries in connection with termination of such Person's employment or engagement by Parent or its Subsidiaries, in each case, pursuant to the terms of such awards; or

(iv) issue or create, or increase the authorized number of shares of, any class or series of capital stock of Parent ranking senior to the Parent Common Stock.

Section 5.12 Tax Matters.

(a) Promptly following the date of this Agreement or, in the case of a Permitted Transferee, the date such Permitted Transferee first acquires any Series A Preferred Stock or Parent Common Stock or other securities issued upon the exchange of the Series A Preferred Stock, each Investor Party shall deliver to Parent or its paying agent a duly executed, accurate and properly completed Internal Revenue Service ("IRS") Form W-9 or an appropriate IRS Form W-8, as applicable.

(b) Subject to the provisions of Section 5.12(c), Parent and the Company, as applicable, will be entitled to deduct and withhold from the amounts otherwise payable pursuant to this Agreement to each Investor Party (or any other recipient, including any Permitted Transferee) all amounts required under the Code or any applicable provision of any state, local or foreign Tax Law to be deducted and withheld, and to collect any necessary Tax forms, including IRS Forms W-8 or W-9, as and when applicable, or any similar information, from the Investor Party (or any other recipient, including any Permitted Transferee) to the extent the Investor Party or other recipient are legally eligible to provide such forms and documentation. To the extent that any such amount is so deducted and withheld by Parent or the Company, as applicable, and remitted to the applicable taxing authority, such amount shall be treated for all purposes of this Agreement as having been paid to the Person who otherwise would have been entitled to receive such amount.

(c) Absent a change in law or a contrary determination (as defined in Section 1313(a) of the Code), the Investor Parties, Parent and the Company and their Subsidiaries agree (i) not to treat the Series A Preferred Stock as "preferred stock" within the meaning of Section 305(b)(4) of the Code and Treasury Regulation Section 1.305-5(a) for United States federal income tax and withholding tax purposes, and to not take any position inconsistent with such treatment, (ii) to treat the holders of Series A Preferred Stock as receiving a dividend for U.S. federal and state income tax purposes only if and to the extent such dividend is paid in cash, (iii) that any exchange of the Series A Preferred Stock shall be treated as a "reorganization" within the meaning of Section 368(a)(1) of the Code (and that this Agreement, taken together with Section 10 of the Certificate of Designations, be treated as a "plan of reorganization" within the meaning of Treasury Regulation Section 1.368-1(c)) and (iv) the Investor Parties will not be required to include in income any amounts in respect of the Series A Preferred Stock by operation of Section 305(b). The Investor Parties, Parent, the Company and their Subsidiaries shall file all income tax returns consistent with the foregoing sentence Parent and the Company and their Subsidiaries will not issue any securities or otherwise take any action that could reasonably be expected to affect the treatment described in clause (iv).

(d) Sellers shall pay any and all documentary, stamp and similar issue or transfer Tax, which foregoing taxes do not include any withholding, income, or similar taxes, due on (i) the issue of the Series A Preferred Stock and (ii) the issue of shares of Parent Common Stock upon the exchange of the Series A Preferred Stock. However, in the case of the exchange of Series A Preferred Stock, Sellers shall not be required to pay any Tax or duty that may be payable in respect of any Transfer involved in the issue and delivery of shares of Parent Common Stock or Series A Preferred Stock to a beneficial owner other than the beneficial owner of the Series A Preferred Stock immediately prior to such the exchange, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such Tax or duty, or has established to the satisfaction of the Company that such Tax or duty has been paid.

(e) Upon Hill City or any Investor Party's reasonable request in connection with a potential Transfer of Series A Preferred Stock or Parent Common Stock or an exchange of Series A Preferred Stock for Parent Common Stock, and to the extent permitted by applicable Law as determined by Parent in good faith, Parent and/or the Company, as applicable, shall (i) provide a duly executed and correctly completed statement, in accordance with Treasury Regulations Sections 1.897-2(h) and 1.1445-2(c)(3) (or any successor Treasury Regulations thereto), that the Series A Preferred Stock or the Parent Common Stock, as applicable, is not a U.S. real property interest, in each case, for the relevant period described in Section 897(c)(1)(A)(ii) of the Code, or (ii) advise Hill City or such Investor Party that the Series A Preferred Stock or the Parent Common Stock, as applicable, is or was a U.S. real property interest, in each case, during the relevant period described in Section 897(c)(1)(A)(ii) of the Code. At the request of Hill City or any Investor Party, Parent or the Company, as applicable, shall provide any information reasonably necessary to enable Hill City or an Investor Party to determine whether Parent or the Company is, or has been during the relevant time period described in Section 897(c)(1)(A)(ii) of the Code, a "United States real property holding corporation" within the meaning of Section 897(c)(2) of the Code. Each of Parent, the Company, and any of their Subsidiaries, as relevant, (i) shall not be bound by any such determination by Hill City or an Investor Party and (ii) shall be entitled to make in its sole discretion exercised in good faith its own determination and to take any action required by Law pursuant to such determination.

(f) For any taxable year in which any share of Series A Preferred Stock is or has been outstanding, Parent and the Company shall not, and shall cause their Subsidiaries not to:

(i) declare or pay any dividends or other distributions with respect to its capital stock, other than cash dividends paid on the Parent Common Stock and Company Common Stock and dividends paid with respect to the Series A Preferred Stock;

(ii) authorize or issue any new class or series of capital stock;

(iii) issue any equity or debt instrument that, in each case, is convertible or exchangeable into shares of stock; provided, that Parent may issue or grant compensatory options to purchase Parent Common Stock or other equity incentive awards (including Parent RSUs, Parent RTSR PSUs and Parent Strategic Retention PSUs) pursuant to the terms of a Parent Plan;

(iv) redeem, repurchase, recapitalize or acquire any of its capital stock in a transaction that would be treated, in whole or in part, as a dividend for U.S. federal income Tax purposes (unless such redemption, repurchase, recapitalization or acquisition is an isolated transaction within the meaning of Treasury Regulation Section 1.305-3(b)(3)); or

(v) cause the Company to be classified as anything other than a corporation for U.S. federal income Tax purposes.

(g) Participation Rights.

(i) Subject to Section 5.12(g)(ii), no dividend or other distribution (whether in cash, securities or other property, or any combination of the foregoing) shall be declared or paid on the Parent Common Stock unless, at the time of such declaration and payment, an equivalent dividend or distribution is declared and paid, respectively, on the Series A Preferred Stock (such a dividend or distribution on the Series A Preferred Stock, a "Series A Participating Dividend", and such corresponding dividend or distribution on the Parent Common Stock, the "Parent Common Stock Participating Dividend"), such that (A) the Record Date (as defined in the Certificate of Designations) and the payment date for such Series A Participating Dividend occur on the same dates as the Record Date and payment date, respectively, for such Parent Common Stock Participating Dividend; and (B) the kind and amount of consideration payable per share of Series A Preferred Stock in such Series A Participating Dividend is the same kind and amount of consideration that would be payable in the Parent Common Stock Participating Dividend in respect of a number of shares of Parent Common Stock equal to the number of shares of Parent Common Stock that would be issuable (determined in accordance with Section 10 of the Certificate of Designations but without regard to (x) any limitations in such section that would cause any addition to the Liquidation Preference (as defined in the Certificate of Designations) to be paid in cash as opposed to shares of Parent Common Stock upon such exchange of shares of Series A Preferred Stock; or (y) any provision in the Certificate of Designations that would limit the ability of any holder of Series A Preferred Stock from exercising its right to exchange such Series A Preferred Stock) in respect of one (1) share of Series A Preferred Stock that is Exchanged with an Exchange Date (as defined in the Certificate of Designations) occurring on such Record Date (subject to the same arrangements, if any, in such Parent Common Stock Participating Dividend not to issue or deliver a fractional portion of any security or other property, but with such arrangements applying separately to each Holder of Series A Preferred Stock and computed based on the total number of shares of Series A Preferred Stock held by such Holder on such Record Date). Parent shall provide notice to Holders of each Series A Participating Dividend, including the related Record Date and payment date, at substantially the same time at which, and in substantially the same manner in which, Parent provides the related notice(s) to holders of the Parent Common Stock in connection with the corresponding Parent Common Stock Participating Dividend.

(ii) Section 5.12(g)(i) shall not apply to, and no Series A Participating Dividend shall be required to be declared or paid in respect of, (A) an event for which an adjustment to the Exchange Price is required (or would be required without regard to Section 10(f)(iii) of the Certificate of Designations) pursuant to Section 10(f)(i)(1) of the Certificate of Designations, as to which Section 10(f)(i)(1) of the Certificate of Designations shall apply; (B) rights issued pursuant to a stockholder rights plan, so long as such rights have not separated from the Parent Common Stock and are not exercisable until the occurrence of a triggering event, or (C) any Flow-Through Dividend, except that Section 5(b)(i) of the Certificate of Designations shall apply to, and a Series A Participating Dividend shall be required in respect of, (1) the separation of such rights from the Parent Common Stock (whether upon the occurrence of such triggering event or otherwise); and (2) any payment made by Parent (whether in cash, securities or other property, or any combination of the foregoing) to all or substantially all holders of Parent Common Stock to redeem or repurchase any such rights.

Section 5.13 Information Rights. From and after the Closing and until the Fall-Away of Investor Rights, in order to facilitate the Investor Parties' compliance with legal and regulatory requirements applicable to the beneficial ownership by the Investor Parties and their Affiliates of equity securities of Parent and the Company, Parent shall provide to each Investor Party:

(a) within ninety (90) days after the end of each fiscal year of Parent, (A) an audited, consolidated balance sheet of Parent and its Subsidiaries as of the end of such fiscal year, (B) an audited, consolidated income statement of Parent and its Subsidiaries for such fiscal year and (C) an audited, consolidated statement of cash flows of Parent and its Subsidiaries for such fiscal year; provided that this requirement shall be deemed to have been satisfied if on or prior to such date Parent files its annual report on Form 10-K for the applicable fiscal year with the SEC;

(b) within forty-five (45) days after the end of each of the first three (3) quarters of each fiscal year of Parent, (i) an unaudited, consolidated balance sheet of Parent and its Subsidiaries as of the end of such fiscal quarter, (ii) an unaudited, consolidated income statement of Parent and its Subsidiaries for such fiscal quarter and (iii) an unaudited, consolidated statement of cash flows of Parent and its Subsidiaries for such fiscal quarter; provided that this requirement shall be deemed to have been satisfied if on or prior to such date Parent files its quarterly report on Form 10-Q for the applicable fiscal year with the SEC;

(c) at the request of such Investor Party, annual budgets, monthly financial operating and capital expenditure reports;

(d) at the request of such Investor Party, any "Environmental, Social and Governance"-related information pertaining to Parent and its Subsidiaries as may be reasonably necessary to such Investor Party's compliance, reporting and investor communications obligations or practices, in each case, to the extent such information would not be unreasonably burdensome for Parent and its Subsidiaries to produce; and

(e) at the request of such Investor Party, such other reports and information as may be reasonably requested by such Investor Party;

provided, that Parent shall not be obligated to provide such access or materials if Parent determines, in its reasonable judgment, that doing so would reasonably be expected to (i) violate applicable Law, an applicable order or a Contract or obligation of confidentiality owing to a third party or (ii) jeopardize the protection of an attorney-client privilege, attorney work product protection or other legal privilege (provided, however, that Parent shall use reasonable efforts to provide alternative, redacted or substitute documents or information in a manner that would not result in the loss of the ability to assert attorney-client privilege, attorney work product protection or other legal privileges); provided, further, that Parent shall use its commercially reasonable efforts to disclose such information in a manner that would not violate the foregoing.

Section 5.14 Financing Cooperation. If requested by Hill City or the Investor Parties, each Seller will provide the following cooperation in connection with Hill City, the Investor Parties or the other members of the Sponsor Group obtaining any Permitted Loan: (i) entering into an issuer agreement (an "Issuer Agreement") with each lender in customary form in connection with such transactions (which agreement may include, without limitation, agreements and obligations of such Seller relating to procedures and specified time periods for effecting Transfers and/or conversions upon foreclosure, agreements to not hinder or delay exercises of remedies on foreclosure, acknowledgments regarding corporate policy, if applicable, certain acknowledgments regarding securities Law status of the pledge arrangements and a specified list of Competitors) and subject to the consent of such Seller (which will not be unreasonably withheld, delayed or conditioned), with such changes thereto as are requested by such lender or Sellers and customary for similar financings, (ii) using commercially reasonable efforts to (A) remove any restrictive legends on certificates representing pledged Series A Preferred Stock or Parent Common Stock issued upon conversion of Series A Preferred Stock and depositing such pledged Series A Preferred Stock or Parent Common Stock issued upon the exchange of Series A Preferred Stock in book entry form on the books of The Depository Trust Company when eligible to do so (and providing any necessary indemnities to the transfer agent in connection therewith) or (B) without limiting the generality of clause (A), if such Series A Preferred Stock is eligible for resale under Rule 144A, depositing such pledged Series A Preferred Stock in book entry form on the books of The Depository Trust Company or other depository with customary Rule 144A restrictive legends in lieu of the legends specified in Section 5.09 above, (iii) if so requested by such lender or counterparty, as applicable, (x) re-registering the pledged Series A Preferred Stock or Parent Common Stock issued upon conversion of Series A Preferred Stock in the name of the relevant lender, counterparty, custodian or similar party to a Permitted Loan, with respect to Permitted Loans solely as securities intermediary and only to the extent Hill City or such Investor Party or their respective Affiliates continues to beneficially own such pledged Series A Preferred Stock or Parent Common Stock issued upon conversion of Series A

Preferred Stock or (y) certificating the pledged Series A Preferred Stock or Parent Common Stock issued upon conversion of Series A Preferred Stock, (iv) entering into customary triparty agreements with each lender and Hill City or such Investor Party relating to the delivery of the Series A Preferred Stock or Parent Common Stock issued upon conversion of Series A Preferred Stock to the relevant lender for crediting to the relevant collateral accounts upon funding of the loan and payment of the purchase price including a right for such lender as a third party beneficiary of the such Seller's obligations under hereunder to issue the Series A Preferred Stock or Parent Common Stock issued upon conversion of Series A Preferred Stock upon payment of the purchase price therefor in accordance with the terms of this Agreement and (v) such other cooperation and assistance as Hill City or such Investor Party may reasonably request (which such other cooperation and assistance shall not include any requirements that Parent deliver information, compliance certificates or any other materials typically provided by borrowers to lenders) that will not unreasonably disrupt the operation of Sellers' business. Notwithstanding anything to the contrary in the preceding sentence, the Sellers' obligations to deliver an Issuer Agreement is conditioned on Hill City or such Investor Party, as applicable certifying to such Seller in writing that (A) the loan agreement with respect to which the Issuer Agreement is being delivered constitutes a Permitted Loan being entered into in accordance with this Agreement, Hill City or such Investor Party has pledged the Series A Preferred Stock and/or the underlying shares of Parent Common Stock as collateral to the lenders under such Permitted Loan and that the execution of such Permitted Loan and the terms thereof do not violate the terms of this Agreement, (B) to the extent applicable, whether the registration rights under the Registration Rights Agreement are being assigned to the lenders under that Permitted Loan and (C) the Hill City or such Investor Party acknowledges and agrees that such Seller will be relying on such certificate when entering into the Issuer Agreement and any inaccuracy in such certificate will be deemed a breach of this Agreement. The Investor acknowledges and agrees that the statements and agreements of such Seller in an Issuer Agreement are solely for the benefit of the applicable lenders party thereto and that in any dispute between the Sellers and the Investor under this Agreement, the Investor shall not be entitled to use the statements and agreements of the Sellers in an Issuer Agreement against the Sellers.

Section 5.15 Exclusivity. Prior to the Closing or the termination of this Agreement and without the Investor's prior written consent, neither Parent nor any of its Subsidiaries shall, directly or indirectly, take (and Parent shall not authorize or permit any directors, officers or employees of Parent or, to the extent within Parent control, other Affiliates or representatives of Parent or any of its Subsidiaries to take) any action to (i) encourage (including by way of furnishing non-public information), solicit, initiate or facilitate any Competing Securities Issuance, (ii) enter into any agreement with respect to any Competing Securities Issuance or enter into any agreement, arrangement or understanding requiring it to abandon, terminate or fail to consummate any of the Transactions or (iii) participate in any way in discussions or negotiations with, or furnish any information to, any Person in connection with, or take any other action to facilitate any inquiries or the making of any proposal that constitutes, or would reasonably be expected to lead to, any Competing Securities Issuance. Prior to the Closing, Parent shall use reasonable best efforts to take all actions reasonably necessary to ensure that the directors, officers and employees of Parent and any of its Subsidiaries and, to the extent within Parent's control, other Affiliates or representatives of Parent or any of its Subsidiaries, do not take or do any of the actions referenced in the immediately foregoing sentence. Upon execution of this Agreement and prior to the Closing, unless the Investor otherwise consents in writing, Parent shall, if applicable, cease immediately and cause to be terminated any and all existing discussions or negotiations with any parties conducted heretofore with respect to a Competing Securities Issuance and promptly request that all confidential information with respect thereto furnished on behalf of Parent be returned.

Section 5.16 Preemptive Rights.

(a) From and after the Closing and until the Fall-Away of Investor Rights, if Parent or the Company, as applicable, makes any public or non-public offering of any capital stock of, other equity or voting interests in, or equity-linked securities of, Parent or the Company, respectively, or any securities that are convertible or exchangeable into (or exercisable for) capital stock of, other equity or voting interests in, or equity-linked securities of, Parent or the Company, respectively, (collectively "Preemptive Securities"), including, for the purposes of this Section 5.16, warrants, options or other such rights (any such security, a "New Security") (other than (i) issuances by Parent of Preemptive Securities to directors, officers, employees, consultants or other agents of Parent or the Company, as applicable, (ii) issuances by Parent of Preemptive Securities pursuant to an employee stock option plan, management incentive plan, restricted stock plan, stock purchase plan or stock ownership plan or similar benefit plan, program or agreement, (iii) issuances by Parent made as consideration for any acquisition (by sale, merger in which Parent or the Company, as applicable, is the surviving corporation, or otherwise) by Parent or any of its Subsidiaries of equity in, or assets of, another Person, business unit, division or business, (iv) issuances of any securities issued as a result of a stock split, stock dividend, reclassification or reorganization or similar event, (v) issuances by Parent of Preemptive Securities in connection with a bona fide strategic partnership or commercial arrangement with a Person that is not an Affiliate of Parent or any of its Subsidiaries (other than (x) any such strategic partnership or commercial arrangement with a private equity firm or similar financial institution or (y) an issuance the primary purpose of which is the provision of financing), (vi) securities issued by Parent pursuant to the exchange of Series A Preferred Stock issued to the Investor Parties, (vii) shares of a Subsidiary of Parent issued to Parent or a wholly owned Subsidiary of Parent and (viii) issuances to any Person as a result of the exercise of such Person's preemptive rights), the Investor Parties (in the case of an issuance of New Securities by Parent) or the Investor Parties that then own Acquired Shares (in the case of an issuance of New Securities by the Company) shall be afforded the opportunity to acquire from Parent or the Company, as applicable, the Preemptive Rights Portion of such New Securities for the same price per share as that offered to the other purchasers of such New Securities; provided, that no Investor Party shall be entitled to acquire any New Securities pursuant to this Section 5.16 to the extent the issuance of such New Securities to such Investor Party would require approval of the stockholders of Parent or the Company, as applicable, as a result of the status, if applicable, of such Investor Party as an Affiliate of Parent or pursuant to the rules and listing standards of Nasdaq, and in the event no Investor Party is eligible to acquire such New Securities because of the limitations set forth in this proviso (or the Investor Parties do not acquire all of the New Securities to which they are collectively entitled pursuant to the terms of Section 5.16(b) because of such limitations), Parent or the Company, as applicable, may consummate the proposed issuance of New Securities (or, as applicable, that portion of New Securities that the Investor Parties not subject to such limitations do not otherwise acquire) to other Persons prior to obtaining approval of the stockholders of Parent or the Company, as applicable (subject to compliance by Parent or the Company, as applicable, with Section 5.16(f)).

(b) Subject to the foregoing proviso in Section 5.16(a), the amount of New Securities that the Investor Parties shall be entitled to purchase in the aggregate shall be determined by multiplying (1) the total number of such offered shares of New Securities by (2) (x) in the case of an issuance of New Securities by Parent, a fraction, the numerator of which is the total of the number of Parent Common Stock (on an as exchanged basis) then owned by the Investor Parties, and the denominator of which is the aggregate number of shares of Parent Common Stock held by all stockholders of Parent (on an as exchanged basis) outstanding as of such date or (y) in the case of an issuance of New Securities by the Company, the Parent Common Stock Equivalent Percentage (either such amount, as applicable, the "Preemptive Rights Portion"); provided, that the Investor Parties shall, in their sole discretion, allocate among them any portion of the aggregate Preemptive Rights Portion of New Securities of Parent to which the Investor Parties are collectively entitled pursuant to this Section 5.16.

(c) If Parent proposes to offer New Securities, it shall give each Investor Party written notice of its intention, describing the anticipated price (or range of anticipated prices), anticipated amount of New Securities and other material terms and timing upon which Parent proposes to offer the same (including, in the case of a registered public offering and to the extent possible, a copy of the prospectus included in the registration statement filed with respect to such offering) at least seven (7) Business Days prior to such issuance (or, in the case of a registered public offering, at least seven (7) Business Days prior to the commencement of such registered public offering) (provided, that, to the extent the terms of such offering cannot reasonably be provided seven (7) Business Days prior to such issuance, notice of such terms may be given as promptly as reasonably practicable but in any event prior to such issuance). Parent may provide such notice to such Investor Party on a confidential basis prior to public disclosure of such offering. Other than in the case of a registered public offering, such Investor Party may notify Parent in writing at any time on or prior to the second (2nd) Business Day immediately preceding the date of such issuance (or, if notice of all such terms has not been given prior to the second (2nd) Business Day immediately preceding the date of such issuance, at any time prior to such issuance) whether such Investor Party will exercise such preemptive rights and as to the amount of New Securities such Investor Party desires to purchase, up to the maximum amount calculated pursuant to Section 5.16(b). In the case of a registered public offering, any Investor Party may notify Parent in writing at any time prior to the second (2nd) Business Day immediately preceding the date of commencement of such registered public offering (or, if notice of all such terms has not been given prior to the second (2nd) Business Day immediately preceding the date of commencement of such registered public offering, at any time prior to the date of commencement of such registered public offering) whether such Investor Party will exercise such preemptive rights and as to the amount of New Securities such Investor Party desires to purchase, up to the maximum amount calculated pursuant to Section 5.16(b). Such notice to Parent shall constitute a binding commitment by such Investor Party to purchase the amount of New Securities so specified at the price and other terms set forth in Parent's notice to it. Subject to receipt of the requisite notice of such issuance by Parent, the failure of such Investor Party to respond prior to the time a response is required pursuant to this Section 5.16(c) shall be deemed to be a waiver of such Investor Party's purchase rights under this Section 5.16 only with respect to the offering described in the applicable notice.

(d) Each Investor Party shall purchase the New Securities that it has elected to purchase under this Section 5.16 concurrently with the related issuance of such New Securities by Parent (subject to the receipt of any required approvals from any Governmental Authority to consummate such purchase by such Investor Party); provided, that if such related issuance is prior to the twentieth (20th) Business Day following the date on which such Investor Party has notified Parent that it has elected to purchase New Securities pursuant to this Section 5.16, then each Investor Party shall purchase such New Securities within twenty (20) Business Days following the date of the related issuance (subject to the receipt of any required approvals from any Governmental Authority to consummate such purchase by such Investor Party). If the proposed issuance by Parent of securities which gave rise to the exercise by the Investor Parties of their preemptive rights pursuant to this Section 5.16 shall be terminated or abandoned by Parent without the issuance of any New Securities, then the purchase rights of the Investor Parties pursuant to this Section 5.16 shall also terminate as to such proposed issuance by Parent (but not any subsequent or future issuance), and any funds in respect thereof paid to Parent by the Investor Parties in respect thereof shall be promptly refunded in full.

(e) In the case of the offering of securities for consideration in whole or in part other than cash, including securities acquired in exchange therefor (other than securities by their terms so exchangeable), the consideration other than cash shall be deemed to be the fair value thereof as reasonably determined by the Board; provided, however, that such fair value as determined by the Board shall not exceed the aggregate market price of the securities being offered as of the date the Board authorizes the offering of such securities.

(f) In the event that the Investor Parties are not entitled to acquire any New Securities pursuant to this Section 5.16 because such issuance would require Parent to obtain stockholder approval in respect of the issuance of such New Securities to the Investor Parties as a result of any such Investor Party's status, if applicable, as an Affiliate of Parent or pursuant to the rules and listing standards of Nasdaq, Parent shall, upon such Investor Party's reasonable request delivered to Parent in writing within seven (7) Business Days following its receipt of the written notice of such issuance to such Investor Party pursuant to Section 5.16(c), at such Investor Party's election, (i) waive the restrictions set forth in Section 5.07(a) solely to the extent necessary to permit such Investor Party to acquire such number of New Securities equivalent to its Preemptive Rights Portion of such issuance such Investor Party would have been entitled to purchase had it been entitled to acquire such New Securities pursuant to Section 5.16(a)– (c); (ii) consider and discuss in good faith modifications proposed by such Investor Party to the terms and conditions of such portion of the New Securities which would otherwise be issued to such Investor Party such that Parent would not be required to obtain stockholder approval in respect of the issuance of such New Securities as so modified; and/or (iii) solely to the extent that stockholder approval is required in connection with the issuance of New Securities to Persons other than such Investor Party, use reasonable best efforts to seek stockholder approval in respect of the issuance of any New Securities to such Investor Party.

(g) The election by any Investor Party to not exercise its subscription rights under this Section 5.16 in any one instance shall not affect its rights as to any subsequent proposed issuance.

(h) Parent and the Investor Parties shall cooperate in good faith to facilitate the exercise of the Investor Parties' rights pursuant to this Section 5.16 including using reasonable best efforts to secure any required approvals or consents.

Section 5.17 Corporate Opportunities(a). In recognition and anticipation that (a) certain directors, principals, officers, employees and/or other representatives of the Investor Parties and their Affiliates may serve as directors or board observers of Parent and (b) the Investor Parties and

their Affiliates may now engage and may continue to engage in the same or similar activities or related lines of business as those in which Parent, directly or indirectly, may engage and/or other business activities that overlap with or compete with those in which Parent, directly or indirectly, may engage or proposes to engage, the provisions of this Section 5.17 are set forth to regulate and define the conduct of certain affairs of Parent with respect to certain classes or categories of business opportunities as they may involve the Investor Parties, the Investor Director, the Investor Observer or their respective Affiliates, as applicable, and the powers, rights, duties and liabilities of Parent and its directors, officers and stockholders in connection therewith. None of (i) the Investor Parties or any of their Affiliates, or (ii) any Investor Director or Investor Observer or his or her Affiliates (the Persons identified in clauses (i) and (ii) being referred to, collectively, as "Identified Persons" and, individually, as an "Identified Person") shall, to the fullest extent permitted by law, have any duty to refrain from, directly or indirectly, (A) engaging in the same or similar business activities or lines of business in which Parent or any of its Affiliates now engages or proposes to engage or (B) otherwise competing with Parent or any of its Affiliates, and, to the fullest extent permitted by law, no Identified Person shall be liable to Parent or its stockholders or to any Affiliate of Parent for breach of any fiduciary duty solely by reason of the fact that such Identified Person engages in any such activities. To the fullest extent permitted by law, Parent hereby renounces any interest or expectancy in, or right to be offered an opportunity to participate in, any business opportunity that may be a corporate opportunity for an Identified Person and Parent or any of its Affiliates. Subject to the following sentence, in the event that any Identified Person acquires knowledge of a potential transaction or other business opportunity that may be a corporate opportunity for itself, herself or himself and Parent or any of its Affiliates, such Identified Person shall, to the fullest extent permitted by law, have no duty to communicate or offer such transaction or other business opportunity to Parent or any of its Affiliates and, to the fullest extent permitted by law, shall not be liable to Parent or its stockholders or to any Affiliate of Parent for breach of any fiduciary duty as a stockholder, director or officer of Parent solely by reason of the fact that such Identified Person pursues or acquires such corporate opportunity for itself, herself or himself, or offers or directs such corporate opportunity to another Person or does not communicate information regarding such corporate opportunity to Parent. Notwithstanding the foregoing, Parent does not renounce its interest in any corporate opportunity offered to any Identified Person (including any Identified Person who serves as an officer of Parent) if such opportunity is offered to such person solely in his or her capacity as a director or officer of Parent, and this Section 5.17 shall not apply to any such corporate opportunity. In addition to and notwithstanding the foregoing provisions of this Agreement or anything to the contrary in the Charter Documents and other organizational documents of Parent and the Company, to the fullest extent permitted by law, a potential corporate opportunity shall not be deemed to be a corporate opportunity for Parent if it is a business opportunity that (x) Parent is neither financially or legally able, nor contractually permitted to undertake, (y) from its nature, is not in the line of Parent's business or is of no practical advantage to Parent, or (z) is one in which Parent has no interest or reasonable expectancy.

Section 5.18 Section 16 Matters. If Parent becomes a party to a consolidation, merger or other similar transaction, or if Parent proposes to take or omit to take any other action under Section 5.16 (including granting to the Investor Parties or their respective Affiliates the right to participate in any issuance of securities) or otherwise or if there is any event or circumstance that may result in any Investor Party, its Affiliates and/or the Investor Director being deemed to have made a disposition or acquisition of equity securities of Parent or derivatives thereof for purposes of

Section 16 of the Exchange Act (including the purchase by such Investor Party or any of its Affiliates of any securities under Section 5.16), and if the Investor Director is serving on the Board at such time or has served on the Board during the preceding six (6) months (i) the Board or a committee thereof composed solely of two or more "non-employee directors" as defined in Rule 16b-3 of the Exchange Act will pre-approve such acquisition or disposition of equity securities or derivatives thereof for the express purpose of exempting such Investor Party and its Affiliates' and the Investor Director's interests (for the Investor Parties and/or their respective Affiliates, to the extent such persons may be deemed to be "directors by deputization") in such transaction from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder and (ii) if the transaction involves (A) a merger or consolidation to which Parent is a party and the Parent Common Stock is, in whole or in part, converted into or exchanged for equity securities of a different issuer, (B) a potential acquisition or deemed acquisition, or disposition or deemed disposition, by such Investor Party, its Affiliates, and/or the Investor Director of equity securities of such other issuer or derivatives thereof and (C) an Affiliate or other designee of such Investor Party or any of its Affiliates will serve on the board of directors (or its equivalent) of such other issuer pursuant to the terms of an agreement to which Parent is a party (or if such Investor Party notifies Parent of such service a reasonable time in advance of the closing of such transactions), then if Parent requires that the other issuer pre-approve any acquisition of equity securities or derivatives thereof for the express purpose of exempting the interests of any director or officer of Parent or any of its Subsidiaries in such transactions from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder, Parent shall require that such other issuer pre-approve any such acquisitions of equity securities or derivatives thereof for the express purpose of exempting the interests of such Investor Party, its Affiliates and the Investor Director (for the Investor Parties and/or their respective Affiliates, to the extent such persons may be deemed to be "directors by deputization" of such other issuer) in such transactions from Section 16(b) of the Exchange Act pursuant to Rule 16b-3 thereunder.

Section 5.19 Reorganization. Parent and Company shall effect the Reorganization in accordance with the terms set forth in Exhibit B, such that, as of immediately prior to the Closing (other than to the extent contemplated by Clause 3 set forth in Exhibit B, which shall be completed pursuant to the terms thereof immediately following the consummation of the Acquisition), and, immediately following the consummation of the Acquisition (upon consummation of the actions set forth in Clause 3 set forth in Exhibit B pursuant to the terms hereof and thereof), the Company will own, directly or indirectly, (a) all of the other Subsidiaries of Parent existing as of the date hereof (other than Subsidiaries whose existence terminates in accordance with the terms of the Acquisition Agreement) and (b) all of the other assets, properties and rights of Parent not directly held by Parent as of the date hereof (other than any Holding Company Assets), in each case, in accordance with the terms set forth in Exhibit B.

Section 5.20 Acquisition. Without the prior written consent of the Investor (not to be unreasonably withheld, conditioned or delayed), none of Parent or any of its Affiliates shall amend or waive, in any material respect, any term or provision of (including with respect to the consideration payable, whether cash or capital stock), the Acquisition Agreement, any Acquisition Ancillary Agreement executed on the date hereof, the Investor Rights Agreement or any agreement between Parent, the Company or any of their Affiliates, on the one hand, and Grosvenor Capital Management, L.P. or any of its Affiliates, on the other hand, in connection with the Acquisition; provided, however, that nothing in this Section 5.20 shall limit the right of Parent to terminate the Acquisition Agreement in accordance with its terms.

Section 5.21 Parent Covenants for the Benefit of the Holders of the Series A Preferred Stock. Parent agrees as follows for the benefit of the Holders from time to time (which Holders shall be third party beneficiaries of this Section 5.21 and Parent's obligations hereunder):

(a) Certain Cash Payments. Parent shall make all cash payment amounts to the Holders, including, without limitation, to the extent, if any, provided in Sections 5(a)(iii)(1) (Method of Payment of Regular Dividends; Payments in Kind), 7(g) (Payment of the Redemption Price), 8(b) (Funds Legally Available for Payment of Fundamental Change Repurchase Price; Covenant Not to Take Certain Actions), 8(g) (Payment of the Fundamental Change Repurchase Price) or 11(c) (Taxes Upon Issuance of Parent Common Stock) of the Certificate of Designations.

(b) Delivery of Parent Common Stock and Cash. Parent shall deliver shares of Parent Common Stock (and, if applicable, all cash payment amounts) to Holders, including, without limitation, to the extent, if any, provided in Section 7(e)(iii) (Method of Payment of Redemption Price) and 10 (Exchange) of the Certificate of Designations.

(c) Covenant Regarding Fundamental Changes. Parent shall not voluntarily take any action, or voluntarily engage in any transaction, that would result in a Fundamental Change (as defined in the Certificate of Designations) unless the Company and Parent, together, have sufficient funds legally available to fully pay, or another Person has committed in writing to fully pay (on behalf of the Company and Parent), the maximum aggregate Fundamental Change Repurchase Price (as defined in the Certificate of Designations) that would be payable in respect of such Fundamental Change on all shares of Series A Preferred Stock then outstanding.

(d) Reservation of Shares of Common Stock. At all times when any Series A Preferred Stock is outstanding, Parent shall reserve (out of its authorized and not outstanding shares of Parent Common Stock that are not reserved for other purposes), for delivery upon Exchange of the Series A Preferred Stock, a number of shares of Parent Common Stock that would be sufficient to settle the Exchange of all shares of Series A Preferred Stock then outstanding.

(e) Status of Shares of Common Stock. Each share of Parent Common Stock delivered upon Exchange of the Series A Preferred Stock shall be a newly issued share and shall be duly authorized, validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim (except to the extent of any lien or adverse claim created by the action or inaction of such Holder or the Person to whom such share of Parent Common Stock shall be delivered). If the Parent Common Stock is then listed on any securities exchange, or quoted on any inter-dealer quotation system, then Parent shall use commercially reasonable efforts to cause each such share of Parent Common Stock, when so delivered, to be admitted for listing on such exchange or quotation on such system.

(f) Taxes Upon Issuance of Common Stock. Parent shall pay any documentary, stamp or similar issue or transfer tax or duty due on the issue of any shares of Parent Common Stock upon Exchange of the Series A Preferred Stock, except any tax or duty that is due because such Holder requests those shares to be registered in a name other than such Holder's name.

(g) Parent Common Stock Change Events. Parent shall not voluntarily participate in any Parent Common Stock Change Event (as defined in the Certificate of Designations) unless its terms are consistent with Section 10(i)(ii) (Compliance Covenant) of the Certificate of Designations, including, if applicable, the execution of supplemental instruments contemplated by Section 10(i)(iii) (Execution of Supplemental Instruments) of the Certificate of Designations.

(h) Holding Company. For so long as the Investor Parties' Series A Preferred Stock is outstanding, (i) other than Parent's direct equity interests in the Company, Parent shall not have any operations, assets, or liabilities (other than any Holding Company Assets or liabilities in connection with any guarantees or other credit support of any Subsidiary of Parent) and (ii) all businesses and Subsidiaries acquired or developed shall be held by the Company, directly or indirectly through one of its Subsidiaries.

ARTICLE VI
CONDITIONS TO CLOSING

Section 6.01 Conditions to the Obligations of the Sellers and the Investor. The respective obligations of the Sellers and the Investor to effect the Closing shall be subject to the satisfaction (or waiver, if permissible under applicable Law) on or prior to the Closing Date of the following conditions:

(a) no temporary or permanent Judgment shall have been enacted, promulgated, issued, entered, amended or enforced by any Governmental Authority nor shall any proceeding brought by a Governmental Authority seeking any of the foregoing be pending, or any applicable Law shall be in effect enjoining or otherwise prohibiting consummation of the Transactions (collectively, "Restraints");

(b) the Acquisition shall have been consummated in accordance with the terms of the Acquisition Agreement (as in effect as of the date hereof) in all material respects;

(c) all waiting periods (and any extensions thereof) applicable to the consummation of the Transactions under the HSR Act, and any commitment to, or agreement (including any timing agreement) with, any Governmental Authority to delay the consummation of, or not to consummate before a certain date, the Transactions, shall have expired or been terminated; and

(d) the regulatory requirements set forth on Section 6.01(d) of the Parent Disclosure Letter shall have been satisfied.

Section 6.02 Conditions to the Obligations of Sellers. The obligations of the Sellers to effect the Closing shall be further subject to the satisfaction (or waiver, if permissible under applicable Law) on or prior to the Closing Date of the following conditions:

(a) the representations and warranties of the Investor set forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date with the same effect as though made on and as of such date (except to the extent expressly made as of an earlier date, in which case as of such earlier date);

(b) the Investor shall have complied with or performed in all material respects its obligations required to be complied with or performed by it pursuant to this Agreement at or prior to the Closing; and

(c) Parent shall have received a certificate, signed on behalf of the Investor by a duly authorized officer thereof, certifying that the conditions set forth in Section 6.02(a) and Section 6.02(b) have been satisfied.

Section 6.03 Conditions to the Obligations of the Investor. The obligations of the Investor to effect the Closing shall be further subject to the satisfaction (or waiver, if permissible under applicable Law) on or prior to the Closing Date of the following conditions:

(a) the representations and warranties of each Seller (i) set forth in Sections 3.01 (reading all "Material Adverse Effect" qualifications therein as "material" to Parent and its Subsidiaries, taken as a whole), 3.02, 3.03(a), 3.03(b)(i), 3.04, 3.11, 3.12, 3.13, 3.14, and 3.15 shall be true and correct in all but *de minimis* respects as of the date of this Agreement and as of the Closing Date with the same effect as though made on and as of such date (except to the extent expressly made as of an earlier date, in which case as of such earlier date), (ii) set forth in Section 3.07(b) shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date with the same effect as though made on and as of such date and (iii) set forth in this Agreement, other than in Sections 3.01, 3.02, 3.03(a), 3.03(b)(i), 3.04, 3.07(b), 3.11, 3.12, 3.13, 3.14, and 3.15, shall be true and correct (disregarding all qualifications or limitations as to "materiality", "Material Adverse Effect" and words of similar import set forth therein) as of the date of this Agreement and as of the Closing Date with the same effect as though made on and as of such date (except to the extent expressly made as of an earlier date, in which case as of such earlier date), except, in the case of this clause (iii), where the failure to be true and correct has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect;

(b) each Seller shall have complied with or performed in all material respects its obligations required to be complied with or performed by it pursuant to this Agreement at or prior to the Closing;

(c) the Investor shall have received a certificate, signed on behalf of each Seller by a duly authorized officer thereof, certifying that the conditions set forth in Section 6.03(a) and 6.03(b) have been satisfied;

(d) since the date of this Agreement, there shall not have occurred a Material Adverse Effect;

(e) prior to the Closing, the Company shall have duly adopted and filed with the Secretary of State of the State of Delaware the Certificate of Designations, and a certified copy thereof shall have been delivered to the Investor; and

(f) the Reorganization shall have been completed, except for the transactions specified in Clause 3 of Exhibit B, which will be completed pursuant to the terms hereof and thereof immediately following the consummation of the Acquisition, in accordance with the terms set forth in Exhibit B.

ARTICLE VII
TERMINATION; SURVIVAL

Section 7.01 Termination. This Agreement may be terminated and the Transactions abandoned at any time prior to the Closing:

(a) by the mutual written consent of Parent and the Investor;

(b) by either Parent (on behalf of itself and of the Company) or the Investor upon written notice to the other, if the Closing has not occurred on or prior to July 1, 2024 (the "Termination Date"); provided, that the right to terminate this Agreement under this Section 7.01(b) shall not be available to any party hereto if any breach by such party of its representations and warranties set forth in this Agreement or the failure of such party to perform any of its obligations under this Agreement has been a principal cause of or primarily resulted in the events specified in this Section 7.01(b);

(c) by either Parent (on behalf of itself and of the Company) or the Investor if any Restraint enjoining or otherwise prohibiting consummation of the Transactions shall be in effect and shall have become final and non-appealable prior to the Closing Date; provided, that the right to terminate this Agreement pursuant to Section 7.01(c) shall not be available to any party hereto unless such party has complied in all material respects with its obligations under Section 5.02;

(d) by the Investor if Parent or the Company shall have breached any of its representations or warranties or failed to perform any of its covenants or agreements set forth in this Agreement, which breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 6.03(a) or Section 6.03(b) and (ii) is incapable of being cured prior to the Termination Date, or if capable of being cured, shall not have been cured within thirty (30) calendar days (but in no event later than the Termination Date) following receipt by the Company of written notice of such breach or failure to perform from the Investor stating the Investor's intention to terminate this Agreement pursuant to this Section 7.01(d) and the basis for such termination; provided, that the Investor shall not have the right to terminate this Agreement pursuant to this Section 7.01(d) if the Investor is then in material breach of any of its representations, warranties, covenants or agreements hereunder which breach would give rise to the failure of a condition set forth in Section 6.02(a) or Section 6.02(b);

(e) by Parent (on behalf of itself and of the Company) if the Investor shall have breached any of its representations or warranties or failed to perform any of its covenants or agreements set forth in this Agreement, which breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 6.02(a) or Section 6.02(b) and (ii) is incapable of being cured prior to the Termination Date, or if capable of being cured, shall not have been cured within thirty (30) calendar days (but in no event later than the Termination Date) following receipt by the Investor of written notice of such breach or failure to perform from Parent stating Parent's intention to terminate this Agreement pursuant to this Section 7.01(e) and the basis for such termination; provided, that Parent shall not have the right to terminate this Agreement pursuant to this Section 7.01(e) if either Parent or the Company is then in material breach of any of its representations, warranties, covenants or agreements hereunder which breach would give rise to the failure of a condition set forth in Section 6.03(a) or Section 6.03(b); or

(f) automatically, without any action by Parent, the Company or the Investor, concurrently with any termination of the Acquisition Agreement.

Section 7.02 Effect of Termination. In the event of the termination of this Agreement as provided in Section 7.01, written notice thereof shall be delivered to Parent or the Investor, as applicable, specifying the provision hereof pursuant to which such termination is made, and this Agreement shall forthwith become null and void (other than Article I, this Section 7.02 and Article VIII, all of which shall survive termination of this Agreement, and the Confidentiality Agreement (which shall survive in accordance with its terms except as otherwise provided herein)), and there shall be no liability on the part of the Investor or the Sellers in connection with this Agreement, except that no such termination shall relieve any party hereto from liability for damages to another party hereto resulting from a willful and material breach of any representation, warranty, covenant or agreement in this Agreement prior to the date of termination or from Fraud; provided, that, notwithstanding any other provision set forth in this Agreement, except in the case of Fraud, neither the Investor on the one hand, nor Parent and the Company on the other hand, shall have any such liability in excess of the Purchase Price.

Section 7.03 Survival. All of the covenants or other agreements of the parties hereto contained in this Agreement that by their terms are to be performed following the Closing (including, for the avoidance of doubt, Sections 5.02 through 5.14, Sections 5.16 through 5.21, this Section 7.03, and Article VIII (and any related definitions used therein)) shall survive the Closing until fully performed or fulfilled (or if there is no date by which such covenants or other agreements are to be fully performed or fulfilled, until such time as the Investor Parties no longer own any Parent Common Stock or Series A Preferred Stock). The representations and warranties made herein (and any related definitions used therein) shall survive for one (1) year following the Closing Date and shall then expire; provided, that with respect to any Action commenced within one (1) year following the Closing Date that is based on an allegation of inaccuracy or breach of a representation or warranty, such representation or warranty shall survive until such Action is finally resolved. For the avoidance of doubt, any claim may be made with respect to the breach of any representation, warranty or covenant only until the applicable survival period therefor as described above expires. No party hereto shall have any liability to any other party for any punitive, incidental, consequential, special or indirect damages, or any damages based on any type of multiple, other than to the extent (i) they are awarded to any unaffiliated third party or (ii) solely in respect of incidental and consequential damages, to the extent they are in each case a reasonably foreseeable consequence of the matter giving rise thereto; provided, that nothing in this Section 7.03 or elsewhere in this Agreement shall constitute a waiver of any claim for Fraud.

ARTICLE VIII
MISCELLANEOUS

Section 8.01 Amendments; Waivers. Subject to compliance with applicable Law, this Agreement may be amended or supplemented in any and all respects only by written agreement of the parties hereto.

Section 8.02 Extension of Time, Waiver, Etc. Parent (on behalf of itself and the Company) and the Investor may, subject to applicable Law and pursuant to a written instrument delivered by such party, (a) waive any inaccuracies in the representations and warranties of the other party contained herein or in any document delivered pursuant hereto, (b) extend the time for the performance of any of the obligations or acts of the other party or (c) waive compliance by the other party with any of the agreements contained herein applicable to such party or, except as otherwise provided herein, waive any of such party's conditions. Notwithstanding the foregoing, no failure or delay by Parent (on behalf of itself and the Company) or an Investor Party in exercising any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right hereunder. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party.

Section 8.03 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned, in whole or in part, by operation of Law or otherwise, by any of the parties hereto without the prior written consent of the other party hereto; provided, however, that (a) Hill City, the Investor or any Investor Party may assign its rights, interests and obligations under this Agreement, in whole or in part (including, without limitation, the right to purchase the Acquired Shares at the Closing in accordance with Section 2.02), to one or more Permitted Transferees, or as otherwise contemplated by Section 5.08, and (b) in the event of such assignment, the assignee shall agree in writing to be bound by the provisions of this Agreement, including the rights, interests and obligations so assigned; provided, that no such assignment will relieve any Investor Party of its obligations hereunder at or prior to the Closing (except at the Closing to the extent that a portion of the Purchase Price is paid by any such assignee); provided, further, that no party hereto shall assign any of its obligations hereunder with the primary intent of avoiding, circumventing or eliminating such party's obligations hereunder. Subject to the immediately preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and permitted assigns.

Section 8.04 Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile or electronic mail), each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other parties hereto.

Section 8.05 Entire Agreement; Third Party Beneficiaries; No Recourse.

(a) This Agreement, including the Parent Disclosure Letter, together with the Confidentiality Agreement and the other Transaction Documents, constitutes the entire agreement, and supersedes all other prior agreements and understandings, both written and oral, among the parties hereto and their Affiliates, or any of them, with respect to the subject matter hereof and thereof.

(b) No provision of this Agreement shall confer upon any Person other than the parties hereto and their permitted assigns any rights or remedies hereunder, except (i) as set forth in Section 5.10(i) with respect to any Director Indemnitee and as set forth in Section 8.05(c) and (ii) that the Non-Recourse Parties shall be third party beneficiaries of this Section 8.05(b). This Agreement may only be enforced against, and any claims or causes of action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement may only be made against the entities that are expressly identified as parties hereto, including entities that become parties hereto after the date of this Agreement or that agree in writing for the benefit of the Company to be bound by the terms of this Agreement applicable to the Investor Parties, and no former, current or future equityholders, controlling persons, directors, officers, employees, general or limited partner, member, manager, advisor, agents, successors, assigns or Affiliates of any party hereto or any former, current or future equityholder, controlling person, director, officer, employee, general or limited partner, member, manager, advisor, agent successors, assigns or Affiliate of any of the foregoing (each, a "Non-Recourse Party") shall have any liability for any obligations or liabilities of the parties to this Agreement or for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the transactions contemplated hereby or in respect of any representations (whether written or oral) made or alleged to be made in connection herewith, and no personal liability shall attach to, be imposed upon or otherwise be incurred by the Non-Recourse Parties through the Investor or otherwise, whether by or through attempted piercing of the corporate (or partnership or limited liability company) veil, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or applicable Law, or otherwise, except for Parent's rights under each of the Confidentiality Agreement and the Equity Commitment Letter, each, subject to and in accordance with its terms. Without limiting the rights of any party against the other parties hereto, in no event shall any party hereto or any of its Affiliates seek to enforce this Agreement against, make any claims for breach of this Agreement against, or seek to recover monetary damages from, any Non-Recourse Party.

(c) Notwithstanding anything to the contrary in this Section 8.05, the Holders from time to time shall be third party beneficiaries of Section 5.21 and Parent's obligations thereunder.

Section 8.06 Governing Law; Jurisdiction.

(a) This Agreement and all matters, claims or Actions (whether at law, in equity, in Contract, in tort or otherwise) based upon, arising out of or relating to this Agreement or the negotiation, execution or performance of this Agreement, shall be governed by, and construed in accordance with, the laws of the State of Delaware applicable to contracts executed in and to be performed entirely within that State, regardless of the laws that might otherwise govern under any applicable conflict of Laws principles.

(b) All Actions arising out of or relating to this Agreement shall be heard and determined in the Chancery Court of the State of Delaware (or, if the Chancery Court of the State of Delaware declines to accept jurisdiction over any Action, any state or federal court within the State of Delaware) and the parties hereto hereby irrevocably submit to the exclusive jurisdiction and venue of such courts in any such Action and irrevocably waive the defense of an inconvenient forum or lack of jurisdiction to the maintenance of any such Action. The consents to jurisdiction and venue set forth in this Section 8.06 shall not constitute general consents to service of process in the State of Delaware and shall have no effect for any purpose except as provided in this Section 8.06(b) and shall not be deemed to confer rights on any Person other than the parties hereto. Each party hereto agrees that service of process upon such party in any Action arising out of or relating to this Agreement shall be effective if notice is given by overnight courier at the address set forth in Section 8.09 of this Agreement. The parties hereto agree that a final judgment in any such Action shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law; provided, that nothing in the foregoing shall restrict any party's rights to seek any post-judgment relief regarding, or any appeal from, a final trial court judgment.

Section 8.07 Specific Enforcement. The parties hereto agree that irreparable damage for which monetary relief, even if available, would not be an adequate remedy, would occur in the event that any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached, including if the parties hereto fail to take any action required of them hereunder to cause the Closing to occur. The parties hereto acknowledge and agree that (a) the parties hereto shall be entitled to an injunction or injunctions, specific performance or other equitable relief to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof (including, for the avoidance of doubt, the right of the Company to specifically enforce the obligation of Investor to cause the Equity Commitment (as defined in the Equity Commitment Letter) to be funded and the Purchase to be consummated on the terms and subject to the conditions set forth in this Agreement) in the courts described in Section 8.06 without proof of damages or otherwise (in each case, subject to the terms and conditions of this Section 8.07), this being in addition to any other remedy to which they are entitled under this Agreement and (b) the right of specific enforcement is an integral part of the Transactions and without that right, none of Parent, the Company or the Investor would have entered into this Agreement. The parties hereto agree not to assert that a remedy of specific enforcement is unenforceable, invalid, contrary to Law or inequitable for any reason, and agree not to assert that a remedy of monetary damages would provide an adequate remedy or that the parties otherwise have an adequate remedy at Law. The parties hereto acknowledge and agree that any party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 8.07 shall not be required to provide any bond or other security in connection with any such order or injunction.

Section 8.08 WAIVER OF JURY TRIAL. EACH PARTY HERETO ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE IT HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY OF THE AGREEMENTS DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (a) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ACTION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF SUCH WAIVER, (c) IT MAKES SUCH WAIVER VOLUNTARILY AND (d) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 8.08.

Section 8.09 Notices. All notices, requests and other communications to any party hereunder shall be in writing and shall be deemed given if delivered personally, emailed (which is confirmed) or sent by overnight courier (providing proof of delivery) to the parties at the following addresses:

(a) If to Parent or the Company, at:

Shenandoah Telecommunication Company
500 Shentel Way
Edinburg, Virginia 22824
Attention: General Counsel
Email: [***]

with a copy (which shall not constitute notice) to:

Hunton Andrews Kurth LLP
Address: 951 East Byrd Street
Richmond, VA 23219
Attention: Steven M. Haas
Email: shaas@huntonak.com

600 Travis Street
Suite 4200
Houston, TX 77002
Attention: J.A. Glaccum
Email: j.a.glaccum@huntonak.com

(b) If to the Investor or any Investor Party, at:

ECP Fiber Holdings, LP
40 Beechwood Road
Summit, NJ 07901
Attention: [***]
Email: [***]

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
1271 Avenue of the Americas
New York, New York 10020
Attention: David A. Kurzweil
Richard R. Quay
Email: david.kurzweil@lw.com
richard.quay@lw.com

or such other address or email address as such party may hereafter specify by like notice to the other parties hereto. All such notices, requests and other communications shall be deemed received on the date of actual receipt by the recipient thereof if received prior to 5:00 p.m. local time in the place of receipt and such day is a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed not to have been received until the next succeeding Business Day in the place of receipt.

Section 8.10 Severability. If any term, condition or other provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other terms, provisions and conditions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term, condition or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable Law.

Section 8.11 Expenses. Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement and the Transactions shall be paid by the party incurring such costs and expenses, whether or not the Closing shall have occurred.

Section 8.12 Interpretation. (a) When a reference is made in this Agreement to an Article, a Section, Exhibit or Schedule, such reference shall be to an Article of, a Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation". The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement unless the context requires otherwise. The terms "or", "any" and "either" are not exclusive. The word "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The word "will" shall be construed to have the same meaning and effect as the word "shall". The words "made available to the Investor" and words of similar import refer to documents or materials delivered in Person or electronically to an Investor Party or its Representatives in each case no later than 11:59 p.m. New York local time two (2) Business Days prior to the date of this Agreement. The phrase "ordinary course of business" shall be deemed followed by the phrase "consistent with past practice". All accounting terms used and not defined herein shall have the respective meanings given to them under GAAP. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such term. Any agreement, instrument or Law defined or referred to herein or in any agreement or instrument that is referred to herein means such agreement, instrument or Law as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of Laws) by succession of comparable successor Laws (and the rules and regulations promulgated thereunder from time to time) and references to all attachments thereto and instruments incorporated therein. Unless otherwise specifically indicated, all references to "dollars" or "$" shall refer to the lawful money of the United States. References to a Person are also to its permitted assigns and successors. When calculating the period of time between which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded (and unless, otherwise required by Law, if the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day).

(b) The parties hereto have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any provision of this Agreement.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered as of the date first above written.

COMPANY:

SHENTEL BROADBAND HOLDING INC.

By: /s/ Christopher E. French
Name: Christopher E. French
Title: President and Chief Executive Officer

PARENT:

SHENANDOAH TELECOMMUNICATIONS COMPANY

By: /s/ Christopher E. French
Name: Christopher E. French
Title: President and Chief Executive Officer

INVESTOR:

ECP FIBER HOLDINGS, LP

By: ECP Fiber Holdings GP, LLC,
its General Partner

By: /s/ Matthew DeNichilo
Name: Matthew DeNichilo
Title: Chief Executive Officer

HILL CITY, solely for purposes of Sections 5.02, 5.04, 5.05, 5.07, 5.10, 5.11, 5.12(e), 5.14, 5.16, 5.17, 5.18 and Article VIII:

HILL CITY HOLDINGS, LP

By: Hill City Holdings GP, LLC, its General Partner

By: /s/ Matthew DeNichilo
Name: Matthew DeNichilo
Title: Authorized Signatory

EXHIBIT A

Shentel Broadband Holding Inc.

Certificate of Designations

Series A Participating Exchangeable Perpetual Preferred Stock

[*execution date*]

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Certificate of Designations

Series A Participating Exchangeable Perpetual Preferred Stock

On [*board approval date*], the Board of Directors of Shentel Broadband Holding Inc., a Delaware corporation (the "**Company**"), adopted the following resolution designating and creating, out of the authorized and unissued shares of preferred stock of the Company, 100,000 authorized shares of a series of preferred stock of the Company titled the "Series A Participating Exchangeable Perpetual Preferred Stock":

RESOLVED that, pursuant to the Certificate of Incorporation, the Bylaws and applicable law, a series of preferred stock of the Company titled the "Series A Participating Exchangeable Perpetual Preferred Stock," and having a par value of $0.01 per share and an initial number of authorized shares equal to 100,000 is hereby designated and created out of the authorized and unissued shares of preferred stock of the Company, which series has the rights, designations, preferences, voting powers and other provisions set forth below:

Section 1. DEFINITIONS.

"**Affiliate**" has the meaning set forth in Rule 144.

"**Bankruptcy Law**" means Title 11, United States Code, or any similar U.S. federal or state or non-U.S. law for the relief of debtors.

"**Board of Directors**" means the board of directors of the Company or the Parent, as the context requires, or a committee of such board duly authorized to act on behalf of such board.

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

"**Capital Stock**" of any Person means any and all shares of, interests in, rights to purchase, warrants or options for, participations in, or other equivalents of, in each case however designated, the equity of such Person, but excluding any debt securities convertible into, or exchangeable for, such equity.

"**Certificate**" means a Physical Certificate or an Electronic Certificate.

"**Certificate of Designations**" means this Certificate of Designations, as amended or supplemented from time to time.

"**Certificate of Incorporation**" means the Company's Certificate of Incorporation, as the same may be amended, supplemented or restated.

"**Close of Business**" means 5:00 p.m., New York City time.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Company**" has the meaning set forth in the Preamble.

"**Company Common Stock**" means the common stock, $0.01 par value per share, of the Company, or any other common equity for or into which such common stock is exchanged, converted or reclassified following the Initial Issue Date.

"**Company Common Stock Participating Dividend**" has the meaning set forth in **Section 5(b)(i)**.

"**Company Participating Dividend**" has the meaning set forth in **Section 5(b)(i)**.

"**Dividend**" means any Regular Dividend or Company Participating Dividend.

"**Dividend Junior Stock**" means any class or series of the Company's stock whose terms do not expressly provide that such class or series will rank senior to, or equally with, the Exchangeable Preferred Stock with respect to the payment of dividends (without regard to whether dividends accumulate cumulatively). Dividend Junior Stock includes the Parent Common Stock. Dividend Junior Stock will not include any securities of the Company's Subsidiaries.

"**Dividend Parity Stock**" means any class or series of the Company's stock (other than the Exchangeable Preferred Stock) whose terms expressly provide that such class or series will rank equally with the Exchangeable Preferred Stock with respect to the payment of dividends (without regard to whether dividends accumulate cumulatively). Dividend Parity Stock will not include any securities of the Company's Subsidiaries.

"**Dividend Payment Date**" means each Regular Dividend Payment Date with respect to a Regular Dividend and each date on which any declared Company Participating Dividend is scheduled to be paid on the Exchangeable Preferred Stock.

"**Dividend Senior Stock**" means any class or series of the Company's stock whose terms expressly provide that such class or series will rank senior to the Exchangeable Preferred Stock with respect to the payment of dividends (without regard to whether dividends accumulate cumulatively). Dividend Senior Stock will not include any securities of the Company's Subsidiaries.

"**Electronic Certificate**" means any electronic book entry maintained by the Registrar or by the Transfer Agent that represents any share(s) of Exchangeable Preferred Stock.

"**Ex-Dividend Date**" means, with respect to an issuance, dividend or distribution on the Parent Common Stock, the first date on which shares of Parent Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). Any alternative trading convention on the applicable exchange or market in respect of the Parent Common Stock under a separate ticker symbol or CUSIP number will not be considered "regular way" for this purpose.

"**Exchange**" means the exchange of any Exchangeable Preferred Stock pursuant to **Section 10**. The terms "**Exchangeable**" and "**Exchangeability**," and similar terms, have meanings correlative to the foregoing.

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended.

"**Exchange Agent**" has the meaning set forth in **Section 3(f)(i)**.

"**Exchange Consideration**" means, with respect to the Exchange of any Exchangeable Preferred Stock, the type and amount of consideration payable to settle such Exchange, determined in accordance with **Section 10**.

"**Exchange Date**" means an Optional Exchange Date or a Mandatory Exchange Date.

"**Exchange Limitation**" means the restrictions set forth in the provisos to the second sentence of **Section 5(a)(iii)(1)**.

"**Exchange Price**" initially means $24.50 per share of Parent Common Stock; *provided*, *however*, that the Exchange Price is subject to adjustment pursuant to **Sections 10(f)** and **10(g)**. Each reference in this Certificate of Designations or the Exchangeable Preferred Stock to the Exchange Price as of a particular date without setting forth a particular time on such date will be deemed to be a reference to the Exchange Price immediately before the Close of Business on such date..

"**Exchange Share**" means any share of Parent Common Stock issued or issuable upon Exchange of any Exchangeable Preferred Stock.

"**Exchangeable Preferred Stock**" has the meaning set forth in **Section 3(a)**.

"**Existing Credit Agreement**" means the Credit Agreement, dated as of July 1, 2021, by and among Parent (as the Borrower), the Guarantors party thereto from time to time, the Lenders party thereto from time to time and CoBank ACB, in its capacity as the Administrative Agent and as an Issuing Lender and Swing Line Lender, and each of Bank of America, N.A., Citizens Bank, N.A., Fifth Third Bank, National Association and Truist Securities, Inc. as Joint Lead Arrangers, as amended by Amendment No. 1 to Credit Agreement, dated as of May 17, 2023 and Consent and Amendment No. 2 to Credit Agreement, dated as of October 24, 2023.

"**Expiration Date**" has the meaning set forth in **Section 10(f)(i)(2)**.

"**Expiration Time**" has the meaning set forth in **Section 10(f)(i)(2)**.

"**Fundamental Change**" means any of the following events:

(a) a "person" or "group" (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company or its Wholly Owned Subsidiaries, or their respective employee benefit plans, files any report with the SEC indicating that such person or group has become the direct or indirect "beneficial owner" (as defined below) of shares of the Company's common equity representing more than fifty percent (50%) of the voting power of all of the Company's then-outstanding common equity;

(b) the consummation of (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Parent Common Stock is exchanged for, converted into, acquired for, or constitutes solely the right to receive, other securities, cash or other property; *provided*, *however*, that any merger, consolidation, share exchange or combination of the Company pursuant to which the Persons that directly or indirectly "beneficially owned" (as defined below) all classes of the Company's common equity immediately before such transaction directly or indirectly "beneficially own," immediately after such transaction, more than fifty percent (50%) of all classes of common equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Fundamental Change pursuant to this **clause (b)**;

(c) the Parent Common Stock ceases to be listed on at least one of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors); or

(d) the Parent ceasing to own all of the common equity and voting power of the Company (it being understood that the Exchangeable Preferred Stock will not be considered as conferring voting power for these purposes);

For the purposes of this definition, (x) any transaction or event described in both **clause (a)** and in **clause (b)(i)** or **(ii)** above (without regard to the proviso in **clause (b)**) will be deemed to occur solely pursuant to **clause (b)** above (subject to such proviso); and (y) whether a Person is a "**beneficial owner**" and whether shares are "**beneficially owned**" will be determined in accordance with Rule 13d-3 under the Exchange Act.

"**Fundamental Change Notice**" has the meaning set forth in **Section 8(e)**.

"**Fundamental Change Repurchase Date**" means the date fixed, pursuant to **Section 8(c)**, for the repurchase of any Exchangeable Preferred Stock by the Company pursuant to a Repurchase Upon Fundamental Change.

"**Fundamental Change Repurchase Notice**" means a notice (including a notice substantially in the form of the "Fundamental Change Repurchase Notice" set forth in **Exhibit A**) containing the information, or otherwise complying with the requirements, set forth in **Section 8(f)(i)** and **Section 8(f)(ii)**.

"**Fundamental Change Repurchase Price**" means the cash price payable by the Company to repurchase any share of Exchangeable Preferred Stock upon its Repurchase Upon Fundamental Change, calculated pursuant to **Section 8(d)**.

"**Fundamental Change Repurchase Right**" has the meaning set forth in **Section 8(a)**.

"**Holder**" means a person in whose name any Exchangeable Preferred Stock is registered on the Registrar's books.

"**Initial Issue Date**" means [*closing date*].

"**Initial Liquidation Preference**" means one thousand dollars ($1,000) per share of Exchangeable Preferred Stock.

"**Investment Agreement**" means the Investment Agreement, dated as of October 24, 2023, among the Company, the Parent, Investor named therein and Hill City Holdings, LP.

"**Last Reported Sale Price**" of the Parent Common Stock for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per share) of the Parent Common Stock on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Parent Common Stock is then listed. If the Parent Common Stock is not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per share of Parent Common Stock on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Parent Common Stock is not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per share of Parent Common Stock on such Trading Day from each of at least three nationally recognized independent investment banking firms the Company selects.

"**Liquidation Junior Stock**" means any class or series of the Company's stock whose terms do not expressly provide that such class or series will rank senior to, or equally with, the Exchangeable Preferred Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up. Liquidation Junior Stock includes the Parent Common Stock. Liquidation Junior Stock will not include any securities of the Company's Subsidiaries.

"**Liquidation Parity Stock**" means any class or series of the Company's stock (other than the Exchangeable Preferred Stock) whose terms expressly provide that such class or series will rank equally with the Exchangeable Preferred Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up. Liquidation Parity Stock will not include any securities of the Company's Subsidiaries.

"**Liquidation Preference**" means, with respect to the Exchangeable Preferred Stock, an amount initially equal to the Initial Liquidation Preference per share of Exchangeable Preferred Stock; *provided*, *however*, that the Liquidation Preference is subject to adjustment pursuant to **Sections 5(a)(iii)(1)** and **10(e)(i)**. All adjustments to the Liquidation Preference will be will be made to the nearest cent (with half of one cent rounded upward).

"**Liquidation Senior Stock**" means any class or series of the Company's stock whose terms expressly provide that such class or series will rank senior to the Exchangeable Preferred Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up. Liquidation Senior Stock will not include any securities of the Company's Subsidiaries.

"**Mandatory Exchange**" has the meaning set forth in **Section 10(c)(i)**.

"**Mandatory Exchange Date**" means an Exchange Date designated with respect to any Exchangeable Preferred Stock pursuant to **Section 10(c)(i)** and **10(c)(iii)**.

"**Mandatory Exchange Notice**" has the meaning set forth in **Section 10(c)(iv)**.

"**Mandatory Exchange Notice Date**" means, with respect to a Mandatory Exchange, the date on which the Company sends the Mandatory Exchange Notice for such Mandatory Exchange pursuant to **Section 10(c)(iv)**.

"**Mandatory Exchange Right**" has the meaning set forth in **Section 10(c)(i)**.

"**Mandatory Exchange Trigger Date**" means the date that is two (2) years after the Initial Issue Date (or, if such date is not a Business Day, the next Business Day).

"**Market Disruption Event**" means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Parent Common Stock is listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Parent Common Stock or in any options contracts or futures contracts relating to the Parent Common Stock.

"**Officer**" means the Chairman of the Board of Directors of the Company or the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of the Company.

"**Open of Business**" means 9:00 a.m., New York City time.

"**Optional Exchange**" means the Exchange of any Exchangeable Preferred Stock other than a Mandatory Exchange.

"**Optional Exchange Date**" means, with respect to the Optional Exchange of any Exchangeable Preferred Stock, the first Business Day on which the requirements set forth in **Section 10(d)(ii)** for such Exchange are satisfied.

"**Optional Exchange Notice**" means a notice substantially in the form of the "Optional Exchange Notice" set forth in **Exhibit A**.

"**Ownership Limitation**" has the meaning set forth in **Section 10(h)(i)**.

"**Parent**" means Shenandoah Telecommunications Company, a Virginia corporation; *provided*, *however*, that upon the occurrence of a Parent Common Stock Change Event whose reference property includes any security of any Person, the term "Parent" will thereafter refer to the issuer of such security.

A "**Parent Board Nominee Failure**" will be deemed to occur on any day after the date of the Parent's 2024 annual stockholders meeting, if (a) the Parent's stockholders fail to approve, at such meeting, an amendment to the Parent's Amended and Restated Articles of Incorporation to increase the size of the Parent's board of directors by one member; and (b) the Investor Designee (as defined in the Investment Agreement) is not a member of the Parent's board of directors, other than as a result of the Investor Designee's (i) failure to qualify as an independent director pursuant to applicable listing standards, SEC rules and publicly disclosed standards used by the Parent's board of directors in determining the independence of the members of the Parent's board of directors; (ii) failure to satisfy all other qualifications required for service as a director under the Parent's bylaws and corporate governance guidelines; (iii) failure to be subject to the same guidelines and policies applicable to the members of the Parent's board of directors; or (iv) failure to receive the requisite vote, by the Parent's stockholders, for election to the Parent's board of directors; *provided*, *however*, that neither an Investor Designee's relationship with the Investor Parties (as defined in the Investment Agreement) or their Affiliates (or any other actual or potential lack of independence resulting therefrom) nor the ownership by the Investor Parties of any shares of Exchangeable Preferred Stock or shares of Parent Common Stock, including those issuable upon exchange of any Exchangeable Preferred Stock, shall, in and of itself, be considered to disqualify such Investor Designee from becoming a member of the Board pursuant to the foregoing **clauses (i) – (iii)**.

"**Parent Common Stock**" means the common stock, no par value, of the Parent, subject to **Section 10(i)**.

"**Parent Common Stock Change Event**" has the meaning set forth in **Section 10(i)(i)**.

"**Parent Common Stock Equivalent Percentage**" means, with respect to any Holder as of any date, a fraction, expressed as a percentage, (a) whose numerator is the total number of shares of Parent Common Stock issuable upon Exchange of all Exchangeable Preferred Stock held by such Holder as of such date (calculated, for these purposes, (x) assuming that all such Exchangeable Preferred Stock of such Holder were Exchanged with an Exchange Date occurring on such date; and (y) without regard to **clause (B)** of the proviso to **Section 10(e)(i)** or to **Section 10(e)(ii)** or **Section 10(h)(i)**); and (b) whose denominator is the sum of (i) the total number of shares of Parent Common Stock outstanding as of such date; and (ii) the total number of shares of Parent Common Stock issuable upon Exchange of all Exchangeable Preferred Stock outstanding as of such date (calculated, for these purposes, (x) assuming that all such Exchangeable Preferred Stock were Exchanged with an Exchange Date occurring on such date; and (y) without regard to **clause (B)** of the proviso to **Section 10(e)(i)** or to **Section 10(e)(ii)** or **Section 10(h)(i)**).

"**Parent Common Stock Liquidity Conditions**" will be satisfied with respect to a Mandatory Exchange or Redemption if:

(a) either (i) both of the following conditions are satisfied: (1) each share of Parent Common Stock to be issued upon such Mandatory Exchange of any share of Exchangeable Preferred Stock or that may be issued upon Exchange of any share of Exchangeable Preferred Stock that is subject to such Redemption would be eligible to be offered, sold or otherwise transferred by the Holder of such share of Exchangeable Preferred Stock pursuant to Rule 144 under the Securities Act (or any successor rule thereto), without any requirements as to volume, manner of sale, availability of current public information (regardless of whether then satisfied) or notice; and (2) such Holder is not in possession of any material non-public information provided by or on behalf of the Company, and the Company covenants not to (directly or on its behalf) provide such Holder with any material non-public information at any time during the period from, and including, the date the related Mandatory Exchange Notice or Redemption Notice Date, as applicable, is sent to, and including, the sixtieth (60th) Trading Day after the date such share of Parent Common Stock is issued; or (ii) the offer and sale of such share of Parent Common Stock by such Holder are registered pursuant to an effective registration statement under the Securities Act and such registration statement is reasonably expected by the Company to remain effective and usable, by the Holder to sell such share of Parent Common Stock, continuously during the period from, and including, the date the related Mandatory Exchange Notice or Redemption Notice Date, as applicable, is sent to, and including, the sixtieth (60th) Trading Day after the date such share of Parent Common Stock is issued;

(b) each share of Parent Common Stock referred to in **clause (a)** above (i) will, when issued (or, in the case of **clause (a)(i)(2)**, when sold or otherwise transferred pursuant to the registration statement referred to in such **clause**), (1) be admitted for book-entry settlement through The Depository Trust Company with an "unrestricted" CUSIP number; and (2) not be represented by any certificate that bears a legend referring to transfer restrictions under the Securities Act or other securities laws; and (ii) will, when issued, be listed and admitted for trading, without suspension or material limitation on trading, on any of The New York Stock Exchange, The NASDAQ Global Market or The NASDAQ Global Select Market (or any of their respective successors);

(c) (i) the Company has not received any written notice of delisting or suspension by the applicable exchange referred to in **clause (b)(ii)** above with a reasonable prospect of delisting, after giving effect to all applicable notice and appeal periods; and (ii) no such delisting or suspension is reasonably likely to occur or is pending based on the Company falling below the minimum listing maintenance requirements of such exchange;

(d) on the date on which the related Mandatory Exchange Notice or Redemption Notice, as applicable, is sent, the average daily volume of trading in the Parent Common Stock over the prior thirty (30) Trading Days multiplied by five (5) exceeds nine tenths of one percent (0.90%) of the number of shares of Parent Common Stock then outstanding; and

(e) the Exchange of all shares of Exchangeable Preferred Stock pursuant to such Mandatory Exchange or that are subject to such Redemption, as applicable, would not be limited or otherwise restricted by **Section 10(h)**.

"**Paying Agent**" has the meaning set forth in **Section 3(f)(i)**.

"**Paid-in-Kind Dividend**" has the meaning set forth in **Section 5(a)(iii)(1)**.

"**Person**" or "**person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate "person" under this Certificate of Designations.

"**Physical Certificate**" means any certificate (other than an Electronic Certificate) representing any share(s) of Exchangeable Preferred Stock, which certificate is substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such share(s) and duly executed by the Company.

"**Realized Return Amount**" means, with respect to any share of Exchangeable Preferred Stock as of any day (such day being referred to as the "reference day" for purposes of this definition), the sum of all Dividend payments paid in cash (excluding all Paid-in-Kind Dividends) on such share on or before such day; *provided*, *however*, that if such reference day is after a Regular Dividend Record Date for a Regular Dividend on the Exchangeable Preferred Stock that has been declared for payment in cash and on or before the next Regular Dividend Payment Date, then (a) there will be added, to the Realized Return Amount for such share, an amount equal to the amount so declared for payment in cash on such share; and (b) pursuant to **Section 5(c)** and the proviso to the first sentence of **Section 8(d)**, the amount so declared for payment in cash on such share will be paid on or, at the Company's election, before such Regular Dividend Payment Date, to the Holder of such share as of the Close of Business on such Regular Dividend Record Date.

"**Record Date**" means, with respect to any dividend or distribution on, or issuance to holders of, Exchangeable Preferred Stock or Parent Common Stock, the date fixed (whether by law, contract or the Board of Directors of the Company or the Parent, as applicable, or otherwise) to determine the Holders or the holders of Parent Common Stock, as applicable, that are entitled to such dividend, distribution or issuance.

"**Redemption**" means the repurchase of any Exchangeable Preferred Stock by the Company pursuant to **Section 7**.

"**Redemption Date**" means the date fixed, pursuant to **Section 7(d)**, for the settlement of the Redemption of the Exchangeable Preferred Stock by the Company pursuant to a Redemption.

"**Redemption Notice**" has the meaning set forth in **Section 7(f)**.

"**Redemption Notice Date**" means, with respect to a Redemption of the Exchangeable Preferred Stock, the date on which the Company sends the related Redemption Notice pursuant to **Section 7(f)**.

"**Redemption Price**" means the consideration payable by the Company to repurchase any Exchangeable Preferred Stock upon its Redemption, calculated pursuant to **Section 7(e)**.

"**Redemption Trigger Date**" means the date that is five (5) years after the Initial Issue Date (or, if such date is not a Business Day, the next Business Day).

"**Reference Property**" has the meaning set forth in **Section 10(i)(i)**.

"**Reference Property Unit**" has the meaning set forth in **Section 10(i)(i)**.

"**Register**" has the meaning set forth in **Section 3(f)(ii)**.

"**Registrar**" has the meaning set forth in **Section 3(f)(i)**.

"**Registration Rights Agreement**" means the Registration Rights Agreement, dated as of [*closing date*], among the Company, the Parent and the Investors named therein.

"**Regular Dividend**" has the meaning set forth in **Section 5(a)(i)**.

"**Regular Dividend Payment Date**" means, with respect to any share of Exchangeable Preferred Stock, each January 15, April 15, July 15 and October 15 of each year, beginning on the first of the aforementioned dates occurring after the Initial Issue Date (or beginning on such other date specified in the Certificate representing such share).

"**Regular Dividend Period**" means each period from, and including, a Regular Dividend Payment Date (or, in the case of the first Regular Dividend Period, from, and including, the Initial Issue Date) to, but excluding, the next Regular Dividend Payment Date.

"**Regular Dividend Rate**" has the following meaning: (i) in respect of the accumulation of any dividends during the period from, and including, the Initial Issue Date to, but excluding, the date that is five (5) years after the Initial Issue Date, a rate equal to seven percent (7%) per annum; (ii) in respect of the accumulation of any dividends during the period from, and including, the date that is five (5) years after the Initial Issue Date to, but excluding, the date that is seven (7) years after the Initial Issue Date that are paid in the form of Paid-in-Kind Dividends, a rate equal to eight and one half percent (8.5%) per annum; and (iii) in respect of the accumulation of any dividends during any period from, and after, the date that is seven (7) years after the Initial Issue Date that are paid in the form of Paid-in-Kind Dividends, a rate equal to ten percent (10%) per annum. Notwithstanding anything to the contrary in the preceding sentence, on any day on which a Parent Board Nominee Failure has occurred and is continuing, the Regular Dividend Rate applicable to such day will be the sum of (x) the Regular Dividend Rate otherwise applicable in accordance with the preceding sentence; and (y) one hundred (100) basis points.

"**Regular Dividend Record Date**" has the following meaning: (a) January 1, in the case of a Regular Dividend Payment Date occurring on January 15; (b) April 1, in the case of a Regular Dividend Payment Date occurring on April 15; (c) July 1, in the case of a Regular Dividend Payment Date occurring on July 15; and (d) October 1, in the case of a Regular Dividend Payment Date occurring on October 15.

"**Repurchase Upon Fundamental Change**" means the repurchase of any Exchangeable Preferred Stock by the Company pursuant to **Section 8**.

"**Requisite 5635(a) Stockholder Approval**" means the stockholder approval contemplated by NASDAQ Listing Standard Rule 5635(a) with respect to the issuance of shares of Parent Common Stock upon Exchange of the Exchangeable Preferred Stock in excess of the limitations imposed by such rule; *provided*, *however*, that the Requisite 5635(a) Stockholder Approval will be deemed to be obtained if, due to any amendment or binding change in the interpretation of the applicable listing standards of The NASDAQ Global Select Market, such stockholder approval is no longer required for the Company to settle all Exchanges of the Exchangeable Preferred Stock in shares of Parent Common Stock without regard to **Section 10(h)**.

"**Requisite 5635(b) Stockholder Approval**" means the stockholder approval contemplated by NASDAQ Listing Standard Rule 5635(b) with respect to the issuance of shares of Parent Common Stock upon Exchange of the Exchangeable Preferred Stock in excess of the limitations imposed by such rule; *provided*, *however*, that the Requisite 5635(b) Stockholder Approval will be deemed to be obtained if, due to any amendment or binding change in the interpretation of the applicable listing standards of The NASDAQ Global Select Market, such stockholder approval is no longer required for the Company to settle all Exchanges of the Exchangeable Preferred Stock in shares of Parent Common Stock without regard to **Section 10(h)**.

"**Resale Registration Statement**" has the meaning ascribed to "General Resale Registration Statement" in the Registration Rights Agreement.

"**Restricted Stock Legend**" means a legend substantially in the form set forth in **Exhibit B**.

"**Rule 144**" means Rule 144 under the Securities Act (or any successor rule thereto), as the same may be amended from time to time.

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

"**Securities Act**" means the U.S. Securities Act of 1933, as amended.

"**Security**" means any Exchangeable Preferred Stock or Exchange Share.

"**Share Agent**" means the Transfer Agent or any Registrar, Paying Agent or Exchange Agent.

"**Subsidiary**" means, with respect to any Person, (a) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than 50% of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (b) any partnership or limited liability company where (x) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise; and (y) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

"**Successor Person**" has the meaning set forth in **Section 10(i)(iii)**.

"**Target Return Repurchase Amount**" means, with respect to share of Exchangeable Preferred Stock, as of any day, the excess, if any, of (a) one thousand three hundred and fifty dollars ($1,350) over (b) the Realized Return Amount of such share on such day.

"**Tender/Exchange Offer Valuation Period**" has the meaning set forth in **Section 10(f)(i)(2)**.

"**Total Net Leverage Ratio**" has the meaning set forth for such term in the Existing Credit Agreement.

"**Trading Day**" means any day on which (a) trading in the Parent Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Parent Common Stock is then listed or, if the Parent Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Parent Common Stock is then traded; and (b) there is no Market Disruption Event. If the Parent Common Stock is not so listed or traded, then "Trading Day" means a Business Day.

"**Transfer Agent**" means the Company or any successor transfer agent for the Exchangeable Preferred Stock.

"**Transfer-Restricted Security**" means any Security that constitutes a "restricted security" (as defined in Rule 144); *provided*, *however*, that such Security will cease to be a Transfer-Restricted Security upon the earliest to occur of the following events:

(a) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to a registration statement that was effective under the Securities Act at the time of such sale or transfer;

(b) such Security is sold or otherwise transferred to a Person (other than the Company or an Affiliate of the Company) pursuant to an available exemption (including Rule 144) from the registration and prospectus-delivery requirements of, or in a transaction not subject to, the Securities Act and, immediately after such sale or transfer, such Security ceases to constitute a "restricted security" (as defined in Rule 144); and

(c) (i) such Security is eligible for resale, by a Person that is not an Affiliate of the Company and that has not been an Affiliate of the Company during the immediately preceding three (3) months, pursuant to Rule 144 without any limitations thereunder as to volume, manner of sale, availability of current public information or notice; and (ii) the Company has received such certificates or other documentation or evidence as the Company may reasonably require to determine that the Holder, holder or beneficial owner of such Security is not, and that has not been during the immediately preceding three (3) months, an Affiliate of the Company.

"**Voting Parity Stock**" means, with respect to any matter as to which Holders are entitled to vote pursuant to **Section 9(b)**, each class or series of outstanding Dividend Parity Stock or Liquidation Parity Stock, if any, upon which similar voting rights are conferred and are exercisable with respect to such matter. Voting Parity Stock will not include any securities of the Company's Subsidiaries.

"**Wholly Owned Subsidiary**" of a Person means any Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

Section 2. RULES OF CONSTRUCTION. For purposes of this Certificate of Designations:

(a) "or" is not exclusive;

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

(c) "will" expresses a command;

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

(e) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

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

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

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

(i) the exhibits, schedules and other attachments to this Certificate of Designations are deemed to form part of this Certificate of Designations.

Section 3. THE EXCHANGEABLE PREFERRED STOCK.

(a) *Designation; Par Value.* A series of stock of the Company titled the "Series A Participating Exchangeable Perpetual Preferred Stock" (the "**Exchangeable Preferred Stock**") is hereby designated and created out of the authorized and unissued shares of preferred stock of the Company. The par value of the Exchangeable Preferred Stock is $0.01 per share.

(b) *Number of Authorized Shares.* The total authorized number of shares of Exchangeable Preferred Stock is one hundred thousand (100,000); *provided, however* that, by resolution of the Company's Board of Directors, the total number of authorized shares of Exchangeable Preferred Stock may hereafter be reduced to a number that is not less than the number of shares of Exchangeable Preferred Stock then outstanding.

(c) *Form, Dating and Denominations.*

(i) *Form and Date of Certificates Representing Exchangeable Preferred Stock*. Each Certificate representing any Exchangeable Preferred Stock will (1) be substantially in the form set forth in **Exhibit A**; (2) bear the legends required by **Section 3(g)** and may bear notations, legends or endorsements required by law or stock exchange rule or usage; and (3) be dated as of the date it is executed by the Company.

(ii) *Electronic Certificates; Physical Certificates*. The Exchangeable Preferred Stock will be originally issued initially in the form of one or more Electronic Certificates. Electronic Certificates may be exchanged for Physical Certificates, and Physical Certificates may be exchanged for Electronic Certificates, upon request by the Holder thereof pursuant to customary procedures, subject to **Section 3(h)**.

(iii) *Electronic Certificates; Interpretation.* For purposes of this Certificate of Designations, (1) each Electronic Certificate will be deemed to include the text of the form of Certificate set forth in **Exhibit A**; (2) any legend, registration number or other notation that is required to be included on a Certificate will be deemed to be affixed to any Electronic Certificate notwithstanding that such Electronic Certificate may be in a form that does not permit affixing legends thereto; (3) any reference in this Certificate of Designations to the "delivery" of any Electronic Certificate will be deemed to be satisfied upon the registration of the electronic book entry representing such Electronic Certificate in the name of the applicable Holder; (4) upon satisfaction of any applicable requirements of the Delaware General Corporation Law, the Certificate of Incorporation and the Bylaws of the Company, and any related requirements of the Registrar or the Transfer Agent, in each case for the issuance of Exchangeable Preferred Stock in the form of one or more Electronic Certificates, such Electronic Certificates will be deemed to be executed by the Company.

(iv) *No Bearer Certificates; Denominations.* The Exchangeable Preferred Stock will be issued only in registered form and only in whole numbers of shares.

(v) *Registration Numbers*. Each Certificate representing any share(s) of Exchangeable Preferred Stock will bear a unique registration number that is not affixed to any other Certificate representing any other outstanding share of Exchangeable Preferred Stock.

(d) *Execution and Delivery.* At least two (2) duly authorized Officers will sign each Physical Certificate representing any Exchangeable Preferred Stock on behalf of the Company by manual or facsimile signature. The validity of any Exchangeable Preferred Stock will not be affected by the failure of any Officer whose signature is on any Certificate representing such Exchangeable Preferred Stock to thereafter hold the same or any other office at the Company.

(e) *Method of Payment; Delay When Payment Date is Not a Business Day.*

(i) *Method of Payment*. The Company will pay all cash amounts due on any Exchangeable Preferred Stock of any Holder by check mailed to the address of such Holder set forth in the Register; *provided, however*, that if such Holder has delivered to the Company, no later than the time set forth in the next sentence, a written request to receive payment by wire transfer to an account of such Holder within the United States, then the Company will pay such cash amounts by wire transfer of immediately available funds to such account. To be timely, such written request must be delivered no later than the Close of Business on the following date: (1) with respect to the payment of any declared cash Dividend due on a Dividend Payment Date for the Exchangeable Preferred Stock, the related Record Date; and (y) with respect to any other payment, the date that is fifteen (15) calendar days immediately before the date such payment is due; *provided*, *however*, that, with respect to any cash Exchange Consideration due to settle the Optional Exchange of the Exchangeable Preferred Stock, or with respect to any Fundamental Change Repurchase Price for the Exchangeable Preferred Stock, such written request may instead be included in the related Optional Exchange Notice or Fundamental Change Repurchase Notice, as applicable, and, if the same is delivered in accordance with the requirements of this Certificate of Designations, then such written notice will be deemed to have been timely delivered for purposes of the preceding sentence.

(ii) *Delay of Payment when Payment Date is Not a Business Day*. If the due date for a payment on any Exchangeable Preferred Stock as provided in this Certificate of Designations is not a Business Day, then, notwithstanding anything to the contrary in this Certificate of Designations, such payment may be made on the immediately following Business Day and no interest, dividend or other amount will accrue or accumulate on such payment as a result of the related delay. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a "Business Day."

(f) *Transfer Agent, Registrar, Paying Agent and Exchange Agent.*

(i) *Generally*. The Company designates its principal U.S. executive offices as an office or agency where Exchangeable Preferred Stock may be presented for (1) registration of transfer or for exchange (the "**Registrar**"); (2) payment (the "**Paying Agent**"); and (3) Exchange (the "**Exchange Agent**"). At all times when any Exchangeable Preferred Stock is outstanding, the Company will maintain an office in the continental United States constituting the Registrar, Paying Agent and Exchange Agent.

(ii) *Maintenance of the Register*. The Company will keep, or cause there to be kept, a record (the "**Register**") of the names and addresses of the Holders, the number of shares of Exchangeable Preferred Stock held by each Holder and the transfer, exchange, repurchase, Redemption and Exchange of the Exchangeable Preferred Stock. Absent manifest error, the entries in the Register will be conclusive and the Company and the Transfer Agent may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly. The Company will provide a copy of the Register to any Holder upon its request as soon as reasonably practicable.

(iii) *Subsequent Appointments*. By notice to each Holder, the Company may, at any time, appoint any Person (including any Subsidiary of the Company) to act as Registrar, Paying Agent or Exchange Agent.

(g) *Legends.*

(i) *Restricted Stock Legend*.

(1) Each Certificate representing any share of Exchangeable Preferred Stock that is a Transfer-Restricted Security will bear the Restricted Stock Legend.

(2) If any share of Exchangeable Preferred Stock (such share being referred to as the "new share" for purposes of this **Section 3(g)(i)(2)**) is issued in exchange for, or in substitution of, any other share(s) of Exchangeable Preferred Stock, or to effect a partial Exchange of less than all of the share of Exchangeable Preferred Stock represented by any Certificate (such other share(s) or Exchanged share(s), as applicable, being referred to as the "old share(s)" for purposes of this **Section 3(g)(i)(2)**), including pursuant to **Section 3(i)** or **3(k)**, then the Certificate representing such new share will bear the Restricted Stock Legend if the Certificate representing such old share(s) bore the Restricted Stock Legend at the time of such exchange or substitution, or on the related Exchange Date with respect to such Exchange, as applicable; *provided*, *however*, that the Certificate representing such new share need not bear the Restricted Stock Legend if such new share does not constitute a Transfer-Restricted Security immediately after such exchange or substitution, or as of such Exchange Date, as applicable.

(ii) *Other Legends*. The Certificate representing any Exchangeable Preferred Stock may bear any other legend or text, not inconsistent with this Certificate of Designations, as may be required by applicable law, by the rules of any applicable depositary for the Exchangeable Preferred Stock or by any securities exchange or automated quotation system on which such Exchangeable Preferred Stock is traded or quoted.

(iii) *Acknowledgement and Agreement by the Holders*. A Holder's acceptance of any Exchangeable Preferred Stock represented by a Certificate bearing any legend required by this **Section 3(g)** will constitute such Holder's acknowledgement of, and agreement to comply with, the restrictions set forth in such legend.

(iv) *Legends on Exchange Shares*.

(1) Each Exchange Share will bear a legend substantially to the same effect as the Restricted Stock Legend if the Exchangeable Preferred Stock upon the Exchange of which such Exchange Share was issued was (or would have been had it not been Exchanged) a Transfer-Restricted Security at the time such Exchange Share was issued; *provided*, *however*, that such Exchange Share need not bear such a legend if the Company determines, in its reasonable discretion, that such Exchange Share need not bear such a legend.

(2) Notwithstanding anything to the contrary in **Section 3(g)(iv)(1)**, a Exchange Share need not bear a legend pursuant to **Section 3(g)(iv)(1)** if such Exchange Share is issued in an uncertificated form that does not permit affixing legends thereto, *provided* the Company takes measures (including, if applicable, the assignment thereto of a "restricted" CUSIP number) that it reasonably deems appropriate to enforce the transfer restrictions referred to in such legend.

(h) *Transfers and Exchanges; Transfer Taxes; Transfer Restrictions.*

(i) *Provisions Applicable to All Transfers and Exchanges*.

(1) *Generally*. Subject to this **Section 3(h)**, and to any restrictions and conditions in Section 5.08 of the Investment Agreement, Exchangeable Preferred Stock represented by any Certificate may be transferred or exchanged from time to time and the Company will cause the Registrar to record each such transfer or exchange in the Register.

(2) *No Services Charge; Transfer Taxes*. The Company and the Share Agents will not impose any service charge on any Holder for any transfer, exchange or Exchange of any Exchangeable Preferred Stock, but the Company, the Transfer Agent, the Registrar and the Exchange Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or Exchange of Exchangeable Preferred Stock, other than exchanges pursuant to **Section 3(i)** not involving any transfer.

(3) *No Transfers or Exchanges of Fractional Shares*. Notwithstanding anything to the contrary in this Certificate of Designations, all transfers or exchanges of Exchangeable Preferred Stock must be in an amount representing a whole number of shares of Exchangeable Preferred Stock, and no fractional share of Exchangeable Preferred Stock may be transferred or exchanged.

(4) *Legends*. Each Certificate representing any share of Exchangeable Preferred Stock that is issued upon transfer of, or in exchange for, another share of Exchangeable Preferred Stock will bear each legend, if any, required by **Section 3(g)**.

(5) *Settlement of Transfers and Exchanges*. Upon satisfaction of the requirements of this Certificate of Designations to effect a transfer or exchange of any Exchangeable Preferred Stock, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(6) *Exchanges to Remove Transfer Restrictions*. Subject to the terms of this Certificate of Designations, as used in this **Section 3(h)**, an "exchange" of a Certificate includes an exchange effected for the sole purpose of removing any Restricted Stock Legend affixed to such Certificate.

(ii) *Transfers and Exchanges of Exchangeable Preferred Stock.*

(1) Subject to this **Section 3(h)**, a Holder of any Exchangeable Preferred Stock represented by a Certificate may (x) transfer any whole number of shares of such Exchangeable Preferred Stock to one or more other Person(s); and (y) exchange any whole number of shares of such Exchangeable Preferred Stock for an equal number of shares of Exchangeable Preferred Stock represented by one or more other Certificates; *provided*, *however*, that, to effect any such transfer or exchange, such Holder must:

(A) if such Certificate is a Physical Certificate, surrender such Physical Certificate to the office of the Transfer Agent or the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Transfer Agent or the Registrar; and

(B) deliver such certificates, documentation or evidence as may be required pursuant to **Section 3(h)(iii)**.

(2) Upon the satisfaction of the requirements of this Certificate of Designations to effect a transfer or exchange of any whole number of shares of a Holder's Exchangeable Preferred Stock represented by a Certificate (such Certificate being referred to as the "old Certificate" for purposes of this **Section 3(h)(ii)(2)**):

(A) such old Certificate will be promptly cancelled pursuant to **Section 3(m)**;

(B) if only part of the Exchangeable Preferred Stock represented by such old Certificate is to be so transferred or exchanged, then the Company will issue, execute and deliver, in each case in accordance with **Section 3(d)**, one or more Certificates that (x) each represent a whole number of shares of Exchangeable Preferred Stock and, in the aggregate, represent a total number of shares of Exchangeable Preferred Stock equal to the number of shares of Exchangeable Preferred Stock represented by such old Certificate not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 3(g)**;

(C) in the case of a transfer to a transferee, the Company will issue, execute and deliver, in each case in accordance with **Section 3(d)**, one or more Certificates that (x) each represent a whole number of shares of Exchangeable Preferred Stock and, in the aggregate, represent a total number of shares of Exchangeable Preferred Stock equal to the number of shares of Exchangeable Preferred Stock to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 3(g)**; and

(D) in the case of an exchange, the Company will issue, execute and deliver, in each case in accordance with **Section 3(d)**, one or more Certificates that (x) each represent a whole number of shares of Exchangeable Preferred Stock and, in the aggregate, represent a total number of shares of Exchangeable Preferred Stock equal to the number of shares of Exchangeable Preferred Stock to be so exchanged; (y) are registered in the name of the Person to whom such old Certificate was registered; and (z) bear each legend, if any, required by **Section 3(g)**.

(iii) *Requirement to Deliver Documentation and Other Evidence*. If a Holder of any Exchangeable Preferred Stock that is a Transfer-Restricted Security, or that is represented by a Certificate that bears a Restricted Stock Legend, requests to:

(1) remove such Restricted Stock Legend; or

(2) register the transfer of such Exchangeable Preferred Stock to the name of another Person,

then the Company, the Transfer Agent and the Registrar may refuse to effect such removal or transfer, as applicable, unless there is delivered to the Company, the Transfer Agent and the Registrar such certificates, legal opinions or other documentation or evidence as the Company, the Transfer Agent and the Registrar may reasonably require to determine that such removal or transfer, as applicable, complies with the Securities Act and other applicable securities laws; *provided*, *however*, that (x) if such request is made in connection with transfer of such Exchangeable Preferred Stock pursuant to a registration statement that is effective under the Securities Act, then such certificates, documentation or evidence will consist solely of a certificate in customary form providing that such Holder will effect such transfer pursuant to such Resale Registration Statement and will comply with any prospectus-delivery requirements under the Securities Act, and no legal opinion will be required in connection therewith; and (y) if such request is made in connection with transfer of such Exchangeable Preferred Stock pursuant to Rule 144, then such certificates, or documentation or evidence will consist solely of a certificate in customary form as to the affiliate or non-affiliate status of such Holder and, to the extent applicable, the requirements set forth in clauses (d), (e), (f), (g) and (h) of Rule 144 (or any successor provisions thereto), and no legal opinion will be required in connection therewith.

(iv) *Transfers of Shares Subject to Redemption, Repurchase or Exchange*. Notwithstanding anything to the contrary in this Certificate of Designations, the Company, the Transfer Agent and the Registrar will not be required to register the transfer of or exchange any share of Exchangeable Preferred Stock:

(1) that has been surrendered for Exchange;

(2) that has been called for Redemption pursuant to a Redemption Notice, except to the extent that the Company fails to pay the related Redemption Price when due; or

(3) as to which a Fundamental Change Repurchase Notice has been duly delivered, and not withdrawn, pursuant to **Section 8(f)**, except to the extent that the Company fails to pay the related Fundamental Change Repurchase Price when due.

(i) *Exchange and Cancellation of Exchangeable Preferred Stock to Be Exchanged or to Be Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redeemed.*

(i) *Partial Exchanges of Physical Certificates and Partial Repurchases of Physical Certificates Pursuant to a Repurchase Upon Fundamental Change*. If only a portion of a Holder's Exchangeable Preferred Stock represented by a Physical Certificate (such Physical Certificate being referred to as the "old Physical Certificate" for purposes of this **Section 3(i)(i)**) is to be Exchanged pursuant to **Section 10** or repurchased pursuant to a Repurchase Upon Fundamental Change, then, as soon as reasonably practicable after such old Physical Certificate is surrendered for such Exchange or repurchase, as applicable, the Company will cause such old Physical Certificate to be exchanged, pursuant and subject to **Section 3(h)(ii)**, for (1) one or more Physical Certificates that each represent a whole number of shares of Exchangeable Preferred Stock and, in the aggregate, represent a total number of shares of Exchangeable Preferred Stock equal to the number of shares of Exchangeable Preferred Stock represented by such old Physical Certificate that are not to be so Exchanged or repurchased, as applicable, and deliver such Physical Certificate(s) to such Holder; and (2) a Physical Certificate representing a whole number of shares of Exchangeable Preferred Stock equal to the number of shares of Exchangeable Preferred Stock represented by such old Physical Certificate that are to be so Exchanged or repurchased, as applicable, which Physical Certificate will be Exchanged or repurchased, as applicable, pursuant to the terms of this Certificate of Designations; *provided, however*, that the Physical Certificate referred to in this **clause (2)** need not be issued at any time after which such shares subject to such Exchange or repurchase, as applicable, are deemed to cease to be outstanding pursuant to **Section 3(o)**.

(ii) *Cancellation of Exchangeable Preferred Stock that Is Exchanged and Exchangeable Preferred Stock that Is Repurchased Pursuant to a Repurchase Upon Fundamental Change or Redeemed Upon a Redemption*. If a Holder's Exchangeable Preferred Stock represented by a Certificate (or any portion thereof that has not theretofore been exchanged pursuant to **Section 3(i)(i)**) (such Certificate being referred to as the "old Certificate" for purposes of this **Section 3(i)(ii)**) is to be Exchanged pursuant to **Section 10** or repurchased pursuant to a Repurchase Upon Fundamental Change or redeemed pursuant to a Redemption, then, promptly after the later of the time such Exchangeable Preferred Stock is deemed to cease to be outstanding pursuant to **Section 3(o)** and the time such old Certificate is surrendered for such Exchange or repurchase, as applicable, (1) such old Certificate will be cancelled pursuant to **Section 3(m)**; and (2) in the case of a partial Exchange or repurchase, the Company will issue, execute and deliver to such Holder, in each case in accordance with **Section 3(d)**, one or more Certificates that (x) each represent a whole number of shares of Exchangeable Preferred Stock and, in the aggregate, represent a total number of shares of Exchangeable Preferred Stock equal to the number of shares of Exchangeable Preferred Stock represented by such old Certificate that are not to be so Exchanged or repurchased, as applicable; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 3(g)**.

(j) *Status of Retired Shares.* Upon any share of Exchangeable Preferred Stock ceasing to be outstanding, such share will be deemed to be retired and to resume the status of an authorized, unissued and undesignated share of preferred stock of the Company, and such share cannot thereafter be reissued as Exchangeable Preferred Stock.

(k) *Replacement Certificates.* If a Holder of any Exchangeable Preferred Stock claims that the Certificate(s) representing such Exchangeable Preferred Stock have been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, in each case in accordance with **Section 3(d)**, a replacement Certificate representing such Exchangeable Preferred Stock upon surrender to the Company or the Transfer Agent of such mutilated Certificate, or upon delivery to the Company or the Transfer Agent of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Transfer Agent and the Company. In the case of a lost, destroyed or wrongfully taken Certificate representing any Exchangeable Preferred Stock, the Company and the Transfer Agent may require the Holder thereof to provide such security or indemnity that is reasonably satisfactory to the Company and the Transfer Agent to protect the Company and the Transfer Agent from any loss that any of them may suffer if such Certificate is replaced.

Every replacement Exchangeable Preferred Stock issued pursuant to this **Section 3(k)** will, upon such replacement, be deemed to be outstanding Exchangeable Preferred Stock, entitled to all of the benefits of this Certificate of Designations equally and ratably with all other Exchangeable Preferred Stock then outstanding.

(l) *Registered Holders.* Only the Holder of any Exchangeable Preferred Stock will have rights under this Certificate of Designations as the owner of such Exchangeable Preferred Stock.

(m) *Cancellation.* The Company may at any time cancel, or cause the cancellation of, any Exchangeable Preferred Stock acquired by the Company. The Registrar, the Paying Agent and the Exchange Agent will forward to the Company (or, if applicable, to the Transfer Agent) each share of Exchangeable Preferred Stock duly surrendered to them for transfer, exchange, payment or Exchange.

(n) *Shares Held by the Company or its Affiliates.* Without limiting the generality of **Section 3(o)**, in determining whether the Holders of the required number of outstanding shares of Exchangeable Preferred Stock (and, if applicable, Voting Parity Stock) have concurred in any direction, waiver or consent, shares of Exchangeable Preferred Stock owned by the Company or any of its Subsidiaries will be deemed not to be outstanding.

(o) *Outstanding Shares.*

(i) *Generally*. The shares of Exchangeable Preferred Stock that are outstanding at any time will be deemed to be those shares of Exchangeable Preferred Stock that, at such time, have been duly executed by the Company, excluding those shares of Exchangeable Preferred Stock that have theretofore been (1) cancelled or delivered to the Company (or, if applicable, the Transfer Agent) for cancellation in accordance with **Section 3(m)**; (2) paid or settled in full upon their Exchange or upon their repurchase pursuant to a Repurchase Upon Fundamental Change or a Redemption in accordance with this Certificate of Designations; or (3) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (ii)**, **(iii)**, **(iv)** or **(v)** of this **Section 3(o)**.

(ii) *Replaced Shares*. If any Certificate representing any share of Exchangeable Preferred Stock is replaced pursuant to **Section 3(k)**, then such share will cease to be outstanding at the time of such replacement, unless the the Company receives proof reasonably satisfactory to them that such share is held by a "*bona fide* purchaser" under applicable law.

(iii) *Shares to Be Redeemed*. If, on a Redemption Date, the Paying Agent holds consideration in kind and amount that is sufficient to pay the aggregate Redemption Price due on such date, then (unless there occurs a default in the payment of the Redemption Price) (1) the Exchangeable Preferred Stock to be redeemed on such date will be deemed, as of such date, to cease to be outstanding (without limiting the Company's obligations pursuant to **Section 5(c)**); and (2) the rights of the Holders of such Exchangeable Preferred Stock, as such, will terminate with respect to such Exchangeable Preferred Stock, other than the right to receive the Redemption Price as provided in **Section 7** (and, if applicable, declared Dividends as provided in **Section 5(c)**).

(iv) *Shares to Be Repurchased Pursuant to a Repurchase Upon Fundamental Change*. If, on a Fundamental Change Repurchase Date, the Paying Agent holds consideration in kind and amount that is sufficient to pay the aggregate Fundamental Change Repurchase Price due on such date, then (unless there occurs a default in the payment of the Fundamental Change Repurchase Price): (1) the Exchangeable Preferred Stock to be repurchased on such date will be deemed, as of such date, to cease to be outstanding (without limiting the Company's obligations pursuant to **Section 5(c)**); and (2) the rights of the Holders of such Exchangeable Preferred Stock, as such, will terminate with respect to such Exchangeable Preferred Stock, other than the right to receive the Fundamental Change Repurchase Price as provided in **Section 8** and, if applicable, **Section 15** (and, if applicable, declared Dividends as provided in **Section 5(c)**).

(v) *Shares to Be Exchanged*. If any Exchangeable Preferred Stock is to be Exchanged, then, at the Close of Business on the Exchange Date for such Exchange (unless there occurs a default in the delivery of the Exchange Consideration due pursuant to **Section 10** upon such Exchange): (1) such Exchangeable Preferred Stock will be deemed to cease to be outstanding (without limiting the Company's obligations pursuant to **Section 5(c)**); and (2) the rights of the Holders of such Exchangeable Preferred Stock, as such, will terminate with respect to such Exchangeable Preferred Stock, other than the right to receive such Exchange Consideration as provided in **Section 10** and, if applicable, **Section 15** (and, if applicable, declared Dividends as provided in **Section 5(c)**).

Section 4. RANKING. The Exchangeable Preferred Stock will rank (a) senior to (i) Dividend Junior Stock with respect to the payment of dividends; and (ii) Liquidation Junior Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up; (b) equally with (i) Dividend Parity Stock with respect to the payment of dividends; and (ii) Liquidation Parity Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up; and (c) junior to (i) Dividend Senior Stock with respect to the payment of dividends; and (ii) Liquidation Senior Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up.

Section 5. DIVIDENDS.

(a) *Regular Dividends.*

(i) *Accumulation and Payment of Regular Dividends*. The Exchangeable Preferred Stock will accumulate cumulative dividends (calculated in accordance with **Section 5(a)(ii)**) at a rate per annum equal to the Regular Dividend Rate on the Liquidation Preference thereof (and, to the extent provided in the last sentence of this **Section 5(a)(i)**, on unpaid Regular Dividends), regardless of whether declared or funds are legally available for their payment (such dividends that accumulate on the Exchangeable Preferred Stock pursuant to this sentence, "**Regular Dividends**"). Subject to the other provisions of this **Section 5** (including **Section 5(a)(iii)(1)**), such Regular Dividends will be payable when, as and if declared by the Company's Board of Directors, out of funds legally available for their payment to the extent paid in cash, quarterly in arrears on each Regular Dividend Payment Date, to the Holders as of the Close of Business on the immediately preceding Regular Dividend Record Date. Regular Dividends on the Exchangeable Preferred Stock will accumulate from, and including, the last date to which Regular Dividends have been paid (or, if no Regular Dividends have been paid, from, and including, the Initial Issue Date) to, but excluding, the next Regular Dividend Payment Date. If any Regular Dividend (or any portion thereof) on the Exchangeable Preferred Stock is not paid on the applicable Regular Dividend Payment Date (or, if such Regular Dividend Payment Date is not a Business Day, the next Business Day), then additional Regular Dividends will accumulate on the amount of such unpaid Regular Dividend from, and including, such Regular Dividend Payment Date to, but excluding, the date the same, including all additional accumulations of Regular Dividends thereon, is paid in full.

(ii) *Computation of Accumulated Regular Dividends*. Accumulated Regular Dividends will be computed on the basis of a 360-day year comprised of twelve 30-day months. For each day on which Regular Dividends accumulate on any share of Exchangeable Preferred Stock, such Regular Dividends will accumulate on the Liquidation Preference of such share as of immediately after the Close of Business on such day.

(iii) *Method of Payment of Regular Dividends; Payments in Kind*.

(1) *Generally*. Subject to the next sentence, each declared Regular Dividend on the Exchangeable Preferred Stock will be paid in cash. Notwithstanding anything to the contrary in this Certificate of Designations, but subject to the provisos of this sentence, if:

(A) the Company elects, by sending written notice, which complies with **Section 5(a)(iii)(2)**, to each Holder no later than the Close of Business on the Regular Dividend Record Date for any declared Regular Dividend on the Exchangeable Preferred Stock, to not declare and pay all or any portion of such Regular Dividend in cash; or

(B) as of the Close of Business on any Regular Dividend Payment Date (or, if such Regular Dividend Payment Date is not a Business Day, the next Business Day), the Company has not paid all or any portion of the full amount of the Regular Dividends (regardless of whether declared) that have accumulated on the Exchangeable Preferred Stock in respect of the Regular Dividend Period ending on, but excluding, such Regular Dividend Payment Date,

then the dollar amount (expressed as an amount per share of Exchangeable Preferred Stock) of such Regular Dividend (or, if applicable, portion thereof) referred to in **clause (A) or (B)** elected not to be paid in cash, or not paid in cash, as applicable, will (without duplication) be added (such addition, a "**Paid-in-Kind Dividend**"), effective immediately before the Close of Business on the related Regular Dividend Payment Date, to the Liquidation Preference of each share of Exchangeable Preferred Stock outstanding as of such time; *provided*, *however*, that in no event will a Regular Dividend be paid in the form of a Paid-in-Kind Dividend to the extent, and only to the extent, that the same would either (x) result in the total number of shares of Parent Common Stock issuable, or theretofore issued (proportionately adjusted for stock dividends, splits and combinations, and similar transactions), upon Exchange of the Exchangeable Preferred Stock exceeding 5,902,256 shares of Parent Common Stock (proportionally adjusted in the same manner); or (y) require the de-consolidation of the Company from the Parent under Federal income tax law or under U.S. generally accepted accounting principles as applied by the Parent; *provided*, *further*, that the limitation set forth in clause (x) of the preceding proviso will cease to apply from and after the first date, if ever, that the Requisite 5635(a) Stockholder Approval is obtained. If any portion of any Regular Dividend is not paid in the form of a Paid-in-Kind Dividend pursuant to the provisos to the preceding sentence, then (I) the amount not so paid in the form of a Paid-in-Kind Dividend will be the same on a per-share basis with respect to each outstanding share of Exchangeable Preferred Stock; (II) the Parent will be obligated pursuant to Section 5.21(a) of the Investment Agreement to pay such amount to the Holders in cash if not so paid by the Company; and (III) the portion of such amount, if any, that is not paid in cash will be subject to the last sentence of **Section 5(a)(i)**.

(2) *Notice of Election to Pay Regular Dividends in Kind*. A written notice sent to Holders pursuant to **Section 5(a)(iii)(1)(A)** electing to not pay all or any portion of a declared Regular Dividend in cash must (1) state (A) the total dollar amount per share of Exchangeable Preferred Stock of such declared Regular Dividend; (B) the total dollar amount per share of Exchangeable Preferred Stock of such declared Regular Dividend that the Company has elected will not be paid in cash on the Regular Dividend Payment Date for such Regular Dividend; and (C) that such dollar amount referred to in **clause (1)(B)** will be added, effective immediately before the Close of Business on the such Regular Dividend Payment Date, to the Liquidation Preference of each share of Exchangeable Preferred Stock outstanding as of such time; and (2) make the same election on a per-share basis with respect to each outstanding share of Exchangeable Preferred Stock.

(3) *Construction*. The amount, if any, of any Regular Dividend that is added to the Liquidation Preference of the Exchangeable Preferred Stock pursuant to **Section 5(a)(iii)(1)**, or that is paid in cash by the Parent pursuant to Section 5.21(a) of the Investment Agreement, will be deemed to be "declared" and "paid" on the Exchangeable Preferred Stock for all purposes of this Certificate of Designations.

(b) *Company Participating Dividends.*

(i) *Generally*. Subject to **Section 5(b)(ii)**, no dividend or other distribution on the Company Common Stock (whether in cash, securities or other property, or any combination of the foregoing) will be declared or paid on the Company Common Stock unless, at the time of such declaration and payment, an equivalent dividend or distribution is declared and paid, respectively, on the Exchangeable Preferred Stock (such a dividend or distribution on the Exchangeable Preferred Stock, a "**Company Participating Dividend**," and such corresponding dividend or distribution on the Company Common Stock, the "**Company Common Stock Participating Dividend**"), such that (1) the Record Date and the payment date for such Company Participating Dividend occur on the same dates as the Record Date and payment date, respectively, for such Company Common Stock Participating Dividend; and (2) the kind and amount of consideration payable per share of Exchangeable Preferred Stock in such Company Participating Dividend is the same kind and amount of consideration that would be payable in the Company Common Stock Participating Dividend in respect of a number of shares of Company Common Stock equal to the number of shares of Company Common Stock that would be issuable (determined in accordance with **Section 10** but without regard to **clause (B)** of the proviso to **Section 10(e)(i)** or to **Section 10(e)(ii)** or **Section 10(h)**) in respect of one (1) share of Exchangeable Preferred Stock that is Exchanged with an Exchange Date occurring on such Record Date (subject to the same arrangements, if any, in such Company Common Stock Participating Dividend not to issue or deliver a fractional portion of any security or other property, but with such arrangement applying separately to each Holder and computed based on the total number of shares of Exchangeable Preferred Stock held by such Holder on such Record Date). The Company will provide notice to Holders of each Company Participating Dividend, including the related Record Date and payment date, at substantially the same time at which, and in substantially the same manner in which, the Company provides the related notice(s) to holders of the Company Common Stock in connection with the corresponding Company Common Stock Participating Dividend.

(ii) *Stockholder Rights Plans, Company Common Stock Change Events and Stock Splits, Dividends and Combinations*. **Section 5(b)(i)** will not apply to, and no Company Participating Dividend will be required to be declared or paid in respect of, (1) an event for which an adjustment to the Exchange Price is required (or would be required without regard to **Section 10(f)(iii)**) pursuant to **Section 10(f)(i)(1)**, as to which **Section 10(f)(i)(1)** will apply; and (2) rights issued pursuant to a stockholder rights plan, so long as such rights have not separated from the Company Common Stock and are not exercisable until the occurrence of a triggering event, except that **Section 5(b)(i)** will apply to, and a Company Participating Dividend will be required in respect of, (A) the separation of such rights from the Company Common Stock (whether upon the occurrence of such triggering event or otherwise); and (B) any payment made by the Company (whether in cash, securities or other property, or any combination of the foregoing) to all or substantially all holders of Company Common Stock Company Common Stock to redeem or repurchase any such rights.

(iii) *Participating Dividends on Parent Common Stock Unaffected*. Nothing in this **Section 5(b)** will limit or otherwise affect any rights of any Holder pursuant to Section 5.12(g) of the Investment Agreement.

(c) *Treatment of Dividends Upon Exchange or Upon Repurchase Pursuant to a Repurchase Upon Fundamental Change or a Redemption.* If the Redemption Date, Fundamental Change Repurchase Date or Exchange Date of any share of Exchangeable Preferred Stock is after a Record Date for a declared Dividend on the Exchangeable Preferred Stock and on or before the next Dividend Payment Date, then the Holder of such share at the Close of Business on such Record Date will be entitled, notwithstanding the related Redemption, Repurchase Upon Fundamental Change or Exchange, as applicable, to receive, on or, at the Company's election, before such Dividend Payment Date, such declared Dividend on such share. Solely for purposes of the preceding sentence, and not for any other purpose, a Regular Dividend will be deemed to be declared only to the extent that it is declared for payment in cash.

Except as provided in the preceding paragraph or in **Section 8(d)** or **Section 7(e)**, Regular Dividends on any share of Exchangeable Preferred Stock will cease to accumulate from and after the Fundamental Change Repurchase Date, Redemption Date or Exchange Date, as applicable, for such share, unless the Company defaults in the payment of the related Fundamental Change Repurchase Price, Redemption Price or Exchange Consideration, as applicable.

(d) *Priority of Dividends.*

(i) *Construction*. For purposes of **Section 5(d)(ii)**, a Regular Dividend on the Exchangeable Preferred Stock will be deemed to have been paid if such Regular Dividend is declared and consideration in kind and amount that is sufficient, in accordance with this Certificate of Designations, to pay such Regular Dividend is set aside for the benefit of the Holders entitled thereto.

(ii) *Limitation on Dividends on Parity Stock*. If:

(1) less than all accumulated and unpaid Regular Dividends on the outstanding Exchangeable Preferred Stock have been declared and paid as of any Regular Dividend Payment Date; or

(2) (x) the Company's Board of Directors declares, for payment in cash, a Regular Dividend on the Exchangeable Preferred Stock that is less than the total amount of unpaid Regular Dividends on the outstanding Exchangeable Preferred Stock that would accumulate to, but excluding, the Regular Dividend Payment Date following such declaration; and (y) the excess of such total amount over such declared amount is not otherwise paid in cash (including as a result of the Exchange Limitations),

then, until and unless all accumulated and unpaid Regular Dividends on the outstanding Exchangeable Preferred Stock have been paid, no dividends may be declared or paid on any class or series of Dividend Parity Stock unless Regular Dividends are simultaneously declared on the Exchangeable Preferred Stock on a pro rata basis, such that (A) the ratio of (x) the dollar amount of Regular Dividends so declared per share of Exchangeable Preferred Stock to (y) the dollar amount of the total accumulated and unpaid Regular Dividends per share of Exchangeable Preferred Stock immediately before the payment of such Regular Dividend is no less than (B) the ratio of (x) the dollar amount of dividends so declared or paid per share of such class or series of Dividend Parity Stock to (y) the dollar amount of the total accumulated and unpaid dividends per share of such class or series of Dividend Parity Stock immediately before the payment of such dividend (which dollar amount in this **clause (y)** will, if dividends on such class or series of Dividend Parity Stock are not cumulative, be the full amount of dividends per share thereof in respect of the most recent dividend period thereof).

Section 6. RIGHTS UPON LIQUIDATION, DISSOLUTION OR WINDING UP.

(a) *Generally.* If the Company liquidates, dissolves or winds up, whether voluntarily or involuntarily, then, subject to the rights of any of the Company's creditors or holders of any outstanding Liquidation Senior Stock, the Exchangeable Preferred Stock of each Holder will entitle such Holder to receive payment for the greater of the amounts set forth in **clause (i)** and **(ii)** below out of the Company's assets or funds legally available for distribution to the Company's stockholders, before any such assets or funds are distributed to, or set aside for the benefit of, any Liquidation Junior Stock:

(i) the sum of:

(1) the aggregate Liquidation Preference of such Exchangeable Preferred Stock of such Holder; and

(2) all unpaid Regular Dividends that will have accumulated on such Exchangeable Preferred Stock of such Holder to, but excluding, the date of such payment, but not including any Regular Dividends that have been added to the aggregate Liquidation Preference; and

(ii) the amount such Holder would have received assuming such Holder held a number of shares of Company Common Stock representing such Holder's Parent Common Stock Equivalent Percentage of the outstanding Company Common Stock.

Upon payment of such amount in full on the outstanding Exchangeable Preferred Stock, Holders of the Exchangeable Preferred Stock will have no rights to the Company's remaining assets or funds, if any. If such assets or funds are insufficient to fully pay such amount on all outstanding shares of Exchangeable Preferred Stock and the corresponding amounts payable in respect of all outstanding shares of Liquidation Parity Stock, if any, then, subject to the rights of any of the Company's creditors or holders of any outstanding Liquidation Senior Stock, such assets or funds will be distributed ratably on the outstanding shares of Exchangeable Preferred Stock and Liquidation Parity Stock in proportion to the full respective distributions to which such shares would otherwise be entitled.

(b) *Certain Business Combination Transactions Deemed Not to Be a Liquidation*. For purposes of **Section 6(a)**, the Company's consolidation or combination with, or merger with or into, or the sale, lease or other transfer of all or substantially all of the Company's assets (other than a sale, lease or other transfer in connection with the Company's liquidation, dissolution or winding up) to, another Person will not, in itself, constitute the Company's liquidation, dissolution or winding up, even if, in connection therewith, the Exchangeable Preferred Stock is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing.

Section 7. RIGHT OF THE COMPANY TO REDEEM THE EXCHANGEABLE PREFERRED STOCK.

(a) *No Right to Redeem Before the Redemption Trigger Date*. The Company may not redeem the Exchangeable Preferred Stock at its option at any time before the Redemption Trigger Date.

(b) *Right to Redeem the Exchangeable Preferred Stock on or After the Redemption Trigger Date*. Subject to the terms of this **Section 7**, the Company has the right, at its election, to redeem all, but not less than all, of the Exchangeable Preferred Stock, at any time, on a Redemption Date on or after the Redemption Trigger Date, for a cash purchase price equal to the Redemption Price.

(c) *Redemption Prohibited in Certain Circumstances*. The Company will not call for Redemption, or otherwise send a Redemption Notice in respect of the Redemption of, any Exchangeable Preferred Stock pursuant to this **Section 7** unless (i) the Company has sufficient funds legally available, and is permitted under the terms of its indebtedness for borrowed money, to fully pay the Redemption Price in respect of all shares of Exchangeable Preferred Stock called for Redemption; and (ii) if less than 100% of the Redemption Price is to be paid in cash, the Parent Common Stock Liquidity Conditions are satisfied with respect to such Redemption. In addition, the Company will not call for Redemption, or otherwise send a Redemption Notice in respect of the Redemption of, any Exchangeable Preferred Stock during the period from, and including, the date the Company has sent a Mandatory Exchange Notice with respect to any Exchangeable Preferred Stock to, and including, the related Mandatory Exchange Date (or, if later, the date when such Mandatory Exchange is settled).

(d) *Redemption Date*. The Redemption Date for any Redemption will be a Business Day of the Company's choosing that is no more than sixty (60), nor less than thirty (30), calendar days after the Redemption Notice Date for such Redemption.

(e) *Redemption Price*.

(i) *Generally*. Subject to **Section 7(e)(ii)** and **Section 7(e)(iii)**, the Redemption Price for any share of Exchangeable Preferred Stock to be redeemed pursuant to a Redemption is an amount equal to (1) the Liquidation Preference of such share at the Close of Business on the Redemption Date for such Redemption plus (2) accumulated and unpaid Regular Dividends on such share to, but excluding, such Redemption Date (to the extent such accumulated and unpaid Regular Dividends are not included in such Liquidation Preference); *provided, however*, that if such Redemption Date is after a Regular Dividend Record Date for a Regular Dividend on the Exchangeable Preferred Stock and on or before the next Regular Dividend Payment Date, then (I) the amount referred to in **clause (2)** above will be instead be the excess, if any, of (x) the amount of unpaid Regular Dividends on such share that would have accumulated to, but excluding, such Regular Dividend Payment Date (assuming, solely for such purposes, that such share remained outstanding through such Regular Dividend Payment Date), to the extent the same is not included in the Liquidation Preference of such share at the Close of Business on such Redemption Date, over (y) the portion, if any, of the amount referred to in **clause (x)** that has been declared for payment in cash; and (II) to the extent any such Regular Dividend is so declared for payment in cash, the Holder of such share at the Close of Business on such Regular Record Date will, pursuant to **Section 5(c)**, be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Regular Dividend Payment Date, such declared cash Regular Dividend on such share.

(ii) *Adjustment for Parent Common Stock Equivalent Percentage*. If (I) the amount that any Holder of Exchangeable Preferred Stock that is called for Redemption would have received assuming (x) such Holder held a number of shares of Company Common Stock representing such Holder's Parent Common Stock Equivalent Percentage of the outstanding Company Common Stock and (y) such shares of Company Common Stock are redeemed at their fair market value is greater than (II) the Redemption Price for such Exchangeable Preferred Stock calculated in accordance with **Section 7(e)(i)**, then there will be added to the Redemption Price an amount equal to the excess of the amount referred to in **clause (I)** over the amount referred to in **clause (II)**.

(iii) *Method of Payment of Redemption Price*. The Redemption Price will be paid in cash, except that any amount added to the Redemption Price pursuant to **Section 7(e)(ii)** will, if then permitted by the rules of the Nasdaq Stock Market, be, at the Parent's election, payable in Parent Common Stock (together, if applicable, with cash in lieu of any fractional share of Parent Common Stock). If any portion of the Redemption Price is to be so paid in Parent Common Stock (together, if applicable, with cash in lieu of any fractional share of Parent Common Stock), then, pursuant to Section 5.21(b) of the Investment Agreement, each share of Parent Common Stock will be valued, for these purposes, at the Last Reported Sale Price per share of Parent Common Stock as of the Trading Day immediately before the related Redemption Date.

(f) *Redemption Notice*. To call any share of Exchangeable Preferred Stock for Redemption, the Company must send to the Holder of such share a notice of such Redemption (a "**Redemption Notice**"). Such Redemption Notice must state:

(i) that such share has been called for Redemption;

(ii) the Redemption Date for such Redemption;

(iii) the Redemption Price per share of Exchangeable Preferred Stock; and

(iv) the Exchange Price in effect on the Redemption Notice Date for such Redemption.

(g) *Payment of the Redemption Price*. The Company (or, to the extent the Company fails to do so, the Parent, pursuant to Section 5.21(a) of the Investment Agreement) will cause the Redemption Price for each share of Exchangeable Preferred Stock subject to Redemption to be paid to the Holder thereof on or before the applicable Redemption Date. Regular Dividends payable pursuant to the proviso to **Section 7(e)(i)** on any share of Exchangeable Preferred Stock subject to Redemption will be paid pursuant to such proviso and **Section 5(c)**.

Section 8. RIGHT OF HOLDERS TO REQUIRE THE COMPANY TO REPURCHASE EXCHANGEABLE PREFERRED STOCK UPON A FUNDAMENTAL CHANGE.

(a) *Fundamental Change Repurchase Right*. Subject to the other terms of this **Section 8**, if a Fundamental Change occurs, then each Holder will have the right (the "**Fundamental Change Repurchase Right**") to require the Company to repurchase all, or any whole number of shares that is less than all, of such Holder's Exchangeable Preferred Stock on the Fundamental Change Repurchase Date for such Fundamental Change for a cash purchase price equal to the Fundamental Change Repurchase Price.

(b) *Funds Legally Available for Payment of Fundamental Change Repurchase Price; Covenant Not to Take Certain Actions*. Notwithstanding anything to the contrary in this **Section 8**, but subject to **Section 15**, (i) the Company will not be obligated to pay the Fundamental Change Repurchase Price of any shares of Exchangeable Preferred Stock to the extent, and only to the extent, the Company does not have sufficient funds legally available to pay the same; and (ii) if the Company does not have sufficient funds legally available to pay the Fundamental Change Repurchase Price of all shares of Exchangeable Preferred Stock that are otherwise to be repurchased pursuant to a Repurchase Upon Fundamental Change, then (1) the Company will pay the maximum amount of such Fundamental Change Repurchase Price that can be paid out of funds legally available for payment, which payment will be made pro rata to each Holder based on the total number of shares of Exchangeable Preferred Stock of such Holder that were otherwise to be repurchased pursuant to such Repurchase Upon Fundamental Change; (2) the Parent will be obligated, pursuant to Section 5.21(a) of the Investment Agreement to pay the excess of such Fundamental Change Repurchase Price over the amount paid pursuant to **clause (1)**; and (3) the Company will cause all such shares as to which the Fundamental Change Repurchase Price was not paid pursuant to **clause (1)** or **(2)** to be returned to the Holder(s) thereof, and such shares will be deemed to remain outstanding. The Company will not voluntarily take any action, or voluntarily engage in any transaction, that would result in a Fundamental Change unless the Company has sufficient funds legally available to fully pay the maximum aggregate Fundamental Change Repurchase Price that would be payable in respect of such Fundamental Change on all shares of Exchangeable Preferred Stock then outstanding. Pursuant to pursuant to Section 5.21(c) of the Investment Agreement, the Parent has agreed not to voluntarily take any action, or voluntarily engage in any transaction, that would result in a Fundamental Change unless the Company and the Parent, together, have sufficient funds legally available to fully pay the maximum aggregate Fundamental Change Repurchase Price that would be payable in respect of such Fundamental Change on all shares of Exchangeable Preferred Stock then outstanding.

(c) *Fundamental Change Repurchase Date*. The Fundamental Change Repurchase Date for any Fundamental Change will be a Business Day of the Company's choosing that is no more than twenty (20), nor less than ten (10), Business Days after the date the Company sends the related Fundamental Change Notice pursuant to **Section 8(e)**.

(d) *Fundamental Change Repurchase Price*. The Fundamental Change Repurchase Price for any share of Exchangeable Preferred Stock to be repurchased upon a Repurchase Upon Fundamental Change following a Fundamental Change is an amount in cash equal to the greater of (i) the Target Return Repurchase Amount for such share on the Fundamental Change Repurchase Date for such Fundamental Change; and (ii) the sum of (1) the Liquidation Preference of such share at the Close of Business on such Fundamental Change Repurchase Date; and (2) accumulated and unpaid Regular Dividends on such share to, but excluding, such Fundamental Change Repurchase Date (to the extent such accumulated and unpaid Regular Dividends are not included in such Liquidation Preference); *provided*, *however*, that if such Fundamental Change Repurchase Date is after a Regular Dividend Record Date for a Regular Dividend on the Exchangeable Preferred Stock and on or before the next Regular Dividend Payment Date, then (I) the amount referred to in **clause (ii)(2)** above will be instead be the excess, if any, of (x) the amount of unpaid Regular Dividends on such share that would have accumulated to, but excluding, such Regular Dividend Payment Date (assuming, solely for such purposes, that such share remained outstanding through such Regular Dividend Payment Date), to the extent the same is not included in the Liquidation Preference of such share at the Close of Business on such Fundamental Change Repurchase Date, over (y) the portion, if any, of the amount referred to in **clause (x)** that has been declared for payment in cash; and (II) to the extent any such Regular Dividend is so declared for payment in cash, the Holder of such share at the Close of Business on such Regular Record Date will, pursuant to **Section 5(c)**, be entitled, notwithstanding such Repurchase Upon Fundamental Change, to receive, on or, at the Company's election, before such Regular Dividend Payment Date, such declared cash Regular Dividend on such share.

(e) *Fundamental Change Notice*. On or before the Business Day after the effective date of a Fundamental Change, the Company will send to each Holder a notice of such Fundamental Change (a "**Fundamental Change Notice**"). Such Fundamental Change Notice must state:

(i) briefly, the events causing such Fundamental Change;

(ii) the effective date of such Fundamental Change;

(iii) the Fundamental Change Repurchase Date for such Fundamental Change;

(iv) the Fundamental Change Repurchase Price per share of Exchangeable Preferred Stock; and

(v) the Exchange Price in effect on the date of such Fundamental Change Notice and a description and quantification of any adjustments to the Exchange Price that may result from such Fundamental Change.

(f) *Procedures to Exercise the Fundamental Change Repurchase Right*.

(i) *Delivery of Fundamental Change Repurchase Notice and Shares of Exchangeable Preferred Stock to Be Repurchased*. To exercise its Fundamental Change Repurchase Right for any share(s) of Exchangeable Preferred Stock following a Fundamental Change, the Holder thereof must deliver to the Paying Agent:

(1) before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date (or such later time as may be required by law), a duly completed, written Fundamental Change Repurchase Notice with respect to such share(s); and

(2) such share(s), duly endorsed for transfer (to the extent such share(s) are represented by one or more Physical Certificates).

(ii) *Contents of Fundamental Change Repurchase Notices*. Each Fundamental Change Repurchase Notice with respect to any share(s) of Exchangeable Preferred Stock must state:

(1) if such share(s) are represented by one or more Physical Certificates, the certificate number(s) of such Physical Certificate(s);

(2) the number of shares of Exchangeable Preferred Stock to be repurchased, which must be a whole number; and

that such Holder is exercising its Fundamental Change Repurchase Right with respect to such share(s).

(iii) *Withdrawal of Fundamental Change Repurchase Notice*. A Holder that has delivered a Fundamental Change Repurchase Notice with respect to any share(s) of Exchangeable Preferred Stock may withdraw such Fundamental Change Repurchase Notice by delivering a written notice of withdrawal to the Paying Agent at any time before the Close of Business on the Business Day immediately before the related Fundamental Change Repurchase Date. Such withdrawal notice must state:

(1) if such share(s) are represented by one or more Physical Certificates, the certificate number(s) of such Physical Certificate(s);

(2) the number of shares of Exchangeable Preferred Stock to be withdrawn, which must be a whole number; and

the number of shares of Exchangeable Preferred Stock, if any, that remain subject to such Fundamental Change Repurchase Notice, which must be a whole number.

If any Holder delivers to the Paying Agent any such withdrawal notice withdrawing any share(s) of Exchangeable Preferred Stock from any Fundamental Change Repurchase Notice previously delivered to the Paying Agent, and such share(s) have been surrendered to the Paying Agent, then such share(s) will be returned to the Holder thereof.

(g) *Payment of the Fundamental Change Repurchase Price*. Subject to **Section 8(b)**, the Company (or, to the extent the Company fails to do so, the Parent, pursuant to Section 5.21(a) of the Investment Agreement) will cause the Fundamental Change Repurchase Price for each share of Exchangeable Preferred Stock to be repurchased pursuant to a Repurchase Upon Fundamental Change to be paid to the Holder thereof on or before the applicable Fundamental Change Repurchase Date (or, if later in the case such share is represented by a Physical Certificate, the date (x) the Physical Certificate representing such share is delivered to the Paying Agent). Regular Dividends payable pursuant to the proviso to **Section 8(d)** on any share of Exchangeable Preferred Stock to be repurchased pursuant to a Repurchase Upon Fundamental Change will be paid pursuant to such proviso and **Section 5(c)**.

Section 9. VOTING RIGHTS. The Exchangeable Preferred Stock will have no voting rights except as set forth in this **Section 9** or as provided in the Certificate of Incorporation or required by the Delaware General Corporation Law.

(a) *Right to Vote in the Election of Company Directors*. The Holders will have the right to vote together as a single class with the holders of the Company Common Stock at each election of any director of the Company Board of Directors submitted for a vote or consent by the holders of the Company Common Stock, and, for these purposes, (i) the Exchangeable Preferred Stock will entitle the Holders to that portion of the total voting power entitled to vote or consent thereto equal to the Parent Common Stock Equivalent Percentage (with each Holder's individual voting power being proportionate to the portion of the total shares of Exchangeable Preferred Stock outstanding on such date held by such Holder); and (ii) the holders of Company Common Stock as of such date will entitle such holders to that portion of the total voting power entitled to vote or consent thereto equal to the excess one hundred minus the Parent Common Stock Equivalent Percentage (with each such holder's individual voting power being proportionate to the portion of the total shares of Company Common Stock outstanding on such date held by such holder).

(b) *Voting and Consent Rights with Respect to Specified Matters*.

(i) *Generally*. Subject to the other provisions of this **Section 9(b)**, while any Exchangeable Preferred Stock is outstanding, each following event will require, and cannot be effected without, the affirmative vote or consent of Holders, and holders of each class or series of Voting Parity Stock, if any, with similar voting or consent rights with respect to such event, representing at least two-thirds ($^2/_3$rds) of the combined outstanding voting power of the Exchangeable Preferred Stock and such Voting Parity Stock, if any:

(1) any amendment or modification of the Certificate of Incorporation to authorize or create, or to increase the authorized number of shares of, any class or series of Dividend Parity Stock, Liquidation Parity Stock, Dividend Senior Stock or Liquidation Senior Stock;

(2) any amendment, modification or repeal of any provision of the Certificate of Incorporation or this Certificate of Designations that adversely affects the rights, preferences or voting powers of the Exchangeable Preferred Stock (other than an amendment, modification or repeal permitted by **Section 9(b)(iii)**);

(3) the Company's consolidation or combination with, or merger with or into, another Person, or any binding or statutory share exchange or reclassification involving the Exchangeable Preferred Stock, in each case unless:

(A) the Exchangeable Preferred Stock either (x) remains outstanding after such consolidation, combination, merger, share exchange or reclassification; or (y) is converted or reclassified into, or is exchanged for, or represents solely the right to receive, preference securities of the continuing, resulting or surviving Person of such consolidation, combination, merger, share exchange or reclassification, or the parent thereof;

(B) the Exchangeable Preferred Stock that remains outstanding or such preference securities, as applicable, have rights, preferences and voting powers that, taken as a whole, are not materially less favorable to the Holders or the holders thereof, as applicable, than the rights, preferences and voting powers, taken as a whole, of the Exchangeable Preferred Stock immediately before the consummation of such consolidation, combination, merger, share exchange or reclassification; and

(C) the issuer of the Exchangeable Preferred Stock that remains outstanding or such preference securities, as applicable, is a corporation duly organized and existing under the laws of the United States of America, any State thereof or the District of Columbia that, if not the Company, will succeed to the Company under this Certificate of Designations and the Exchangeable Preferred Stock;

(4) any voluntary liquidation, dissolution or winding up of the Company (including any commencement of a voluntary case or proceeding under Bankruptcy Law);

(5) the incurrence, issuance, assumption, guarantee or otherwise becoming liable for any indebtedness that would cause Parent, the Company and their Subsidiaries to have a Total Net Leverage Ratio that is greater than 6.00:1.00 (as calculated in accordance with the Existing Credit Agreement); or

(6) the issuance, by the Company, of any equity securities (including additional Exchangeable Preferred Stock or other preferred securities) or the redemption or repurchase, by the Company, of any outstanding equity securities, other than in accordance with **Section 7** with respect to the Exchangeable Preferred Stock.

provided, however, that (x) a consolidation, combination, merger, share exchange or reclassification that satisfies the requirements of **clauses (A)**, **(B)** and **(C)** of **Section 9(b)(i)(3)** will not require any vote or consent pursuant to **Section 9(b)(i)(1)** or **9(b)(i)(2)**; and (y) each of the following will be deemed not to adversely affect the rights, preferences or voting powers of the Exchangeable Preferred Stock (or cause any of the rights, preferences or voting powers of any such preference securities to be "materially less favorable" for purposes of **Section 9(b)(i)(3)(B)**) and will not require any vote or consent pursuant to **Section 9(b)(i)(1)**, **9(b)(i)(2)** or **9(b)(i)(3)**:

(I) any increase in the number of the authorized but unissued shares of the Company's undesignated preferred stock;

(II) the creation and issuance, or increase in the authorized or issued number, of any class or series of stock that constitutes both Dividend Junior Stock and Liquidation Junior Stock; and

(III) the application of **Section 10(i)**, including the execution and delivery of any supplemental instruments pursuant to **Section 10(i)(iii)** solely to give effect to such provision.

(ii) *Where Some But Not All Classes or Series of Stock Are Adversely Affected*. If any event set forth in **Section 9(b)(i)(1)**, **9(b)(i)(2)** or **9(b)(i)(3)** would adversely affect the rights, preferences or voting powers of one or more, but not all, classes or series of Voting Parity Stock (which term, solely for purposes of this sentence, includes the Exchangeable Preferred Stock), then those classes or series whose rights, preferences or voting powers would not be adversely affected will be deemed not to have voting or consent rights with respect to such event. Furthermore, an amendment, modification or repeal described in **Section 9(b)(i)(2)** above that adversely affects the special rights, preferences or voting powers of the Exchangeable Preferred Stock cannot be effected without the affirmative vote or consent of Holders, voting separately as a class, of at least two-thirds ($^2/_3$rds) of the Exchangeable Preferred Stock then outstanding.

(iii) *Certain Amendments Permitted Without Consent*. Notwithstanding anything to the contrary in **Section 9(b)(i)(2)**, the Company may amend, modify or repeal any of the terms of the Exchangeable Preferred Stock without the vote or consent of any Holder to:

(1) cure any ambiguity or correct any omission, defect or inconsistency in this Certificate of Designations or the Certificates representing the Exchangeable Preferred Stock, including the filing of a certificate of correction, or a corrected instrument, pursuant to Section 103(f) of the Delaware General Corporation Law in connection therewith; or

(2) make any other change to the Certificate of Incorporation, this Certificate of Designations or the Certificates representing the Exchangeable Preferred Stock that does not, individually or in the aggregate with all other such changes, adversely affect the rights of any Holder (other than any Holders that have consented to such change), as such, in any material respect.

(iv) *Consent Rights in Investment Agreement Unaffected*. Nothing in this Certificate of Designations will limit or otherwise affect and consent or other rights afforded to any Holder pursuant to the Investment Agreement.

(c) *Procedures for Voting and Consents*.

(i) *Rules and Procedures Governing Votes and Consents*. If any vote or consent of the Holders will be held or solicited, including at a regular annual meeting or a special meeting of stockholders, then (1) the Company's Board of Directors will adopt customary rules and procedures at its discretion to govern such vote or consent, subject to the other provisions of this **Section 9**; and (2) such rules and procedures may include fixing a record date to determine the Holders (and, if applicable, holders of Voting Parity Stock) that are entitled to vote or provide consent, as applicable, rules governing the solicitation and use of proxies or written consents and customary procedures for the nomination and designation, by Holders (and, if applicable, holders of Voting Parity Stock), of Preferred Stock Directors for election.

(ii) *Voting Power of the Exchangeable Preferred Stock and Voting Parity Stock*. Each share of Exchangeable Preferred Stock will be entitled to one vote on each matter on which the Holders of the Exchangeable Preferred Stock are entitled to vote separately as a class and not together with the holders of any other class or series of stock. The respective voting powers of the Exchangeable Preferred Stock and all classes or series of Voting Parity Stock entitled to vote on any matter together as a single class will be determined (including for purposes of determining whether a plurality, majority or other applicable portion of votes has been obtained) in proportion to their respective liquidation amounts. Solely for purposes of the preceding sentence, the liquidation amount of the Exchangeable Preferred Stock or any such class or series of Voting Parity Stock will be the maximum amount payable in respect of the Exchangeable Preferred Stock or such class or series, as applicable, assuming the Company is liquidated on the record date for the applicable vote or consent (or, if there is no record date, on the date of such vote or consent).

(iii) *Written Consent in Lieu of Stockholder Meeting*. A consent or affirmative vote of the Holders pursuant to **Section 9(a)** or **Section 9(b)** may be given or obtained either in writing without a meeting or in person or by proxy at a regular annual meeting or a special meeting of stockholders.

Section 10. EXCHANGE.

(a) *Generally*. Subject to the provisions of this **Section 10**, the Exchangeable Preferred Stock may be Exchanged only pursuant to a Mandatory Exchange or an Optional Exchange.

(b) *Exchange at the Option of the Holders*.

(i) *Exchange Right; When Shares May Be Submitted for Optional Exchange*. Subject to **Section 10(d)(ii)(2)**, Holders will have the right to submit all, or any whole number of shares that is less than all, of their shares of Exchangeable Preferred Stock pursuant to an Optional Exchange at any time; *provided, however*, that, notwithstanding anything to the contrary in this Certificate of Designations,

(1) if a Fundamental Change Repurchase Notice is validly delivered pursuant to **Section 8(f)(i)** with respect to any share of Exchangeable Preferred Stock, then such share may not be submitted for Optional Exchange, except to the extent (A) such share is not subject to such notice; (B) such notice is withdrawn in accordance with **Section 8(f)(iii)**; or (C) the Company fails to pay the Fundamental Change Repurchase Price for such share in accordance with this Certificate of Designations;

(2) shares of Exchangeable Preferred Stock that are called for Redemption may not be submitted for Optional Exchange after the Close of Business on the Business Day immediately before the related Redemption Date (or, if the Company fails to pay the Redemption Price due on such Redemption Date in full, at any time until such time as the Company pays such Redemption Price in full);

(3) shares of Exchangeable Preferred Stock that are subject to Mandatory Exchange may not be submitted for Optional Exchange after the Close of Business on the Business Day immediately before the related Mandatory Exchange Date; and

(4) a Holder will not be entitled to effect an Optional Exchange with respect to less than the lesser of (x) twenty thousand (20,000) shares of Exchangeable Preferred Stock; and (y) the total number of shares of Exchangeable Preferred Stock held by such Holder.

(ii) *Exchanges of Fractional Shares Not Permitted*. Notwithstanding anything to the contrary in this Certificate of Designations, in no event will any Holder be entitled to Exchange a number of shares of Exchangeable Preferred Stock that is not a whole number.

(c) *Mandatory Exchange at the Company's Election*.

(i) *Mandatory Exchange Right*. Subject to the provisions of this **Section 10**, the Company has the right (the "**Mandatory Exchange Right**"), exercisable at its election, to designate any Business Day on or after Mandatory Exchange Trigger Date as an Exchange Date for the Exchange (such a Exchange, a "**Mandatory Exchange**") of all, but not less than all, of the outstanding shares of Exchangeable Preferred Stock, but only if the Last Reported Sale Price per share of Parent Common Stock exceeds one hundred and twenty five percent (125%) of the Exchange Price on (1) each of at least twenty (20) Trading Days (regardless of whether consecutive) during the thirty (30) consecutive Trading Days ending on, and including, the Trading Day immediately before the Mandatory Exchange Notice Date for such Mandatory Exchange; and (2) the Trading Day immediately before such the Mandatory Exchange Notice Date.

(ii) *Mandatory Exchange Prohibited in Certain Circumstances*. The Company will not exercise its Mandatory Exchange Right, or otherwise send a Mandatory Exchange Notice, with respect to any Exchangeable Preferred Stock pursuant to this **Section 10(c)** unless the Parent Common Stock Liquidity Conditions are satisfied with respect to the Mandatory Exchange. Notwithstanding anything to the contrary in this **Section 10(c)**, the Company's exercise of its Mandatory Exchange Right, and any related Mandatory Exchange Notice, will not apply to any share of Exchangeable Preferred Stock as to which a Fundamental Change Repurchase Notice has been duly delivered, and not withdrawn, pursuant to **Section 8(f)**. In addition, notwithstanding anything to the contrary in this **Section 10(c)**, the Company will not exercise its Mandatory Exchange Right, or otherwise send a Mandatory Exchange Notice, with respect to any Exchangeable Preferred Stock pursuant to this **Section 10(c)** during the period from, and including, the date the Company has sent a Redemption Notice in respect of the Redemption of any Exchangeable Preferred Stock pursuant to **Section 7** to, and including, the related Redemption Date (or, if later, the date when such Redemption is settled). Notwithstanding anything to the contrary in this **Section 10(c)**, the Company cannot exercise its Mandatory Exchange Right at any time before the Requisite 5635(a) Stockholder Approval is obtained.

(iii) *Mandatory Exchange Date*. The Mandatory Exchange Date for any Mandatory Exchange will be a Business Day of the Company's choosing that is no more than twenty (20), nor less than ten (10), Business Days after the Mandatory Exchange Notice Date for such Mandatory Exchange.

(iv) *Mandatory Exchange Notice*. To exercise its Mandatory Exchange Right with respect to any shares of Exchangeable Preferred Stock, the Company must send to each Holder of such shares a written notice of such exercise (a "**Mandatory Exchange Notice**").

Such Mandatory Exchange Notice must state:

(1) that the Company has exercised its Mandatory Exchange Right to cause the Mandatory Exchange of the shares;

(2) the Mandatory Exchange Date for such Mandatory Exchange and the date scheduled for the settlement of such Mandatory Exchange; and

(3) the Exchange Price in effect on the Mandatory Exchange Notice Date for such Mandatory Exchange.

(d) *Exchange Procedures*.

(i) *Mandatory Exchange*. If the Company duly exercises, in accordance with **Section 10(c)**, its Mandatory Exchange Right with respect to any share of Exchangeable Preferred Stock, then (1) the Mandatory Exchange of such share will occur automatically and without the need for any action on the part of the Holder(s) thereof; and (2) the shares of Parent Common Stock due upon such Mandatory Exchange will be registered in the name of, and, if applicable, the cash due upon such Mandatory Exchange will be delivered to, the Holder(s) of such share of Exchangeable Preferred Stock as of the Close of Business on the related Mandatory Exchange Date.

(ii) *Requirements for Holders to Exercise Optional Exchange Right*.

(1) *Generally*. To Exchange any share of Exchangeable Preferred Stock represented by a Certificate pursuant to an Optional Exchange, the Holder of such share must (w) complete, manually sign and deliver to the Exchange Agent an Optional Exchange Notice (at which time, in the case such Certificate is an Electronic Certificate, such Optional Exchange will become irrevocable); (x) if such Certificate is a Physical Certificate, deliver such Physical Certificate to the Exchange Agent (at which time such Optional Exchange will become irrevocable); (y) furnish any endorsements and transfer documents that the Company or the Exchange Agent may require; and (z) if applicable, pay any documentary or other taxes pursuant to **Section 11(c)**.

(2) *Optional Exchange Permitted only During Business Hours*. Exchangeable Preferred Stock may be surrendered for Optional Exchange only after the Open of Business and before the Close of Business on a day that is a Business Day.

(iii) *Treatment of Accumulated Regular Dividends Upon Exchange*.

(1) *No Adjustments for Accumulated Regular Dividends*. Without limiting the operation of **Sections 5(a)(iii)(1)** and **10(e)(i)**, the Exchange Price will not be adjusted to account for any accumulated and unpaid Regular Dividends on any Exchangeable Preferred Stock being Exchanged.

(2) *Exchanges Between A Record Date and a Dividend Payment Date*. If the Exchange Date of any share of Exchangeable Preferred Stock to be Exchanged is after a Record Date for a declared Dividend on the Exchangeable Preferred Stock and on or before the next Dividend Payment Date, then such Dividend will be paid pursuant to **Section 5(c)** notwithstanding such Exchange.

(iv) *When Holders Become Stockholders of Record of the Shares of Parent Common Stock Issuable Upon Exchange*. The Person in whose name any share of Parent Common Stock is issuable upon Exchange of any Exchangeable Preferred Stock will be deemed to become the holder of record of such share as of the Close of Business on the Exchange Date for such Exchange.

(e) *Settlement Upon Exchange*.

(i) *Generally*. Subject to **Section 10(e)(ii)**, **Section 10(h)** and **Section 12(b)**, the consideration due upon settlement of the Exchange of each share of Exchangeable Preferred Stock will consist of a number of shares of Parent Common Stock equal to the quotient obtained by dividing (x) the Liquidation Preference of such share of Exchangeable Preferred Stock immediately before the Close of Business on the Exchange Date for such Exchange; by (y) the Exchange Price in effect immediately before the Close of Business on such Exchange Date; *provided*, *however*, that for purposes of such Exchange, an amount equal to accumulated and unpaid Regular Dividends on such share of Exchangeable Preferred Stock to, but excluding, such Exchange Date will be added to the Liquidation Preference referred to in **clause (x)** above, unless either (A) such Exchange Date is after a Regular Dividend Record Date for a Regular Dividend on the Exchangeable Preferred Stock and on or before the next Regular Dividend Payment Date, and all or any portion of such Regular Dividend has been declared to be paid in cash, in which case such declared cash Regular Dividend will be paid pursuant to **Section 5(c)** and **Section 10(d)(iii)(2)** notwithstanding such Exchange, and such cash amount per share of Exchangeable Preferred Stock will not be included in the amount added to the Liquidation Preference pursuant to this proviso; or (B) any portion of the addition to the Liquidation Preference pursuant to this proviso would not have been permitted to be added to the Liquidation Preference pursuant to the Exchange Limitation if the addition were made pursuant to **Section 5(a)(iii)(1)**, in which case such portion will be paid in cash as part of the Exchange Consideration, if the Company has sufficient funds legally available therefor (or, to the extent the Company fails to make such payment, the Parent will be make such payment pursuant to Section 5.21(a) of the Investment Agreement). The Parent will be obligated to deliver the Exchange Consideration pursuant to Section 5.21(b) of the Investment Agreement.

(ii) *Payment of Cash in Lieu of any Fractional Share of Parent Common Stock*. Subject to **Section 12(b)**, in lieu of delivering any fractional share of Parent Common Stock otherwise due upon Exchange of any Exchangeable Preferred Stock, the Parent will, pursuant to the Investment Agreement, pay cash based on the Last Reported Sale Price per share of Parent Common Stock on the Exchange Date for such Exchange (or, if such Exchange Date is not a Trading Day, the immediately preceding Trading Day).

(iii) *Delivery of Exchange Consideration*. Except as provided in **Section 10(f)(i)(2)**, the Exchange Consideration due upon Exchange of any Exchangeable Preferred Stock will be paid or delivered, as applicable, on or before the second (2nd) Business Day immediately after the Exchange Date for such Exchange.

(f) *Exchange Price Adjustments*.

(i) *Events Requiring an Adjustment to the Exchange Price*. The Exchange Price will be adjusted from time to time as follows:

(1) *Stock Dividends, Splits and Combinations*. If the Parent issues solely shares of Parent Common Stock as a dividend or distribution on all or substantially all shares of the Parent Common Stock, or if the Parent effects a stock split or a stock combination of the Parent Common Stock (in each case excluding an issuance solely pursuant to a Parent Common Stock Change Event, as to which **Section 10(i)** will apply), then the Exchange Price will be adjusted based on the following formula:

$$CP_1 = CP_0 \times \frac{OS_0}{OS_1}$$

where:

CP0	=	the Exchange Price in effect immediately before the Close of Business on the Record Date for such dividend or distribution, or immediately before the Close of Business on the effective date of such stock split or stock combination, as applicable;
CP1	=	the Exchange Price in effect immediately after the Close of Business on such Record Date or effective date, as applicable;
OS0	=	the number of shares of Parent Common Stock outstanding immediately before the Close of Business on such Record Date or effective date, as applicable, without giving effect to such dividend, distribution, stock split or stock combination; and
OS1	=	the number of shares of Parent Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

If any dividend, distribution, stock split or stock combination of the type described in this **Section 10(f)(i)(1)** is declared or announced, but not so paid or made, then the Exchange Price will be readjusted, effective as of the date the Parent's Board of Directors determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the Exchange Price that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(2) *Tender Offers or Exchange Offers*. If the Parent, the Company or any of their respective Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Parent Common Stock (other than solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act), and the value (determined as of the Expiration Time by the Parent's Board of Directors) of the cash and other consideration paid per share of Parent Common Stock in such tender or exchange offer exceeds the Last Reported Sale Price per share of Parent Common Stock on the Trading Day immediately after the last date (the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then the Exchange Price will be decreased based on the following formula:

$$CP_1 = CP_0 \times \frac{SP \times OS_0}{AC + (SP \times OS_1)}$$

where:

CP0	=	the Exchange Price in effect immediately before the time (the "**Expiration Time**") such tender or exchange offer expires;
CP1	=	the Exchange Price in effect immediately after the Expiration Time;
SP	=	the average of the Last Reported Sale Prices per share of Parent Common Stock over the ten (10) consecutive Trading Day period (the "**Tender/Exchange Offer Valuation Period**") beginning on, and including, the Trading Day immediately after the Expiration Date;
OS0	=	the number of shares of Parent Common Stock outstanding immediately before the Expiration Time (including all shares of Parent Common Stock accepted for purchase or exchange in such tender or exchange offer);
AC	=	the aggregate value (determined as of the Expiration Time by the Parent's Board of Directors) of all cash and other consideration paid for shares of Parent Common Stock purchased or exchanged in such tender or exchange offer; and
OS1	=	the number of shares of Parent Common Stock outstanding immediately after the Expiration Time (excluding all shares of Parent Common Stock accepted for purchase or exchange in such tender or exchange offer);

provided, *however*, that the Exchange Price will in no event be adjusted up pursuant to this **Section 10(f)(i)(2)**, except to the extent provided in the immediately following paragraph. The adjustment to the Exchange Price pursuant to this **Section 10(f)(i)(2)** will be calculated as of the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period but will be given effect immediately after the Expiration Time, with retroactive effect. If the Exchange Date for any share of Exchangeable Preferred Stock to be Exchanged occurs on the Expiration Date or during the Tender/Exchange Offer Valuation Period, then, notwithstanding anything to the contrary in this Certificate of Designations, the Company will, if necessary, delay the settlement of such Exchange until the second (2nd) Business Day after the last Trading Day of the Tender/Exchange Offer Valuation Period.

To the extent such tender or exchange offer is announced but not consummated (including as a result of being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Parent Common Stock in such tender or exchange offer are rescinded, the Exchange Price will be readjusted to the Exchange Price that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Parent Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(ii) *No Adjustments in Certain Cases*. Without limiting the operation of **Sections 5(a)(iii)(1)** and **10(e)(i)**, the Company will not be required to adjust the Exchange Price except pursuant to **Section 10(f)(i)**. Without limiting the foregoing, the Company will not be required to adjust the Exchange Price on account of:

(1) except as otherwise provided in **Section 10(f)(i)**, the sale of shares of Parent Common Stock for a purchase price that is less than the market price per share of Parent Common Stock or less than the Exchange Price;

(2) the issuance of any shares of Parent Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Parent Common Stock under any such plan;

(3) the issuance of any shares of Parent Common Stock or options or rights to purchase shares of Parent Common Stock pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(4) the issuance of any shares of Parent Common Stock pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding as of the Initial Issue Date; or

(5) solely a change in the par value of the Parent Common Stock.

(iii) *Adjustment Deferral*. If an adjustment to the Exchange Price otherwise required by this Certificate of Designations would result in a change of less than one percent (1%) to the Exchange Price, then the Company may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (1) when all such deferred adjustments would result in a change of at least one percent (1%) to the Exchange Price; (2) the Exchange Date of any share of Exchangeable Preferred Stock; (3) the date a Fundamental Change or Make-Whole Fundamental Change occurs; and (4) the Redemption Notice Date for any Redemption.

(iv) *Stockholder Rights Plans*. If any shares of Parent Common Stock are to be issued upon Exchange of any Exchangeable Preferred Stock and, at the time of such Exchange, the Parent has in effect any stockholder rights plan, then the Holder of such Exchangeable Preferred Stock will be entitled to receive, in addition to, and concurrently with the delivery of, the consideration otherwise due upon such Exchange, the rights set forth in such stockholder rights plan.

(v) *Determination of the Number of Outstanding Shares of Parent Common Stock*. For purposes of **Section 10(f)(i)**, the number of shares of Parent Common Stock outstanding at any time will (1) include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Parent Common Stock; and (2) exclude shares of Parent Common Stock held in the Company's treasury (unless the Company pays any dividend or makes any distribution on shares of Parent Common Stock held in its treasury).

(vi) *Rounding of Calculations*. All calculations with respect to the Exchange Price and adjustments thereto will be made to the nearest 1/100th of a cent (with 5/1,000ths rounded upward).

(vii) *Notice of Exchange Price Adjustments*. Upon the effectiveness of any adjustment to the Exchange Price pursuant to **Section 10(f)(i)**, the Company will promptly send notice to the Holders containing (1) a brief description of the transaction or other event on account of which such adjustment was made; (2) the Exchange Price in effect immediately after such adjustment; and (3) the effective time of such adjustment.

(g) *Voluntary Exchange Price Decreases*.

(i) *Generally*. To the extent permitted by law and applicable stock exchange rules, the Company or the Parent, from time to time, may (but is not required to) decrease the Exchange Price by any amount if (1) the applicable Board of Directors determines that such decrease is in the best interests of the Company or the Parent, as applicable, or that such decrease is advisable to avoid or diminish any income tax imposed on holders of Parent Common Stock or rights to purchase Parent Common Stock as a result of any dividend or distribution of shares (or rights to acquire shares) of Parent Common Stock or any similar event; (2) such decrease is in effect for a period of at least twenty (20) Business Days; and (3) such decrease is irrevocable during such period.

(ii) *Notice of Voluntary Decrease*. If the applicable Board of Directors determines to decrease the Exchange Price pursuant to **Section 10(g)(i)**, then, no later than the first Business Day of the related twenty (20) Business Day period referred to in **Section 10(g)(i)**, the Company will send notice to each Holder and the Exchange Agent of such decrease to the Exchange Price, the amount thereof and the period during which such decrease will be in effect.

(h) *Limitation on Exchange Right*.

(i) *Generally*. Notwithstanding anything to the contrary in this Certificate of Designations, unless and until the Requisite 5635(b) Stockholder Approval is obtained, if at all, no shares of Parent Common Stock will be issued or delivered upon Exchange of any Exchangeable Preferred Stock of any Holder, and no Exchangeable Preferred Stock of any Holder will be Exchangeable, in each case to the extent, and only to the extent, that such issuance, delivery, Exchange or Exchangeability would result in such Holder, or a "person" or "group" (within the meaning of Section 13(d)(3) of the Exchange Act) that includes such Holder, beneficially owning in excess of nineteen and nine tenths percent (19.9%) of the then-outstanding shares of Parent Common Stock (this restrictions set forth in this sentence, the "**Ownership Limitation**"). For these purposes, beneficial ownership and calculations of percentage ownership will be determined in accordance with Rule 13d-3 under the Exchange Act. The limitations on the Exchangeability of any Exchangeable Preferred Stock pursuant to this **Section 10(h)(i)** will not, in themselves, cause such Exchangeable Preferred Stock to cease to be outstanding (and Regular Dividends will continue to accumulate on any portion of such Exchangeable Preferred Stock that has been tendered for Exchange and whose Exchangeability is suspended pursuant to this **Section 10(h)(i)**), and such limitations will cease to apply if and when such Exchangeable Preferred Stock's Exchangeability and Exchange will not violate this **Section 10(h)(i)**.

(ii) *Obligations Not Extinguished*. If any Exchange Consideration otherwise due upon the Exchange of any Exchangeable Preferred Stock is not delivered as a result of the Ownership Limitation, then the obligation to deliver such Exchange Consideration will not be extinguished, and such Exchange Consideration will be delivered as soon as reasonably practicable after the Holder of such Exchangeable Preferred Stock provides written confirmation to the Company that such delivery will not contravene the Ownership Limitation. Any purported delivery of shares of Parent Common Stock upon Exchange of any Exchangeable Preferred Stock will be void and have no effect to the extent, and only to the extent, that such delivery would contravene the Ownership Limitation.

(i) *Effect of Parent Common Stock Change Event*.

(i) *Generally*. If there occurs any:

(1) recapitalization, reclassification or change of the Parent Common Stock, other than (x) changes solely resulting from a subdivision or combination of the Parent Common Stock, (y) a change only in par value or from par value to no par value or no par value to par value or (z) stock splits and stock combinations that do not involve the issuance of any other series or class of securities;

(2) consolidation, merger, combination or binding or statutory share exchange involving the Company;

(3) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(4) other similar event,

and, as a result of which, the Parent Common Stock is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a "**Parent Common Stock Change Event**," and such other securities, cash or property, the "**Reference Property**," and the amount and kind of Reference Property that a holder of one (1) share of Parent Common Stock would be entitled to receive on account of such Parent Common Stock Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a "**Reference Property Unit**"), then, notwithstanding anything to the contrary in this Certificate of Designations,

(A) from and after the effective time of such Parent Common Stock Change Event, (I) the consideration due upon Exchange of any Exchangeable Preferred Stock will be determined in the same manner as if each reference to any number of shares of Parent Common Stock in **Section 10** or in **Section 11**, or in any related definitions, were instead a reference to the same number of Reference Property Units; (II) for purposes of **Section 10(c)**, each reference to any number of shares of Parent Common Stock in such Section (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units; and (III) for purposes of the definition of "Fundamental Change," the terms "Parent Common Stock" and "common equity" will be deemed to mean the common equity (including depositary receipts representing common equity), if any, forming part of such Reference Property; and

(B) for these purposes, the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of stockholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per share of Parent Common Stock, by the holders of Parent Common Stock. The Company will notify the Holders of such weighted average as soon as practicable after such determination is made.

(ii) *Compliance Covenant*. The Company (and, pursuant to Section 5.21(g) of the Investment Agreement, the Parent) will not voluntarily participate in any Parent Common Stock Change Event unless its terms are consistent with this **Section 10(i)**.

(iii) *Execution of Supplemental Instruments*. On or before the date the Parent Common Stock Change Event becomes effective, the Company and, if applicable, the Parent and the resulting, surviving or transferee Person (if not the Company) of such Parent Common Stock Change Event (the "**Successor Person**") will execute and deliver such supplemental instruments, if any, as the Company reasonably determines are necessary or desirable to (1) provide for subsequent adjustments to the Exchange Price pursuant to **Section 10(f)(i)** in a manner consistent with this **Section 10(i)**; and (2) give effect to such other provisions, if any, as the Company reasonably determines are appropriate to preserve the economic interests of the Holders and to give effect to **Section 10(i)(i)**. If the Reference Property includes shares of stock or other securities or assets (other than cash) of a Person other than the Successor Person, then such other Person will also execute such supplemental instrument(s) and such supplemental instrument(s) will contain such additional provisions, if any, that the Company reasonably determines are appropriate to preserve the economic interests of Holders.

(iv) *Notice of Parent Common Stock Change Event*. The Company will provide notice of each Parent Common Stock Change Event to Holders no later than the effective date of the Parent Common Stock Change Event.

Section 11. CERTAIN PROVISIONS RELATING TO THE ISSUANCE OF PARENT COMMON STOCK.

(a) *Equitable Adjustments to Prices*. Whenever this Certificate of Designations requires the Company to calculate the average of the Last Reported Sale Prices, or any function thereof, over a period of multiple days (including to calculate an adjustment to the Exchange Price), the Company will make appropriate adjustments, if any, to those calculations to account for Price), any dividend or distribution on the Parent Common Stock whose Ex-Dividend Date occurs, or any adjustment to the Exchange Price pursuant to **Section 10(f)(i)** that becomes effective, or any event requiring such an adjustment to the Exchange Price where the Ex-Dividend Date, effective date or Expiration Date, as applicable, of such event occurs, at any time during such period.

(b) *Delivery of Treasury Shares*. To the extent the Parent delivers shares of Parent Common Stock held in the Parent's treasury in settlement of any obligation under this Certificate of Designations and Section 5.21(b) of the Investment Agreement to deliver shares of Parent Common Stock, each reference in this Certificate of Designations to the issuance of shares of Parent Common Stock in connection therewith will be deemed to include such delivery.

(c) *Taxes Upon Issuance of Parent Common Stock*. The Company (or, to the extent the Company fails to do so, the Parent, pursuant to Section 5.21(f) of the Investment Agreement) will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue of any shares of Parent Common Stock upon Exchange of the Exchangeable Preferred Stock of any Holder, except any tax or duty that is due because such Holder requests those shares to be registered in a name other than such Holder's name.

Section 12. CALCULATIONS.

(a) *Responsibility; Schedule of Calculations*. Except as otherwise provided in this Certificate of Designations, the Company will be responsible for making all calculations called for under this Certificate of Designations or the Exchangeable Preferred Stock, including determinations of the Exchange Price, the Last Reported Sale Prices and accumulated Regular Dividends on the Exchangeable Preferred Stock. The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of such calculations to any Holder upon written request.

(b) *Calculations Aggregated for Each Holder*. The composition of the Exchange Consideration due upon Exchange of the Exchangeable Preferred Stock of any Holder will be computed based on the total number of shares of Exchangeable Preferred Stock of such Holder being Exchanged with the same Exchange Date. Any cash amounts due to such Holder in respect thereof will, after giving effect to the preceding sentence, be rounded to the nearest cent.

Section 13. Tax Treatment. For U.S. federal and other applicable state and local income tax purposes, it is intended that (a) the Exchangeable Preferred Stock will not be treated as "preferred stock" within the meaning of Section 305(b)(4) of Code and Treasury Regulations Section 1.305-5(a); (b) no Holder will be required to include in income any amounts in respect of the Exchangeable Preferred Stock by operation of Section 305(b) or (c) of the Code and (c) any exchange of the Exchangeable Preferred Stock shall be treated as a "reorganization" within the meaning of Section 368(a)(1) of the Code (and that Section 10 of this Certificate of Designations, taken together with the Investment Agreement, be treated as a "plan of reorganization" within the meaning of Treasury Regulation Section 1.368-1(c)). The Company will, and will cause its Subsidiaries and agents to, report consistently with, and take no positions or actions inconsistent with, the foregoing treatment (including by way of withholding) unless otherwise required by a determination within the meaning of Section 1313(a) of the Code. The Company will not, and will not cause or permit any of its Subsidiaries to, issue any securities or otherwise take any action that could reasonably be expected to affect the treatment described in **clause (b)** and **clause (c)**.

Section 14. Notices. The Company will send all notices or communications to Holders pursuant to this Certificate of Designations in writing either (a) by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to the Holders' respective addresses shown on the Register; or (b) by facsimile or other electronic transmission, or by other similar means of unsecured electronic communication, to the facsimile or electronic address, as applicable, of such Holder shown on the Register (which transmission or communication will be deemed to be in writing), *provided* receipt of such transmission or communication is acknowledged.

Section 15. Legally Available Funds. Without limiting the rights of the Holders (including pursuant to **Section 6**), if the Company does not have sufficient funds legally available to fully pay any cash amount otherwise due on the Exchangeable Preferred Stock, then the Company will pay the deficiency promptly after funds thereafter become legally available therefor.

Section 16. No Other Rights. The Exchangeable Preferred Stock will have no rights, preferences or voting powers except as provided in this Certificate of Designations or the Certificate of Incorporation or as required by applicable law.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

IN WITNESS WHEREOF, the Company has caused this Certificate of Designations to be duly executed as of the date first written above.

SHENTEL BROADBAND HOLDING INC.

By: _____
Name:
Title:

[Signature Page to Certificate of Designations]

EXHIBIT A

FORM OF EXCHANGEABLE PREFERRED STOCK

[*Insert Restricted Stock Legend, if applicable*]

SHENTEL BROADBAND HOLDING INC.

Series A Participating Exchangeable Perpetual Preferred Stock

Certificate No. [___]

Shentel Broadband Holding Inc., a Delaware corporation (the "**Company**"), certifies that [___] is the registered owner of [___] shares of the Company's Series A Participating Exchangeable Perpetual Preferred Stock (the "**Exchangeable Preferred Stock**") represented by this certificate (this "**Certificate**"). The special rights, preferences and voting powers of the Exchangeable Preferred Stock are set forth in the Certificate of Designations of the Company establishing the Exchangeable Preferred Stock (the "**Certificate of Designations**"). Capitalized terms used in this Certificate without definition have the respective meanings ascribed to them in the Certificate of Designations.

Additional terms of this Certificate are set forth on the other side of this Certificate.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

IN WITNESS WHEREOF, Shentel Broadband Holding Inc. has caused this instrument to be duly executed as of the date set forth below.

SHENTEL BROADBAND HOLDING INC.

Date: _____

By: _____
Name:
Title:

Date: _____

By: _____
Name:
Title:

SHENTEL BROADBAND HOLDING INC.

Series A Participating Exchangeable Perpetual Preferred Stock

This Certificate represents duly authorized, issued and outstanding shares of Exchangeable Preferred Stock. Terms of the Exchangeable Preferred Stock are summarized below. Notwithstanding anything to the contrary in this Certificate, to the extent that any provision of this Certificate conflicts with the provisions of the Certificate of Designations or the Certificate of Incorporation, the provisions of the of the Certificate of Designations or the Certificate of Incorporation, as applicable, will control.

1. **Method of Payment**. Cash amounts due on the Exchangeable Preferred Stock represented by this Certificate will be paid in the manner set forth in Section 3(e) of the Certificate of Designations.

2. **Persons Deemed Owners**. The Person in whose name this Certificate is registered will be treated as the owner of the Exchangeable Preferred Stock represented by this Certificate for all purposes, subject to Section 3(l) of the Certificate of Designations.

3. **Denominations; Transfers and Exchanges**. All shares of Exchangeable Preferred Stock will be in registered form and in denominations equal to any whole number of shares. Subject to the terms of the Certificate of Designations, the Holder of the Exchangeable Preferred Stock represented by this Certificate may transfer or exchange such Exchangeable Preferred Stock by presenting this Certificate to the Registrar and delivering any required documentation or other materials.

4. **Dividends**. Dividends on the Exchangeable Preferred Stock will accumulate and will be paid in the manner, and subject to the terms, set forth in Section 5 of the Certificate of Designations.

5. **Liquidation Preference**. The Liquidation Preference per share of Exchangeable Preferred Stock is initially equal to the Initial Liquidation Preference per share of Exchangeable Preferred Stock; *provided*, *however*, that the Liquidation Preference is subject to adjustment pursuant to Sections 5(a)(iii)(1) and 10(e)(i) of the Certificate of Designations. The rights of Holders upon the Company's liquidation, dissolution or winding up are set forth in Section 6 of the Certificate of Designations.

6. **Right of Holders to Require the Company to Repurchase Exchangeable Preferred Stock upon a Fundamental Change**. If a Fundamental Change occurs, then each Holder will have the right to require the Company to repurchase such Holder's Exchangeable Preferred Stock for cash in the manner, and subject to the terms, set forth in Section 8 of the Certificate of Designations.

7. **Right of the Company to Redeem the Exchangeable Preferred Stock**. The Company will have the right to redeem the Exchangeable Preferred Stock in the manner, and subject to the terms, set forth in Section 7 of the Certificate of Designations.

8. **Voting Rights**. Holders of the Exchangeable Preferred Stock have the voting rights set forth in Section 9 of the Certificate of Designations.

9. **Exchange**. The Exchangeable Preferred Stock will be Exchangeable into Exchange Consideration in the manner, and subject to the terms, set forth in Section 10 of the Certificate of Designations.

10. **Abbreviations**. Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

* * *

To request a copy of the Certificate of Designations, which the Company will provide to any Holder at no charge, please send a written request to the following address:

Shentel Broadband Holding Inc.
500 Shentel Way
Edinburg, Virginia 22824
Attention: Chief Financial Officer

OPTIONAL EXCHANGE NOTICE

SHENTEL BROADBAND HOLDING INC.

Series A Participating Exchangeable Perpetual Preferred Stock

Subject to the terms of the Certificate of Designations, by executing and delivering this Optional Exchange Notice, the undersigned Holder of the Exchangeable Preferred Stock identified below directs the Company to Exchange (check one):

☐ all of the shares of Exchangeable Preferred Stock

☐ _____* shares of Exchangeable Preferred Stock

identified by Certificate No. _____.

(Optional) Identify account within the United States to which any cash Exchange Consideration will be wired:

Bank Routing Number: _____
SWIFT Code: _____
Bank Address: _____
_____
Account Number: _____
Account Name: _____

Date: _____ _____
(Legal Name of Holder)

By: _____
Name:
Title:

_____
* Must be a whole number.

FUNDAMENTAL CHANGE REPURCHASE NOTICE

SHENTEL BROADBAND HOLDING INC.

Series A Participating Exchangeable Perpetual Preferred Stock

Subject to the terms of the Certificate of Designations, by executing and delivering this Fundamental Change Repurchase Notice, the undersigned Holder of the Exchangeable Preferred Stock identified below is exercising its Fundamental Change Repurchase Right with respect to (check one):

☐ all of the shares of Exchangeable Preferred Stock
☐ _____* shares of Exchangeable Preferred Stock

identified by Certificate No. _____.

(Optional) Identify account within the United States to which the Fundamental Change Repurchase Price will be wired:

Bank Routing Number: _____
SWIFT Code: _____
Bank Address: _____
_____
Account Number: _____
Account Name: _____

The undersigned acknowledges that Certificate identified above, duly endorsed for transfer, must be delivered to the Paying Agent before the Fundamental Change Repurchase Price will be paid.

Date: _____ _____
(Legal Name of Holder)

By: _____
Name:
Title:

_____
* Must be a whole number.

ASSIGNMENT FORM

SHENTEL BROADBAND HOLDING INC.

Series A Participating Exchangeable Perpetual Preferred Stock

Subject to the terms of the Certificate of Designations, the undersigned Holder of the Exchangeable Preferred Stock identified below assigns (check one):

☐ all of the shares of Exchangeable Preferred Stock
☐ _____[1] shares of Exchangeable Preferred Stock

identified by Certificate No. _____, and all rights thereunder, to:

Name: _____
Address: _____
_____
_____
_____
Social security or tax identification number: _____

and irrevocably appoints:

_____

as agent to transfer such shares on the books of the Company. The agent may substitute another to act for him/her.

Date: _____ _____
(Legal Name of Holder)

By: _____
Name:
Title:

1 Must be a whole number.

EXHIBIT B

FORM OF RESTRICTED STOCK LEGEND

THE OFFER AND SALE OF THIS SECURITY AND THE SHARES OF COMMON STOCK ISSUABLE UPON EXCHANGE OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY AND SUCH SHARES MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED EXCEPT (A) PURSUANT TO A REGISTRATION STATEMENT THAT IS EFFECTIVE UNDER THE SECURITIES ACT; OR (B) PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

EXHIBIT B

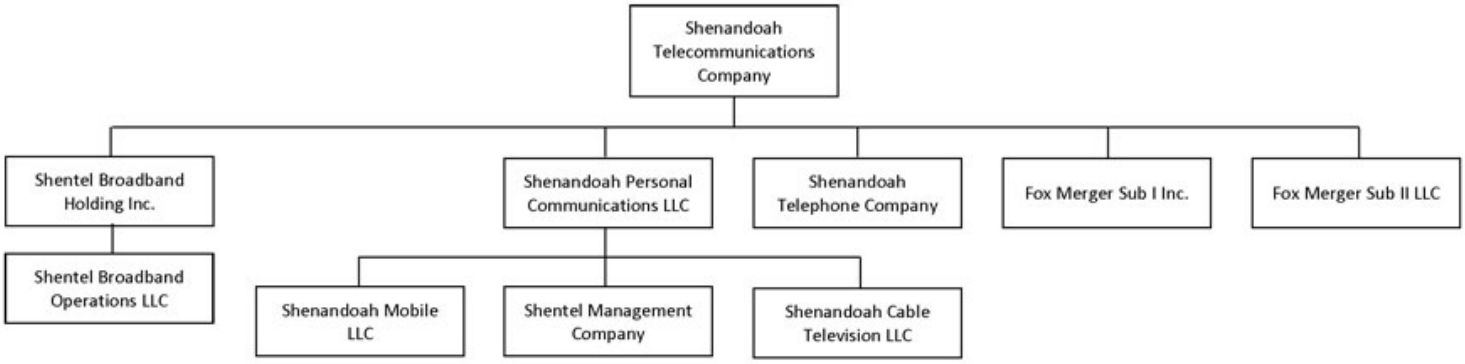
Reorganization

1. Prior to the Closing, Parent will contribute to the Company, for further contribution to Shentel Broadband Operations LLC, a Delaware limited liability company and direct, wholly owned Subsidiary of the Company ("Shentel Operations"), all of the equity interests of its direct, wholly owned Subsidiaries, Shenandoah Personal Communications LLC and Shenandoah Telephone Company.

2. Prior to the Closing, Parent will contribute to the Company, for further contribution to Shentel Operations (or one of its Subsidiaries), or otherwise assign or transfer to Shentel Operations (or one of its Subsidiaries), all of the operating assets, properties and rights owned by Parent, except for any Holding Company Assets.

3. Immediately following the consummation of the Acquisition, Parent will contribute to the Company, for further contribution to Shentel Operations (or one of its Subsidiaries), all of the equity interests of the Target Company.

Current Organizational Chart



Post-Reorganization Organizational Chart

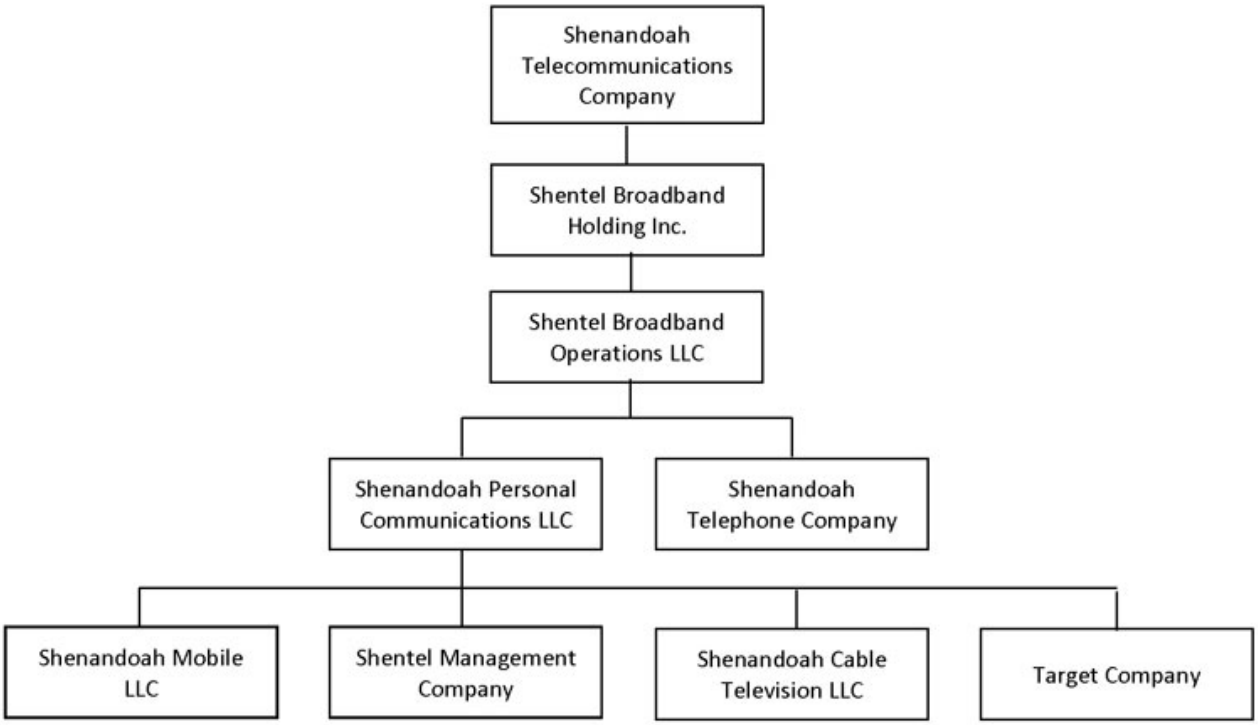


EXHIBIT C

Acquisition Agreement

(*Attached*)

[See Exhibit 2.1 to the Company's Form 8-K]

EXHIBIT D

Shenandoah Telecommunications Company

Registration Rights Agreement

[*closing date*]

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Registration Rights Agreement

REGISTRATION RIGHTS AGREEMENT, dated as of [*closing date*], among Shenandoah Telecommunications Company, a Virginia corporation (the "**Company**"), and the Investors signatory hereto (collectively, the "**Investors**").

WHEREAS, the execution and delivery of this Agreement is a condition to the closing of the transactions contemplated by the Investment Agreement (as defined in **Section 1**).

THEREFORE, each party to this Agreement agrees as follows.

Section 1. DEFINITIONS.

"**Affiliate**" has the meaning set forth in Rule 144.

"**Agreement**" means this Registration Rights Agreement, as amended or supplemented from time to time.

"**As-Exchanged Exchangeable Preferred Stock Ownership Percentage**" means, with respect to any Holder(s) as of any time, a fraction (a) whose numerator is the aggregate number of Registrable Underlying Securities owned, or issuable upon exchange of Exchangeable Preferred Stock owned, by such Holder(s) as of such time; and (b) whose denominator is the aggregate number of Registrable Underlying Securities that are then outstanding or are issuable upon exchange of all Exchangeable Preferred Stock then outstanding; *provided*, *however*, that, for purposes of this definition, (i) Registrable Underlying Securities not relating to any Exchangeable Preferred Stock that was issued pursuant to the Investment Agreement will be disregarded; and (ii) the number of Registrable Underlying Securities issuable upon exchange of the Exchangeable Preferred Stock will be determined without regard to **clause (B)** of the proviso to Section 10(e)(i) or to Section 10(h)(i) of the Certificate of Designations. Solely for purposes of this definition, Exchangeable Preferred Stock or Registrable Underlying Securities owned by the Company or any of its Affiliates will be deemed not to be outstanding.

"**Blackout Commencement Notice**" has the meaning set forth in **Section 5(a)(i)**.

"**Blackout Period**" has the meaning set forth in **Section 5(a)(iv)**.

"**Blackout Termination Notice**" has the meaning set forth in **Section 5(a)(iv)**.

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

"**Certificate of Designations**" means the Certificate of Designations of the Company establishing the terms of the Exchangeable Preferred Stock, as the same may be amended or supplemented from time to time.

"**Common Stock**" means the common stock, no par value, of the Company.

"**Common Stock Change Event**" has the meaning ascribed to "Parent Common Stock Change Event" in the Certificate of Designations.

"**Company**" means Shenandoah Telecommunications Company, a Virginia corporation.

"**Company Trading Policy**" means the insider trading policy of the Company, as the same is in effect on the date of the Investment Agreement and any subsequent amendments, supplements, waivers or other modifications thereto, but not giving effect to any provisions in such amendments, supplements, waivers or modifications, if any, that expand the trading restrictions applicable to Investor Directors or its affiliates or related parties unless, and only to the extent, required by applicable securities laws.

"**Exchangeable Preferred Stock**" means the Subsidiary Issuer's Series A Participating Exchangeable Perpetual Preferred Stock, $0.01.

"**Demand Underwriting Registration Notice**" has the meaning set forth in **Section 3(a)**.

"**Demand Underwriting Registration Statement**" means each registration statement under the Securities Act that is designated by the Company for the registration, under the Securities Act, of any Demand Underwritten Offering pursuant to **Section 3**. For the avoidance of doubt, the Demand Underwriting Registration Statement may, at the Company's election, be the General Resale Registration Statement.

"**Demand Underwriting Registration Statement Documents**" means any Demand Underwriting Registration Statement, all pre- and post-effective amendments thereto, the related prospectus (including any preliminary prospectus), all supplements to such prospectus (including any preliminary prospectus supplements), the documents incorporated by reference in any of the foregoing and each related "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act).

"**Demand Underwritten Offering**" has the meaning set forth in **Section 3(a)**.

"**Demand Underwritten Offering Designated Holder Counsel**" has the meaning set forth in **Section 3(b)(iii)**.

"**Demand Underwritten Offering Holder Representative**" has the meaning set forth in **Section 3(b)(ii)**.

"**Demanding Notice Holders**" has the meaning set forth in **Section 3(a)**.

"**Depositary**" means The Depository Trust Company or any other entity acting as securities depositary for any of the Registrable Underlying Securities.

"**Designated Holder Counsel**" has the following meaning: (a) with respect to the General Resale Registration Statement, a single counsel that is designated and appointed, by one or more Notice Holders whose aggregate As-Exchanged Exchangeable Preferred Stock Ownership Percentage exceeds fifty percent (50%) (with written notice of such designation and appointment to the Company by such Notice Holders), to serve as counsel for all Notice Holders in respect of the General Resale Registration Statement (which counsel, as of the date of this Agreement, is hereby designated by the Notice Holders to be Latham & Watkins LLP); (b) with respect to any Demand Underwritten Offering, the Demand Underwritten Offering Designated Holder Counsel designated for such Demand Underwritten Offering pursuant to **Section 3(b)(iii)**; and (c) with respect to any Piggyback Underwritten Offering, a single counsel that is designated and appointed, by one or more Notice Holders owning a majority of the Registrable Underlying Securities to be sold pursuant to such Piggyback Underwritten Offering (with written notice thereof to the Company by such Notice Holders), to serve as counsel for such Notice Holders in respect of such Piggyback Underwritten Offering (which counsel, as of the date of this Agreement, is hereby designated by the Notice Holders to be Latham & Watkins LLP).

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

"**Form S-3**" means Form S-3 under the Securities Act, or any successor form thereto.

"**GCM Investor Agreement**" means that certain Investor Rights Agreement, dated [__], 202[4], by and between the Company and LIF Vista, LLC, a Delaware limited liability company.

"**General Primary Registration Statement**" has the meaning set forth in **Section 4(e)**.

"**General Resale Registration Statement**" means each registration statement under the Securities Act that is filed pursuant to **Section 2** for the purposes set forth therein.

"**General Resale Registration Statement Documents**" means any General Resale Registration Statement, all pre- and post-effective amendments thereto, the related prospectus (including any preliminary prospectus), all supplements to such prospectus (including any preliminary prospectus supplements), the documents incorporated by reference in any of the foregoing and each related "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act).

"**General Resale Registration Statement Effectiveness Deadline Date**" means the date that is six (6) months after the Initial Issue Date.

"**General Resale Registration Statement Effectiveness Period**" means the period that (a) begins on, and includes, the earlier of (i) the General Resale Registration Statement Effectiveness Deadline Date; and (ii) the first date the General Resale Registration Statement is effective under the Securities Act; and (b) ends on the first date when no Registrable Underlying Securities are outstanding.

"**Holder**" means, subject to **Section 12**, any Person that beneficially owns any Registrable Underlying Securities. For these purposes, a Person will be deemed to beneficially own any Registrable Underlying Securities issuable upon exchange of any other securities beneficially owned by such person.

"**Holder Indemnified Person**" mean each of the following Persons: (a) any Holder; (b) any Affiliate of any Holder; (c) any partner, director, officer, member, stockholder, employee, advisor or other representative of any Holder or its Affiliates; (d) each Person, if any, who controls any Holder within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act; and (e) each successor of the foregoing Persons.

"**Holder Information**" means, with respect to any Holder, any information furnished in writing by or on behalf of such Holder to the Company expressly for use in any Registration Statement Document (including information in any Notice and Questionnaire delivered by such Holder to the Company).

"**Indemnified Person**" means any Company Indemnified Person or Holder Indemnified Person.

"**Indemnifying Party**" has the meaning set forth in **Section 9(c)(i)**.

"**Initial Issue Date**" has the meaning set forth in the Certificate of Designations.

"**Initial Notice and Questionnaire Deadline Date**" means the date that is ten (10) calendar days before the first date that the relevant General Resale Registration Statement becomes effective under the Securities Act.

"**Investment Agreement**" means that certain Investment Agreement, dated as of October 24, 2023, among the Issuers and the Investors.

"**Investor Designee**" has the meaning set forth in the Investment Agreement.

"**Investor Director**" has the meaning set forth in the Investment Agreement.

"**Investors**" has the meaning set forth in the first paragraph of this Agreement.

"**Issuer Indemnified Person**" mean each of the following Persons: (a) either Issuer; (b) any Affiliate of either Issuer; (c) any partner, director, officer, member, stockholder, employee, advisor or other representative of either Issuer or its Affiliates; (d) each Person, if any, who controls either Issuer within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act; and (e) each successor of the foregoing Persons.

"**Issuer Registration Expenses**" means all fees and expenses incurred by either Issuer in connection with its obligations pursuant to **Section 2**, **3**, **4** or **6** (regardless of whether any Registration Statement is filed or becomes effective under the Securities Act or whether any Demand Underwritten Offering or Piggyback Underwritten Offering is consummated), including the following, to the extent applicable: (a) registration, qualification or filing fees of the SEC, the Financial Industry Regulatory Authority, Inc. or state securities or "blue sky" regulatory agencies; (b) fees incurred in connection with the listing, or the maintaining of any listing, of any Registrable Underlying Securities on any national securities exchange or inter-dealer quotation system; (c) the fees and disbursements of counsel for either Issuer or of any independent accounting firm for either Issuer; and (d) the reasonable and documented fees and out-of-pocket expenses of a single Designated Holder Counsel incurred in connection with the General Resale Registration Statement, a single Designated Holder Counsel incurred in connection with any Demand Underwritten Offering, or a single Designated Holder Counsel incurred in connection with any Piggyback Underwritten Offering; *provided*, *however*, that Issuer Registration Expenses will not include (i) any fees, expenses or disbursements of any counsel for any Holder, except fees and expenses of any Designated Holder Counsel that constitute Issuer Registration Expenses pursuant to **clause (d)** above; or (ii) any underwriting, brokerage or similar fees or discounts or selling commissions, or any stock transfer taxes (or any other taxes borne by any Holder), incurred in connection with the sale or other transfer of any Registrable Underlying Securities.

"**Issuers**" means the Company and the Subsidiary Issuer.

"**Loss**" means any loss, damage, expense, liability or claim (including reasonable costs of investigating or defending, and reasonable attorney's fees and disbursements in connection with, the same).

"**Managing Underwriters**" means, with respect to any Demand Underwritten Offering or Piggyback Underwritten Offering, one or more registered broker-dealers that are designated in accordance with this Agreement to administer such offering.

"**Material Disclosure Defect**" has the following meaning with respect to any document: (a) if such document is of the type as to which the provisions of Section 11 of the Securities Act are applicable, that such document contains an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading; and (b) in all other cases, that such document includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

"**Maximum Successful Underwritten Offering Size**" means, with respect to any Demand Underwritten Offering or Piggyback Underwritten Offering, the maximum number of securities that may be sold in such offering without adversely affecting the success of such offering, as advised by the Managing Underwriters for such offering to the Company and, in the case of a Demand Underwritten Offering, the applicable Demand Underwritten Offering Holder Representative.

"**Non-Holder Securities**" means any securities of the Company, or of any Person other than any Holder, to be included in any Piggyback Underwritten Offering.

"**Notice and Questionnaire**" means a duly completed and executed Notice and Questionnaire substantially in the form set forth in **Exhibit A**.

"**Notice Holder**" means, subject to **Section 12**, a Holder that has delivered a Notice and Questionnaire to the Company.

"**Offering Launch Time**" means, with respect to a Demand Underwritten Offering or Piggyback Underwritten Offering, the earliest of (a) the first date a preliminary prospectus (or prospectus supplement) for such offering is filed with the SEC; (b) the first date such offering is publicly announced; and (c) the date a definitive agreement is entered into with the Managing Underwriters respect to the such offering.

"**Other Holder**" means any Person, other than the Company or any Holder, exercising piggyback rights in a Piggyback Underwritten Offering other than pursuant to this Agreement.

"**Person**" or "**person**" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate "person" under this Agreement.

"**Piggyback Registration Statement**" means each registration statement under the Securities Act that registers any Piggyback Underwritten Offering that includes any Registrable Underlying Securities pursuant to **Section 4**.

"**Piggyback Registration Statement Documents**" means any Piggyback Registration Statement, all pre- and post-effective amendments thereto, the related prospectus (including any preliminary prospectus), all supplements to such prospectus (including any preliminary prospectus supplements), the documents incorporated by reference in any of the foregoing and each related "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act).

"**Piggyback Right**" has the meaning set forth in **Section 4(a)(ii)**.

"**Piggyback Underwritten Offering**" means a firmly underwritten public offering of the Common Stock that is registered under the Securities Act and pursuant to which the Company or other selling stockholders sell Common Stock to one or more underwriters for reoffering to the public for cash; *provided*, *however*, that the following will not constitute a Piggyback Underwritten Offering: (a) any Demand Underwritten Offering or any "Demand Underwritten Offering" as defined in the GCM Investor Agreement; (b) any "at-the-market" offering pursuant to which Common Stock is sold from time to time into an existing market at prices then prevailing; and (c) the filing or effectiveness of any registration statement under the Securities Act for one or more offerings on a continuous or delayed basis pursuant to Rule 415 under the Securities Act (including "unallocated" or "kitchen sink" registration statements), or any amendment to such a registration statement; *provided* no firmly underwritten public offering of the type referred to in this definition is contemplated at the time of such filing or effectiveness.

"**Piggyback Underwritten Offering Notice**" has the meaning set forth in **Section 4(a)(i)**.

"**Piggyback Underwritten Offering Notice Deadline Date**" means, with respect to any Piggyback Underwritten Offering, the seventh (7th) Business Days before the date of the Offering Launch Time for such Piggyback Underwritten Offering; *provided*, *however*, that if a new registration statement that is not an "automatic registration statement" (as defined in Rule 405 under the Securities Act) will be filed for such Piggyback Underwritten Offering, then the Piggyback Underwritten Offering Notice Deadline Date will instead be the fifth (5th) Business Days before the date such registration statement is initially filed with the SEC; *provided*, *further*, that if an "organizational" or similar meeting is held in connection with the commencement of the preparation for such Piggyback Underwritten Offering, then the Piggyback Underwritten Offering Notice Deadline will in no event be earlier than the date of such meeting.

"**Proceeding**" has the meaning set forth in **Section 9(c)(i)**.

"**Registrable Underlying Securities**" means:

(a) the Common Stock or other securities issued or issuable (including following a Common Stock Change Event) upon exchange of the Exchangeable Preferred Stock;

(b) the Common Stock owned by Hill City Holdings, LP, a Delaware limited partnership; and

(c) any securities issued, distributed or otherwise delivered with respect to any security referred to in **clause (a)** or **(b)** above upon any stock dividend, combination or split or other similar event or in connection with a Common Stock Change Event;

provided, *however*, that a security described in **clause (a)**, **(b)** or **(c)** above will cease to be a Registrable Underlying Security upon the earliest to occur of the following events:

(x) such security ceases to be outstanding; and

(y) such security is sold or otherwise transferred in a transaction (including, for the avoidance of doubt, a transaction that is registered under the Securities Act) following which such security ceases to be a "restricted security" (as defined in Rule 144).

"**Registration Statement**" means any General Resale Registration Statement, Demand Underwriting Registration Statement or Piggyback Registration Statement.

"**Registration Statement Documents**" means any General Resale Registration Statement Documents, Demand Underwriting Registration Statement Documents or Piggyback Registration Statement Documents.

"**Rule 144**" means Rule 144 under the Securities Act (or any successor rule thereto).

"**Rule 415**" means Rule 415 under the Securities Act (or any successor rule thereto).

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

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

"**Specified Courts**" has the meaning set forth in **Section 13(e)**.

"**Subsidiary Issuer**" means Shentel Broadband Holding Inc., a Delaware corporation and wholly owned subsidiary of the Company.

Rules of Construction. For purposes of this Agreement:

(a) "or" is not exclusive;

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

(c) "will" expresses a command;

(d) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;

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

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

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

(h) the exhibits, schedules and other attachments to this Agreement are deemed to form part of this Agreement.

Section 2. General Resale Registration Statement.

(a) *Filing and Effectiveness of General Resale Registration Statement*. Subject to **Section 5**, the Company will (i) prepare and file a General Resale Registration Statement with the SEC; and (ii) use commercially reasonable efforts to cause such General Resale Registration Statement to (x) become effective under the Securities Act no later than the General Resale Registration Statement Effectiveness Deadline Date; and (y) remain continuously effective, and usable for the resale or other transfer of Registrable Underlying Securities, under the Securities Act throughout the General Resale Registration Statement Effectiveness Period.

(b) *Contents of and Requirements for General Resale Registration Statement*. The Company will cause the General Resale Registration Statement to satisfy the following requirements:

(i) *Registration for Continuous Resale by Holders Under Rule 415*. The General Resale Registration Statement will register, under the Securities Act, the offer and resale, from time to time on a continuous basis under Rule 415, of Registrable Underlying Securities by the Holders thereof as provided in **Sections 2(b)(ii)** and **2(c)**.

(ii) *Selling Securityholder Information*. When it first becomes effective under the Securities Act, the General Resale Registration Statement will cover resales of Registrable Underlying Securities of Notice Holders identified in all Notice and Questionnaires delivered to the Company on or before the Initial Notice and Questionnaire Deadline Date. Thereafter, the General Resale Registration Statement will cover resales of Registrable Underlying Securities of Notice Holders as provided in **Section 2(c)**. No Holder will be permitted to have any of its Registrable Underlying Securities covered by any General Resale Registration Statement pursuant to this Agreement unless and until it complies with **Section 8(a)**. Notwithstanding anything to the contrary in **Section 8(a)** or this **Section 2(b)(ii)**, the Company will not be excused of its obligations set forth in **Section 2(a)** as a result of the failure of any Holder to deliver a Notice and Questionnaire or otherwise comply with **Section 8(a)** and, if necessary, the Company will file and cause to be effective a General Resale Registration Statement pursuant to **Section 2(a)** without naming any Holder specifically; *provided*, the same is then permitted under the Securities Act and the interpretations and policies of the staff of the SEC thereunder.

(iii) *Plan of Distribution*. The General Resale Registration Statement will provide for a plan of distribution in customary form (and reasonably satisfactory to the Holders) for resale registration statements of the type contemplated by this Agreement, including coverage for market transactions on a national securities exchange, privately negotiated transactions and transactions through broker-dealers acting as agent or principal. In addition, if the rules under the Securities Act then so permit, such plan of distribution will permit underwritten offerings (including "block" trades) through one or more registered broker-dealers acting as underwriters to be effected pursuant to one or more prospectus supplements that identify such underwriters (in addition to any other information that may then be required pursuant to the Securities Act); *provided*, *however*, that the Company will be under no obligation to effect any such underwritten offering pursuant to the General Resale Registration Statement except pursuant to **Section 3**.

(iv) *Form S-3*. If the resales contemplated by the General Resale Registration Statement are then eligible to be registered by the Company on Form S-3, then the General Resale Registration Statement will be on such Form S-3.

(c) *Obligation to Make Filings to Name Additional Notice Holders*. If any Holder delivers a Notice and Questionnaire to the Company after the Initial Notice and Questionnaire Deadline Date, then, subject to **Section 5** and the other provisions of this **Section 2(c)**, the Company will make such filing(s) with the SEC (including, if applicable, (w) a post-effective amendment, (x) a prospectus supplement, (y) any document that will be incorporated by reference in the General Resale Registration Statement upon its filing or (z) a new General Resale Registration Statement; *provided* that the Company will effect such filing by means of a prospectus supplement or a document referred to in the preceding **clause (y)** instead of a post-effective amendment or a new General Resale Registration Statement, if reasonably practicable and then permitted by the rules of the SEC) so as to enable such Holder to sell or otherwise transfer such Holder's Registrable Underlying Securities identified in such Notice and Questionnaire pursuant to the applicable General Resale Registration Statement and the related prospectus and, if applicable, prospectus supplement in accordance with the plan of distribution set forth therein. Subject to the next sentence, the Company will make such filing(s) as follows: (i) within sixty (60) calendar days after the date of such delivery (or, if such Notice and Questionnaire is delivered before the initial effective date of the General Resale Registration Statement or during a Blackout Period, such effective date or the last day of such Blackout Period, respectively), if a new General Resale Registration Statement is required (and the Company will use commercially reasonable efforts to cause such new General Resale Registration Statement to become effective under the Securities Act as soon as reasonably practicable); and (ii) in all other cases, within fifteen (15) calendar days after the date of such delivery (or, if such Notice and Questionnaire is delivered before the initial effective date of the General Resale Registration Statement or during a Blackout Period, such effective date or the last day of such Blackout Period, respectively). Notwithstanding anything to the contrary in this **Section 2(c)**, the Company will in no event be required pursuant to this **Section 2(c)** to file more than one (1) new General Resale Registration Statement within any six (6) month period or more than one (1) other filing in any one (1) month period.

(d) *Filing of New General Resale Registration Statement; Designation of Existing Registration Statement*. To the extent the Company deems doing so to be desirable or necessary to satisfy its obligations under this Agreement or to comply with applicable law (including, if applicable, to comply with Rule 415(a)(5)), the Company may file one or more new General Resale Registration Statements or designate an existing registration statement of the Company to constitute a General Resale Registration Statement for purposes of this Agreement; *provided* that each such new General Resale Registration Statement or existing registration statement satisfies the requirements of this Agreement. Each reference in this Agreement to the General Resale Registration Statement will, if applicable, be deemed to include each such new General Resale Registration Statement or existing registration statement, if any, *mutatis mutandis*. In addition, the first date any such existing registration statement is amended or supplemented to permit the offer and resale of Registrable Underlying Securities in the manner contemplated by this Agreement will be deemed, for purposes of **Sections 6(b)** and **6(e)** and any related definitions, to be the initial filing date of such existing registration statement, and the first date such amended or supplemented existing registration statement is effective under the Securities Act and permits such the offers and resales will be deemed, for purposes of **Sections 2(b)(ii)**, **2(c)** and **6(e)** and any related definitions, to be the initial effective date of such existing registration statement.

(e) *Where SEC Rules Do Not Require Naming Selling Securityholders*. Notwithstanding anything to the contrary in this **Section 2**, if the applicable rules under the Securities Act, or interpretations thereof published by the staff of the SEC, are amended so as to permit Holders to resell their Registrable Underlying Securities pursuant to the General Resale Registration Statement without being named as a selling securityholder therein or in any related prospectus or prospectus supplement, then the Company may, at its election, amend any applicable General Resale Registration Statement Documents to identify the Holders generically in accordance with such rules and interpretations, in which event the Company will no longer have any obligation thereafter make any filings pursuant to **Section 2(c)** to the extent such filings are not necessary to permit any Holder to sell its Registrable Underlying Securities pursuant to the General Resale Registration Statement.

Section 3. DEMAND UNDERWRITING REGISTRATION RIGHTS.

(a) *Right to Demand Underwriting Registrations*. Subject to the other provisions of this **Section 3**, Notice Holders will have the right, exercisable by written notice satisfying the requirements of **Section 3(b)** (a "**Demand Underwriting Registration Notice**") to the Company by any one or more Notice Holders (such Notice Holders, the "**Demanding Notice Holders**"), to require the Company to register, under the Securities Act, a firmly underwritten public offering (a "**Demand Underwritten Offering**") of Registrable Underlying Securities in accordance with this **Section 3**; *provided*, *however*, that:

(i) no Demand Underwriting Registration Notice may be delivered, or will be effective, unless, at the time it is delivered, the Company has an effective registration statement on Form S-3 on file with the SEC (including, if applicable, the General Resale Registration Statement) that is available and permitted to be used to register the applicable Demand Underwritten Offering by means of one or more prospectus supplements to such registration statement;

(ii) no Demand Underwriting Registration Notice may be delivered, or will be effective, if:

(1) a prior Demand Underwritten Offering is pending or in process, and is not completed or withdrawn, at the time such Demand Underwriting Registration Notice is delivered;

(2) a "Demand Underwritten Offering" as defined under the GCM Investor Agreement is pending or in process, and is not completed or withdrawn, at the time such Demand Underwriting Registration Notice is delivered; *provided*, *however*, that, notwithstanding the foregoing, the number of consecutive calendar days during which this **Section 3(a)(ii)(2)** may operate to prevent the delivery or effectiveness of a Demand Underwriting Registration Notice will in no event exceed twenty-eight (28) (regardless of the number of such "Demand Underwritten Offerings" pending, in process, completed or withdrawn during such period); *provided*, *further*, that **Section 3(a)(ii)(2)** will not apply, and will have no force or effect, at any time when the GCM Investor Agreement does not contain a reciprocal provision substantially to the effect of the foregoing with respect to the execution of a "Demand Underwritten Offering" as defined under the GCM Investor Agreement while a Demand Underwritten Offering under this Agreement is pending or in process, and is not completed or withdrawn;

(3) it is delivered during a Blackout Period;

(4) two (2) or more Demand Underwritten Offerings have been effected, during the eighteen (18) months immediately preceding the date on which such Demand Underwriting Registration Notice is delivered;

(5) the Company has already effected five (5) or more Demand Underwritten Offerings pursuant to this Agreement; or

(6) the aggregate market value of the Registrable Underlying Securities of such Notice Holder(s) to be included in the requested Demand Underwritten Offering is less than forty million dollars ($40,000,000); and

(iii) at any time when a Holder has an Investor Designee serving as an Investor Director, such Holder will not be entitled to deliver a Demand Underwriting Registration Notice, and no Demand Underwriting Registration Notice of such Holder will be effective, in respect of a Demand Underwritten Offering proposed to be conducted during any period in which the Company Trading Policy would not permit such Holder to sell any of its Registrable Underlying Securities in such Demand Underwritten Offering.

(b) *Contents of Demand Underwriting Registration Notice*. Each Demand Underwriting Registration Notice sent by any Demanding Notice Holder(s) must state the following:

(i) the name of, and contact information for, each such Demanding Notice Holder(s) and the number of the following securities held by each such Demanding Notice Holder: (1) shares of Exchangeable Preferred Stock issued pursuant to the Investment Agreement; and (2) Registrable Underlying Securities that are outstanding and were issued upon exchange of any Exchangeable Preferred Stock that was issued pursuant to the Investment Agreement;

(ii) (1) the name of, and contact information for, a single natural Person (in such capacity, the "**Demand Underwritten Offering Holder Representative**") who is appointed to serve as the representative of all Notice Holders in respect of the requested Demand Underwritten Offering with authority to make the decisions in respect thereof provided in this **Section 3**; and (2) a statement that each such Demanding Notice Holder consents to such appointment and authority;

(iii) (1) the name of, and contact information for, a single counsel (in such capacity, the "**Demand Underwritten Offering Designated Holder Counsel**") that is designated and appointed to serve as counsel for all Notice Holders in respect of the requested Demand Underwritten Offering; and (2) a statement that each such Demanding Notice Holder consents to such designation and appointment;

(iv) the desired date of the Offering Launch Time for the requested Demand Underwritten Offering, which desired date cannot (without the Company's consent, which will not be unreasonably withheld or delayed) be earlier than three (3) Business Days after the date such Demand Underwriting Registration Notice is delivered to the Company;

(v) the number of Registrable Underlying Securities that are proposed to be sold by each such Demanding Notice Holder.

(c) *Participation by Notice Holders Other Than the Demanding Notice Holder(s)*. If the Company receives a Demand Underwriting Registration Notice sent by one or more Demanding Notice Holders but not by all Notice Holders, then:

(i) the Company will, within two (2) Business Days, send a copy of such Demand Underwriting Registration Notice to each Notice Holder, if any, other than such Demanding Notice Holders; and

(ii) subject to **Section 3(f)**, the Company will use commercially reasonable efforts to include, in the related Demand Underwritten Offering, Registrable Underlying Securities of any such Notice Holder that has requested such Registrable Underlying Securities to be included in such Demand Underwritten Offering pursuant to a joinder notice that complies with the next sentence.

To include any of its Registrable Underlying Securities in such Demand Underwritten Offering, a Notice Holder must deliver to the Company, no later than the Business Day after the date on which the Company sent a copy of such Demand Underwriting Registration Notice pursuant to **subsection (i)** above, a written instrument, executed by such Notice Holder, joining in such Demand Underwriting Registration Notice, which instrument contains the information set forth in **Section 3(b)(v)** with respect to such Notice Holder.

(d) *Certain Procedures Relating to Demand Underwritten Offerings*.

(i) *Obligations and Rights of the Company*. Subject to the other terms of this Agreement, upon its receipt of a Demand Underwriting Registration Notice, the Company will (1) designate a Demand Underwriting Registration Statement, in accordance with the definition of such term and this **Section 3**, for the related Demand Underwritten Offering; and (2) use commercially reasonable efforts to effect such Demand Underwritten Offering in accordance with the reasonable requests set forth in such Demand Underwriting Registration Notice or the reasonable requests of the Demand Underwritten Offering Holder Representative, and cooperate in good faith with the Demand Underwritten Offering Holder Representative in connection therewith. Notwithstanding anything to the contrary in this Agreement, the Company will not be obligated to effect, or take any actions in respect of, any Demand Underwritten Offering during a Blackout Period or at any time when the securities proposed to be sold pursuant to such Demand Underwritten Offering are subject to any lock-up agreement (including pursuant to a prior Demand Underwritten Offering) that has not been waived or released. The Company will be entitled to rely on the authority of the Demand Underwritten Offering Holder Representative of any Demand Underwritten Offering to act on behalf of all Notice Holders that have requested any securities to be included in such Demand Underwritten Offering.

(ii) *Designation of the Underwriting Syndicate*. The Managing Underwriters, and any other underwriter, for any Demand Underwritten Offering will be selected by the applicable Demand Underwritten Offering Holder Representative with the approval of the Company (which will not be unreasonably withheld or delayed).

(iii) *Authority of the Demand Underwritten Offering Holder Representative*. The Demand Underwritten Offering Holder Representative for any Demand Underwritten Offering will have the following rights with respect to such Demand Underwritten Offering, which rights, if exercised, will be deemed to have been exercised on behalf of all Notice Holders that have requested any securities to be included in such Demand Underwritten Offering:

(1) in consultation with the Managing Underwriters for such Demand Underwritten Offering, to determine the Offering Launch Time, which date must comply with limitations thereon set forth in **Section 3(b)(iv)**;

(2) to determine the structure of the offering, provided such structure is reasonably acceptable to the Company;

(3) to negotiate any related underwriting agreement and it terms, including the amount of securities to be sold by the applicable Notice Holders pursuant thereto and the offering price of, and underwriting discount for, such securities; *provided, however*, that the Company will have the right to negotiate in good faith all of their representations, warranties and covenants, and indemnification and contribution obligations, set forth in any such underwriting agreement; and

(4) withdraw such Demand Underwritten Offering by providing written notice of such withdrawal to the Company.

(e) *Conditions Precedent to Inclusion of a Notice Holder's Registrable Underlying Securities*. Notwithstanding anything to the contrary in this **Section 3**, the right of any Notice Holder to include any of its Registrable Underlying Securities in any Demand Underwritten Offering will be subject to the following conditions:

(i) the execution and delivery, by such Notice Holder or it is duly authorized representative or power of attorney, of any related underwriting agreement and such other agreements or instruments (including customary "lock-up" agreements, custody agreements and powers of attorney), if any, as may be reasonably requested by the Managing Underwriters for such Demand Underwritten Offering; and

(ii) the provision by such Notice Holder, no later than the Business Day immediately after the request therefor, of any information reasonably requested by the Company or such Managing Underwriters in connection with such Demand Underwritten Offering.

(f) *Priority of Securities in Demand Underwritten Offerings*. If the total number of securities requested to be included in a Demand Underwritten Offering pursuant to this **Section 3** exceeds the Maximum Successful Underwritten Offering Size for such Demand Underwritten Offering, then:

(i) the number of securities to be included in such Demand Underwritten Offering will be reduced to an amount that does not exceed such Maximum Successful Underwritten Offering Size; and

(ii) to effect such reduction,

(1) the number of Non-Holder Securities included in such Demand Underwritten Offering will be reduced; *provided*, that the Company will have the right, in its sole discretion, to allocate such reduction of the Non-Holder Securities requested to be included in such Demand Underwritten Offering; and

(2) if, after excluding all Non-Holder Securities from such Demand Underwritten Offering, the number of Registrable Underlying Securities of Notice Holders that have duly requested such Registrable Underlying Securities to be included in such Demand Underwritten Offering in accordance with this **Section 3** exceeds such Maximum Successful Underwritten Offering Size, then number of Registrable Underlying Securities to be included in such Demand Underwritten Offering will be allocated pro rata based on the total number of Registrable Underlying Securities so requested by each such Notice Holder to be included in such Demand Underwritten Offering.

(g) *Covenant Regarding Piggyback Rights with Respect to Demand Underwritten Offering*. The Company will not grant any Person (other than a Holder or Notice Holder) the right to include any securities of such Person in any Demand Underwritten Offering.

Section 4. PIGGYBACK REGISTRATION RIGHTS.

(a) *Notice of Piggyback Underwritten Offering and Right to Participate Therein*. Subject to the other provisions of this **Section 4**, if the Company proposes to engage in a Piggyback Underwritten Offering, then:

(i) no later than the Piggyback Underwritten Offering Notice Deadline Date for such Piggyback Underwritten Offering, the Company will send to each Notice Holder written notice (the "**Piggyback Underwritten Offering Notice**") of such Piggyback Underwritten Offering setting forth the anticipated Offering Launch Time for the related Piggyback Underwritten Offering and the deadline (determined as provided in **subsection (ii)** below) by which the related Piggyback Right may be exercised; and

(ii) each Notice Holder will have the right (the "**Piggyback Right**") to include all or any portion of its Registrable Underlying Securities in such Piggyback Underwritten Offering, which right is exercisable by delivering, no later than three (3) Business Days after the date the Company sends such Piggyback Underwritten Offering Notice pursuant to **subsection (i)** above, written notice to the Company setting forth (1) the name of, and contact information for, such Notice Holder; and (2) the number of such Notice Holder's Registrable Underlying Securities that such Notice Holder requests to be included in such Piggyback Underwritten Offering.

(b) *Certain Procedures Relating to Piggyback Underwritten Offerings*.

(i) *Obligations of the Company*. Subject to the other terms of this Agreement, upon exercise of any Piggyback Rights to include any Notice Holder's Registrable Underlying Securities in a Piggyback Underwritten Offering, the Company will use commercially reasonable efforts to include such Registrable Underlying Securities in such Piggyback Underwritten Offering and will cooperate in good faith with such Notice Holder in connection therewith.

(ii) *Designation of the Underwriting Syndicate*. The Managing Underwriters, and any other underwriter, for any Piggyback Underwritten Offering will be selected by the Company in its sole discretion.

(iii) *Right of the Company to Control Offering Procedures, Timing and Related Matters*. Notwithstanding anything to the contrary in this Agreement, the Company will have the following rights with respect to each Piggyback Underwritten Offering:

(1) to determine the Offering Launch Time and timing for such Piggyback Underwritten Offering;

(2) to determine the structure of the offering, *provided* such structure is reasonable and customary;

(3) to negotiate any related underwriting agreement and it terms, including the amount of securities to be sold by the Company or persons other than Notice Holders pursuant thereto and the offering price of, and underwriting discount for, such securities; *provided*, *however*, that the Notice Holders whose Registrable Underlying Securities are included in such Piggyback Underwritten Offering will have the right to negotiate in good faith all of their respective representations, warranties and covenants, and indemnification and contribution obligations, set forth in any such underwriting agreement; and

(4) to terminate such Piggyback Underwritten Offering in its sole discretion; *provided*, that the Company will provide notice of any such termination to all Notice Holders whose Registrable Underlying Securities were to be included in such Piggyback Underwritten Offering.

(c) *Conditions Precedent to Inclusion of a Notice Holder's Registrable Underlying Securities*. Notwithstanding anything to the contrary in this **Section 4**, the right of any Notice Holder to include any of its Registrable Underlying Securities in any Piggyback Underwritten Offering upon exercise of the Piggyback Rights therefor will be subject to the followings conditions:

(i) the execution and delivery, by such Notice Holder or it is duly authorized representative or power of attorney, of any related underwriting agreement and such other agreements or instruments (including customary "lock-up" agreements, custody agreements and powers of attorney), if any, as may be reasonably requested by the Managing Underwriters for such Piggyback Underwritten Offering; and

(ii) the provision, by such Notice Holder no later than the Business Day immediately after the request therefor, of any information reasonably requested by the Company or such Managing Underwriters in connection with such Piggyback Underwritten Offering.

(d) *Priority of Securities in Piggyback Underwritten Offerings*. If the total number of securities proposed to be included in a Piggyback Underwritten Offering pursuant to this **Section 4** exceeds the Maximum Successful Underwritten Offering Size for such Piggyback Underwritten Offering, then:

(i) the number of securities to be included in such Piggyback Underwritten Offering will be reduced to an amount that does not exceed such Maximum Successful Underwritten Offering Size, with such number to be allocated:

(1) *first*, to the Company or such other Person(s) initiating such Piggyback Underwritten Offering;

(2) *second*, among (A) the Notice Holders that have duly requested that all or any portion of their Registrable Underlying Securities be included in such Piggyback Underwritten Offering in accordance with this **Section 4**, allocated pro rata based on the total number of Registrable Underlying Securities so requested by each such Notice Holder to be included in such Piggyback Underwritten Offering; and (B) the Other Holders, if any, that are exercising piggyback rights in connection with such Piggyback Underwritten Offering pursuant to the GCM Investor Agreement; *provided*, *however*, that the number of securities excluded pursuant to **clause (B)** above (expressed as a percentage of the total number of securities requested by such Other Holders to be included in such Piggyback Underwritten Offering) will in no event be greater than the number of Registrable Underlying Securities excluded pursuant to **clause (A)** above (expressed as a percentage of the total number of Registrable Underlying Securities so requested by Notice Holders to be included in such Piggyback Underwritten Offering); and

(3) *third*, to other Persons that are exercising piggyback rights in connection with such Piggyback Underwritten Offering (other than pursuant to this Agreement or the GCM Investor Agreement) in such manner as determined by the Company.

(e) *Filing of General Shelf Registration Statements*. If, at any time when any Piggyback Rights then exist and have not lapsed in accordance with **Section 10**, the Company files a registration statement (a "**General Primary Registration Statement**") under the Securities Act on Form S-3 that contemplates a primary offering by the Company that would also constitute a Piggyback Underwritten Offering (whether immediately or on a delayed basis in accordance with Rule 415 under the Securities Act), then the Company will include, in such General Primary Registration Statement, such statements or disclosures, if any, that would be necessary to be included therein at the time of its effectiveness under the Securities Act to permit offers and sales of Registrable Underlying Securities by Notice Holders to be made pursuant to such General Primary Registration Statement in accordance with this **Section 4** if Piggyback Rights with respect thereto were exercised; *provided*, *however*, that this **Section 4(e)** will not apply:

(i) at any time when the General Resale Registration Statement (or any other registration statement of the Company that would then permit offers and sales of Registrable Underlying Securities as described above) is effective under the Securities Act, and a common prospectus or prospectus supplement is eligible to be used pursuant to Rule 429 under the Securities Act (or any successor rule) with the General Resale Registration Statement (or such other registration statement) and the General Primary Registration Statement in manner that would permit offers and sales of Registrable Underlying Securities as described above; or

(ii) offers and sales of Registrable Underlying Securities as described above would be permitted to be made by a prospectus supplement, to the prospectus included in such General Primary Registration Statement, filed in accordance with Rule 430B under the Securities Act, without the need to include any additional statements or disclosures in such General Primary Registration Statement at the time of its effectiveness.

Section 5. BLACKOUT PERIODS.

(a) *Generally*. Notwithstanding anything to the contrary in this Agreement, but subject to **Section 5(b)**, if there occurs or exists any pending corporate development, filing with the SEC or any other event, in each case that, in the Company's reasonable judgment, makes it appropriate to suspend the availability of any Registration Statement or any pending or potential Demand Underwritten Offering, then:

(i) the Company will send notice (a "**Blackout Commencement Notice**") to each Notice Holder of such suspension (without setting forth therein any material non-public information);

(ii) the Company's obligations under **Section 2** or otherwise with respect to the General Resale Registration Statement, under **Section 3** or otherwise with respect to any Demand Underwriting Registration Notice, or under **Section 4** or otherwise with respect to any Piggyback Underwritten Offering, in each case including and any related obligations of the Company under **Section 6**, will be suspended until the related Blackout Period has terminated;

(iii) upon its receipt of such Blackout Commencement Notice, each Holder agrees to comply with its obligations set forth in **Section 8(c)**; and

(iv) upon the Company's determination that such suspension is no longer needed or appropriate, the Company will send notice (a "**Blackout Termination Notice**," and the period from, and including, the date the Company sends such Blackout Commencement Notice to, and including, the date the Company sends such Blackout Termination Notice, a "**Blackout Period**") to each Notice Holder of the termination of such suspension (without setting forth therein any material non-public information).

(b) *Limitation on Blackout Periods*. No single Blackout Period can extend beyond forty five (45) calendar days; and the total number of calendar days in all Blackout Periods cannot exceed an aggregate of ninety (90) (or, with respect to any Holder whose Investor Designee is an Investor Director, one hundred twenty (120)) calendar days in any period of twelve (12) full calendar months.

(c) *Company's Representation Regarding Material Non-Public Information*. The Company represents and warrants that no Blackout Commencement Notice or Blackout Termination Notice will set forth any material non-public information (it being understood, for the avoidance of doubt, that the Company makes no representation regarding whether the delivery of such Blackout Termination Notice or Blackout Commencement Notice, in itself, constitutes material non-public information).

Section 6. CERTAIN REGISTRATION AND RELATED PROCEDURES.

(a) *Compliance with Registration Obligations and Securities Act; SEC Staff Comments*. Subject to **Section 5**, the Company will use commercially reasonable efforts to make such filings with the SEC as may be necessary to comply with its obligations under **Section 2**, **Section 3** and **Section 4** and to cause each Registration Statement to comply with the Securities Act and other applicable law, including, if applicable, the filing of any Registration Statement Documents to comply with Section 10(a)(3) of the Securities Act and Rule 3-12 of Regulation S-X under the Securities Act, to amend such Registration Statement to cause the same to be on a form for which the Company and the transactions contemplated thereby are eligible, and to address any comments received from the staff of the SEC. The Company will otherwise comply in all material respects with the Securities Act and other applicable law in the discharge of its obligations under **Section 2**, **Section 3** and **Section 4**.

(b) *Opportunity for Review by Notice Holders*. The Company will provide each Notice Holder with a reasonable opportunity to comment on draft copies of the initial filing of the General Resale Registration Statement, each pre-effective and post-effective amendment thereto, and each related prospectus supplement, before the same is filed with the SEC, and the Company will use commercially reasonable efforts to give effect to comments timely received by it from such Notice Holders in its reasonable discretion; *provided*, *however*, that in the case of a prospectus supplement that solely supplements or amends selling securityholder information and is filed pursuant to Rule 424(b)(7) under the Securities Act (or any successor rule), the Company will be required to provide such opportunity only to those Notice Holders named therein. Each Notice Holder whose Registrable Underlying Securities are to be sold pursuant to a Demand Underwriting Registration Statement in accordance with this **Section 3** or a Piggyback Registration Statement in accordance with **Section 4** will be afforded the same rights set forth in the preceding sentence with respect to any prospectus supplement or other Registration Statement Document relating to such Registration Statement, which prospectus supplement or other Registration Statement Document names such Notice Holder.

(c) *Blue Sky Qualification*. The Company will use commercially reasonable efforts to qualify the offer and sale of Registrable Underlying Securities in the manner contemplated by the General Resale Registration Statement (or any other applicable Registration Statement, to the extent any Registrable Underlying Securities are to be sold pursuant thereto in accordance with **Section 3** or **Section 4**, as applicable) under the securities or "blue sky" laws of those jurisdictions within the United States as the Notice Holders or the Managing Underwriters, as applicable, may reasonably request in writing and to maintain such qualification, once obtained, during the General Resale Registration Statement Effectiveness Period (in the case of the General Resale Registration Statement) or until the completion of the offering contemplated thereby (in the case of any other Registration Statement), and the Company will use commercially reasonable efforts to cooperate with such Notice Holders or the Managing Underwriters, as applicable, in connection with the same, except, in each case, to the extent such qualification is not required in connection with such offer and sale (including as a result of preemption by federal law pursuant to Section 18 of the Securities Act (or any successor provision)); *provided, however*, that no Issuer will be required to (i) qualify generally to do business in any jurisdiction where it is not then so qualified; (ii) take any action that would subject it to general service of process in suits (other than those arising out of the offer or sale of Registrable Underlying Securities or in connection with this Agreement) in any jurisdiction where it is not then so subject; or (iii) take any action that would subject it to taxation in any jurisdiction where it is not then so subject.

(d) *Prevention and Lifting of Suspension Orders*. The Company will use commercially reasonable efforts to prevent the issuance (or, if issued, to obtain the withdrawal as promptly as practicable) of any order suspending the effectiveness of the General Resale Registration Statement (or any other Registration Statement, to the extent any Underlying are to be sold pursuant thereto in accordance with **Section 3** or **Section 4**, as applicable) under the Securities Act or suspending any qualification referred to in **Section 6(c)**.

(e) *Notices of Certain Events*. The Company will provide notice of the following events to each Notice Holder as soon as reasonably practicable:

(i) the filing with the SEC of the General Resale Registration Statement, any pre- or post-effective amendment thereto or any related prospectus, prospectus supplement or "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act);

(ii) the effectiveness under the Securities Act, of the General Resale Registration Statement or any amendment thereto;

(iii) the receipt, by the Company, of any request by the staff of the SEC or any other governmental authority for any amendment or supplement to the General Resale Registration Statement;

(iv) the issuance, by the SEC or any other governmental authority, of any stop order suspending the effectiveness of the General Resale Registration Statement or the receipt, by the Company, of any written notice that proceedings for such purpose have been initiated or threatened;

(v) the receipt, by the Company, of any written notice (x) of the suspension of the qualification or exemption from qualification of the offer and sale of the Registrable Underlying Securities in any jurisdiction; or (y) that proceedings for such purpose have been initiated or threatened;

(vi) the withdrawal or lifting of any suspension referred to in **clause (iv)** or **(v)** above; and

(vii) that the Company has determined that the use of the General Resale Registration Statement must be suspended (which notice may, at the Company's discretion, state that it constitutes a Blackout Commencement Notice), including as a result of the occurrence of any event that causes any of the General Resale Registration Statement Documents to have a Material Disclosure Defect or to cease to comply with applicable law;

provided, *however*, that (x) the Company need not provide any such notice during a Blackout Period; and (y) in no event will this **Section 6(e)** require the Company to, and in no event will the Company, provide any information that they in good faith determine would constitute material non-public information.

In addition, during the pendency of any Demand Underwritten Offering pursuant to **Section 3** or any Piggyback Underwritten Offering pursuant to **Section 4**, but other than during a Blackout Period, each Notice Holder whose Registrable Underlying Securities are to be sold in such offering pursuant to the related Demand Underwriting Registration Statement or Piggyback Registration Statement, as applicable, will be afforded the same notice set forth in the preceding sentence with respect to the events set forth in **clauses (i)** through **(vii)**, inclusive, of this **Section 6(e)** relating to such Registration Statement.

(f) *Remediation of Material Disclosure Defects*. Subject to **Section 5**, the Company will, as promptly as practicable after determining that any Registration Statement Document contains a Material Disclosure Defect, prepare and file with the SEC (and, if applicable, use commercially reasonable efforts to cause the same to become effective under the Securities Act as promptly as practicable) such appropriate additional Registration Statement Document(s) so as to cause the applicable Registration Statement Document(s) to thereafter not contain any Material Disclosure Defect.

(g) *Listing of Registrable Underlying Securities*. The Company will use commercially reasonable efforts to cause the Registrable Underlying Securities to be listed for trading on each U.S. national securities exchange, if any, on which securities of the same class of the Company are then so listed.

(h) *Provision of Copies of the Prospectus*. At its expense, the Company will provide, to Notice Holders and the Managing Underwriters, if any, such number of copies of the prospectus relating to the applicable Registration Statement or any related prospectus supplement or "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act) as such Notice Holders or Managing Underwriters, as applicable, may reasonably request; *provided*, *however*, that the Company need not provide any document pursuant to this **Section 6(h)** that is publicly available on the SEC's EDGAR system (or any successor thereto).

(i) *Holders Cannot Be Identified as Underwriters Without Consent*. The Company will not expressly name or identify any Holder as an "underwriter" in any Registration Statement Document without such Holder's prior written consent (including consent provided in a Notice and Questionnaire); *provided, however*, that nothing in this **Section 6(i)** will require the consent of any Holder in connection with the inclusion in any Registration Statement Document of customary language, without specifically naming any Holder, that selling securityholders may in certain circumstances be considered to be underwriters under federal securities laws.

(j) *Due Diligence Matters*. Upon reasonable notice and at reasonable times during normal business hours, the Company will make available for inspection, by a representative of each Notice Holder, and the Managing Underwriters, if any, and attorneys or accountants retained by such Notice Holder or Managing Underwriters, as applicable, customary due diligence information.

(k) *Earnings Statement*. The Company will use commercially reasonable efforts to comply with its reporting obligations under Section 13(a) or 15(d) of the Exchange Act in such manner, as contemplated under Rule 158 under the Securities Act, so as to make generally available to its securityholders an earnings statement covering the twelve (12) month period referred to in Section 11(a) of the Securities Act, as it relates to each applicable Registration Statement, in the manner contemplated by, and otherwise in compliance with, such Section 11(a).

(l) *Settlement of Transfers and De-Legending*. The Company will use commercially reasonable efforts to cause the Company's transfer agent (or any other securities custodian for any Registrable Underlying Securities) to cooperate in connection with the settlement of any transfer of Registrable Underlying Securities pursuant to any Registration Statement, including through the applicable Depositary. If any such Registrable Underlying Securities so transferred are represented by a certificate bearing a legend referring to transfer restrictions under the Securities Act, then the Company will, if appropriate, cause such Registrable Underlying Securities to be reissued in the form of one or more certificates not bearing such a legend.

(m) *Certain Covenants Relating to Underwritten Offerings*. The following covenants will apply, in each case to the extent applicable, in connection with any Piggyback Underwritten Offering that includes any Registrable Underlying Securities, or any Demand Underwritten Offering:

(i) *Underwriting Agreement and Related Matters*. The Company will (1) execute and deliver any customary underwriting agreement or other agreement or instrument reasonably requested by the Managing Underwriters for such offering; (2) use commercially reasonable efforts to cause such customary legal opinions, comfort letters, "lock-up" agreements and officers' certificates to be delivered in connection therewith; and (3) cooperate in good faith with such Managing Underwriters in connection with the disposition of Registrable Underlying Securities pursuant to such offering.

(ii) *Marketing and Roadshow Matters*. The Company will cooperate in good faith with the Managing Underwriters for such offering in connection with any marketing activities relating to such offering.

(iii) *FINRA Matters*. The Company will cooperate and assist in any filings required to be made with the Financial Industry Regulatory Authority, Inc. in connection with such offering.

Section 7. EXPENSES. All Issuer Registration Expenses will be borne by the Company. All fees and expenses that are incurred by any Holder in connection with this Agreement, and that are not Issuer Registration Expenses, will be borne by such Holder.

Section 8. CERTAIN AGREEMENTS AND REPRESENTATIONS OF THE HOLDERS.

(a) *Provision of Information*. Notwithstanding anything to the contrary in this Agreement, no Holder will be entitled to any benefits under this Agreement until it has executed and delivered a Notice and Questionnaire to the Company. Each Holder represents that the information included in any such Notice and Questionnaire is accurate in all material respects and covenants, during the term of this Agreement, to promptly provide notice to the Company if any such information thereafter ceases to be accurate in all material respects. Each Holder authorizes the Company to assume the accuracy and completeness of all information contained in the most recent Notice and Questionnaire executed and delivered by such Holder. Each Holder will (i) provide, as soon as reasonably practicable, such other information as the Company may reasonably request in connection with the performance of the Company's obligations under this Agreement; and (ii) promptly notify the Company upon becoming aware that any information relating to such Holder and included in any Registration Statement Document contains a Material Disclosure Defect.

(b) *Use of Offering Materials*. Each Holder agrees that, without the prior written consent of the Company, it will not offer or sell any Registrable Underlying Securities by means of any written communication other than the latest prospectus or prospectus supplement provided to such Holder by either Issuer (or on file on SEC's EDGAR system (or any successor thereto)) relating to the applicable Registration Statement, and any related "issuer free writing prospectus" (as defined in Rule 433 under the Securities Act) authorized for such use by either Issuer.

(c) *Covenants Relating to Blackout Periods*. Each Holder agrees that, upon its receipt of a Blackout Commencement Notice, such Holder will not effect any sale or other transfer of Registrable Underlying Securities pursuant to any Registration Statement, and will not distribute any Registration Statement Document, until such Holder has received a subsequent Blackout Termination Notice.

Section 9. INDEMNIFICATION AND CONTRIBUTION.

(a) *Indemnification by the Company*. The Company will indemnify, defend and hold harmless each Holder Indemnified Person from and against (and will reimburse such Holder Indemnified Person, as incurred, for) any Losses that, jointly or severally, such Holder Indemnified Person may incur under the Securities Act, the Exchange Act, the common law or otherwise, insofar as such Losses arise out of or are based on (i) any Material Disclosure Defect or alleged Material Disclosure Defect in any Registration Statement Document; or (ii) any violation by either Issuer of the Securities Act, the Exchange Act or any other U.S. federal securities laws, or any U.S. state securities or "blue sky" laws, in connection with any Registration Statement Document; *provided*, *however*, that the Company will have no obligations under this **Section 9(a)** in respect of any Losses insofar as such Losses arise out of or are based on (i) any sale by such Holder, pursuant to the General Resale Registration Statement, of Registrable Underlying Securities either (x) during a Blackout Period in breach of such Holder's covenant set forth in **Section 5(a)(iii)**; or (y) without delivery, if required by the Securities Act, of the most recent related prospectus or prospectus supplement provided to such Holder by the Company pursuant to **Section 6(h)** (or on file on SEC's EDGAR system (or any successor thereto)), except, in the case of this **clause (y)**, to the extent the same is deemed to have been delivered through compliance with Rule 172 under the Securities Act or any similar rule; or (ii) any Material Disclosure Defect or alleged Material Disclosure Defect included in any Registration Statement Document in conformity with the Holder Information of any Holder.

(b) *Indemnification by the Holders*. Each Person that is a Holder that is a signatory to this Agreement or that is a Notice Holder, severally and not jointly, will indemnify, defend and hold harmless each Issuer Indemnified Person from and against (and will reimburse such Issuer Indemnified Person, as incurred, for) any Losses that, jointly or severally, such Issuer Indemnified Person may incur under the Securities Act, the Exchange Act, the common law or otherwise, insofar as such Losses arise out of or are based on (i) any Material Disclosure Defect or alleged Material Disclosure Defect in any Registration Statement Document, which Material Disclosure Defect or alleged Material Disclosure Defect is included therein in conformity with the Holder Information of such Holder; and (ii) any sale by such Holder, pursuant to the General Resale Registration Statement, of Registrable Underlying Securities either (x) during a Blackout Period in breach of such Holder's covenant set forth in **Section 5(a)(iii)**; or (y) without delivery, if required by the Securities Act, of the most recent related prospectus or prospectus supplement provided to such Holder by the Company pursuant to **Section 6(h)** (or on file on SEC's EDGAR system (or any successor thereto)), except, in the case of this **clause (y)**, to the extent the same is deemed to have been delivered through compliance with Rule 172 under the Securities Act or any similar rule; *provided*, *however*, that in no event will the liability of any Holder pursuant to this **Section 9(b)** exceed a dollar amount equal to the proceeds received by such Holder (less any related discounts, commissions, transfer taxes, fees or other expenses) from the sale of the Registrable Underlying Securities giving rise to the related indemnification obligation under this **Section 9(b)**.

(c) *Indemnification Procedures*.

(i) *Notice of Proceedings*. If any claim, action, suit or proceeding (each, a "**Proceeding**") is made or commenced against any Indemnified Person in respect of which indemnity is or may be sought from any Person (in such capacity, the "**Indemnifying Party**") pursuant to **Section 9(a)** or **Section 9(b)**, then such Indemnified Person will promptly notify the such Indemnifying Party in writing of such Proceeding; *provided*, *however*, that the failure to so notify such Indemnifying Party will not relieve such Indemnifying Party from any liability that it may have to such Indemnified Person or otherwise, except to the extent that such Indemnifying Party is materially prejudiced by such failure, as determined by a court of competent jurisdiction in a non-appealable, final judgment.

(ii) *Defense of Proceedings; Employment of Counsel*. Subject to the next sentence, upon its receipt of the notice referred to in **Section 9(c)(i)** in respect of a Proceeding, the Indemnifying Party will assume the defense of such Proceeding, including the employment of counsel reasonably satisfactory to the Indemnified Person and payment of all fees and expenses. Such Indemnified Person will also have the right to employ its own counsel in such Proceeding at such Indemnified Person's expense; *provided*, *however*, that such Indemnifying Party will be responsible for, and pay as incurred, the reasonable and documented fees and expenses of such counsel if (1) such Indemnifying Party authorized, in writing, the employment of such counsel in connection with the defense of such Proceeding; (2) such Indemnifying Party fails, within thirty (30) days after its receipt of the notice referred to in **Section 9(c)(i)**, to employ counsel to defend such Proceeding; or (3) such Indemnified Person reasonably concludes that there may be defenses available to such Indemnified Person that are different from, in addition to, or in conflict with, those available to such Indemnifying Party (in which case of this **clause (3)**, such Indemnifying Party will not have the right to direct the defense of such Proceeding on behalf of such Indemnified Person). Notwithstanding anything to the contrary in this **Section 9(c)(ii)**, in no event will any Indemnifying Party be liable for the fees or expenses of more than one separate counsel (in addition to any local counsel) in any one Proceeding or series of related Proceedings in the same jurisdiction representing the Indemnified Person(s) who are parties to such Proceeding.

(iii) *Settlements of Proceedings*. An Indemnifying Party will not be liable pursuant to **Section 9(a)** or **Section 9(b)**, as applicable, or this **Section 9(c)** for any settlement of any Proceeding except as provided in the next sentence. If any Proceeding is settled, then the Indemnifying Party will indemnify and hold harmless each Indemnified Person that is subject to such settlement from and against any Losses incurred by such Indemnified Person by reason of such settlement, if:

(1) such Indemnifying Party effected, or otherwise provided its written consent to, such settlement (which consent will not be unreasonably withheld or delayed); or

(2) (A) such Indemnified Person has requested such Indemnifying Party to reimburse such Indemnified Person for any fees and expenses of counsel as contemplated by **Section 9(c)(ii)**; (B) such settlement is entered into more than sixty (60) Business Days after such Indemnifying Party has received such request; (C) such Indemnifying Party has not fully reimbursed such Indemnified Person in accordance with such request before the date of such settlement; and (D) such Indemnified Person has given such Indemnifying Party at least thirty (30) days' prior notice of its intention to settle.

The Indemnifying Party will not effect any settlement of any Proceeding without the prior written consent of the applicable Indemnified Person(s), unless such settlement (1) includes an unconditional release of such Indemnified Person(s) from all liability on the claims that are the subject matter of such Proceeding; (2) does not include an admission of fault or culpability or a failure to act by or on behalf of such Indemnified Person(s); and (3) does not purport to bind the Indemnified Persons(s) to perform or refrain from performing any act (excluding any provision providing for the payment of money by the Indemnified Persons(s), which, for the avoidance of doubt, will be subject to the indemnity provided in the second sentence of this **Section 9(c)(iii)**).

(d) *Contribution Where Indemnification Not Available*. If the indemnification provided for in this **Section 9** is unavailable to any Indemnified Person, or is insufficient to hold any Indemnified Person harmless, in respect of any Losses referred to in the preceding provisions of this **Section 9**, then each applicable Indemnifying Party, severally and not jointly, will contribute to the amount paid or payable by such Indemnified Person as a result of such Losses in such proportion as is appropriate to reflect the relative fault of the Company, on the one hand, and of the Holders, on the other hand, in connection with the statements or omissions, or the actions or non-actions, as applicable, that resulted in such Losses, as well as other relevant equitable considerations. The relative fault of the Company, on the one hand, and of the Holders, on the other hand, will be determined by reference to, among other things, whether any applicable Material Disclosure Defect or alleged Material Disclosure Defect, or any relevant action or non-action, as applicable, relates to information supplied, or was taken or made, as applicable, by the Company or by the Holders and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such Material Disclosure Defect or alleged Material Disclosure Defect, or such action or non-action, as applicable. The amount paid or payable by an Indemnified Person as a result of any Losses referred to in this **Section 9(d)** will include any legal or other fees or expenses reasonably incurred by such Indemnified Person in connection with investigating, preparing to defend or defending the related Proceeding.

The Company and the Holders agree that it would not be just and equitable if contribution pursuant to this **Section 9(d)** were determined by pro rata allocation (even if the Holders were treated as one Person for such purpose) or by any other allocation method that does not take account of the equitable considerations referred to in the preceding paragraph. Notwithstanding anything to the contrary in the preceding paragraph, no Holder will be required to contribute any amount in excess of the amount by which the proceeds received by such Holder (less any related discounts, commissions, transfer taxes, fees or other expenses) from the sale of Registrable Underlying Securities giving rise to the related contribution obligation under this **Section 9(b)** exceeds the amount of any damage that such Holder has otherwise been required to pay by reason of the relevant Material Disclosure Defect or alleged Material Disclosure Defect, or the relevant action or non-action, as applicable. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The Holders' obligations to contribute pursuant to this **Section 9(d)** are several and not joint.

(e) *Remedies Not Exclusive*. The remedies provided for in this **Section 9** are not exclusive and will not limit, and will be in addition to, any rights or remedies that may otherwise be available to any Indemnified Person at law or in equity.

Section 10. Termination of Registration Rights. Notwithstanding anything to the contrary in this Agreement, this Agreement (other than Sections **7**, **9**, **13(d)**, **13(e)**, **13(h)**, **13(i)**, **13(j)** and **13(k)**) will terminate upon the first date on which no Registrable Underlying Securities are outstanding.

Section 11. Rule 144. With a view towards enabling the Holders to resell their Registrable Underlying Securities pursuant to Rule 144 under the Securities Act, the Company agrees that, until its obligations pursuant to **Section 2** have terminated pursuant to **Section 10**, the Company will (a) use commercially reasonable efforts to timely file (after giving effect to any available grace periods) such reports with the SEC as may be necessary to satisfy the requirements of Rule 144(c) for so long as such requirements would be applicable to the resale of Registrable Underlying Securities pursuant to Rule 144; and (b) take such further action as any Notice Holder may reasonably request to enable such Notice Holder sell its Registrable Underlying Securities pursuant to Rule 144.

Section 12. Subsequent Holders. Each Person that acquires any Registrable Underlying Securities from any Holder will, to the extent such securities continue to constitute Registrable Underlying Securities in the hands of such Person, become a Holder until such time as such person thereafter ceases to satisfy the definition of such term; *provided*, *however*, that such Person will not be entitled to the benefits of this Agreement (and will be deemed not to be a Holder or a Notice Holder) unless such Person executes and delivers a Notice and Questionnaire to the Company agreeing to be bound by the terms of this Agreement.

Section 13. Miscellaneous.

(a) *Notices*. The Company will send all notices or communications to any Holder pursuant to this Agreement either (a) in writing by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to such Holder's address as set forth in the latest Notice and Questionnaire of such Notice Holder delivered to the Company (or, if such Holder has not delivered any Notice and Questionnaire, as set forth in the Company's registrar); or (b) by email to the email address specified in such Notice and Questionnaire (which email will be deemed to constitute notice in writing for purposes of this Agreement).

Any notice or communication by any Holder to either Issuer will be deemed to have been duly given if in writing by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to offices of the Company at the following address (or at such other address as may be hereafter specified by notice to the Holders by the Company):

Shenandoah Telecommunications Company
500 Shentel Way
Edinburg, Virginia 22824
Attention: General Counsel
Email: [***]

with a copy (which will not constitute notice) to:

Hunton Andrews Kurth LLP
951 East Byrd Street
Richmond, Virginia 23219
Attention: Steven M. Haas
Email: shaas@huntonak.com

and

Hunton Andrews Kurth LLP
600 Travis Street
Suite 4200
Houston, Texas 77002
Attention: J.A. Glaccum
Email: j.a.glaccum@huntonak.com

(b) *Amendments and Waivers*. This Agreement, or any provision of this Agreement, may be amended, modified, waived or superseded only by a written instrument that is executed by the Company and by one or more Holders whose aggregate As-Exchanged Exchangeable Preferred Stock Ownership Percentage exceeds fifty percent (50%), and any such amendment, modification, waiver or supersession so executed will be binding upon the Company and all Holders; *provided, however*, that:

(i) a waiver with respect to any particular Holder's rights under this Agreement will be effective as to such Holder if reflected in a written instrument executed by such Holder, *provided* such waiver does not adversely affect the rights of any other Holder;

(ii) a waiver of any rights of the Holders in respect of any Piggyback Underwritten Offering will be effective if reflected in a written instrument executed by Notice Holders holding a majority of the total number of Registrable Underlying Securities of Notice Holders proposed to be sold in such Piggyback Underwritten Offering;

(iii) Piggyback Rights with respect to any particular registration statement under the Securities Act may be waived, on behalf of all Holders, by a written instrument executed by one or more Holders whose aggregate As-Exchanged Exchangeable Preferred Stock Ownership Percentage exceeds fifty percent (50%); and

(iv) a waiver of any rights of the Holders in respect of any Demand Underwritten Offering will be effective if reflected in a written instrument executed by Notice Holders holding a majority of the total number of Registrable Underlying Securities of Notice Holders proposed to be sold in such Demand Underwritten Offering.

For purposes of determining whether any such amendment, modification, waiver or supersession is executed by Holders of the requisite number of securities, the Company may, absent manifest error, conclusively rely on information contained in its registrar or in any Notice and Questionnaire.

No delay on the part of any party in exercising any right, power or privilege pursuant to this Agreement will operate as a waiver thereof, and no waiver, or single or partial exercise of, any such right, power or privilege will preclude any other or further exercise thereof or the exercise of any other right, power or privilege pursuant to this Agreement.

(c) *Third Party Beneficiaries*. Subject to **Section 12**, this Agreement will be binding on, inure to the benefit of and be enforceable by, each Holder and its successors and assigns.

(d) *Governing Law; Waiver of Jury Trial*. THIS AGREEMENT, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY AND EACH HOLDER (BY ITS EXECUTION AND DELIVERY OF THIS AGREEMENT, A JOINDER TO THIS AGREEMENT OR A NOTICE AND QUESTIONNAIRE) IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

(e) *Submission to Jurisdiction*. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated by this Agreement may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the "**Specified Courts**"), and each of the Company and each Holder irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to the address of the relevant party set forth in **Section 13(a)** will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company and each Holder (by its execution and delivery of this Agreement, a joinder to this Agreement or a Notice and Questionnaire) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

(f) *No Adverse Interpretation of Other Agreements.*. This Agreement may not be used to interpret any other agreement of the Company or its subsidiaries or of any other Person, and no such agreement may be used to interpret this Agreement.

(g) *Successors*. All agreements of the Company in this Agreement will bind its successors.

(h) *Severability*. If any provision of this Agreement is invalid, illegal or unenforceable, then the validity, legality and enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired thereby.

(i) *Counterparts*. The parties may sign any number of copies of this Agreement. Each signed copy will be an original, and all of them together represent the same agreement. Delivery of an executed counterpart of this Agreement by facsimile, electronically in portable document format or in any other format will be effective as delivery of a manually executed counterpart.

(j) *Table of Contents, Headings, Etc*. The table of contents and the headings of the Sections and Subsections of this Agreement have been inserted for convenience of reference only, are not to be considered a part of this Agreement and will in no way modify or restrict any of the terms or provisions of this Agreement.

(k) *Entire Agreement*. This Agreement, including **Exhibit A**, constitutes the entire agreement of the parties with respect to the specific subject matter of this Agreement and supersedes in their entirety all other agreements or understandings (whether written or oral) between or among the parties with respect to such specific subject matter.

(l) *Specific Performance*. The Company (a) agrees that any failure by it to comply with its obligations under this Agreement may result in material irreparable injury to the Holders for which there is no adequate remedy at law, and, that upon any such failure, any Holder may obtain such relief as may be required to specifically enforce the Company's obligations under this Agreement; and (b) hereby waives the defense in any action for specific performance that a remedy at law would be adequate.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

IN WITNESS WHEREOF, the parties to this Agreement have caused this Agreement to be duly executed as of the date first written above.

Shenandoah Telecommunications Company

By: _____

Name:
Title:

[Signature Page to Registration Rights Agreement]

ECP Fiber Holdings, LP

By: _____
Name:
Title:

Hill City Holdings, LP

By: Hill City Holdings GP, LLC
Its: General Partner

By: _____
Name:
Title:

[Signature Page to Registration Rights Agreement]

EXHIBIT A

FORM OF NOTICE AND QUESTIONNAIRE

The undersigned (the "**Selling Securityholder**") beneficial holder of Series A Participating Exchangeable Perpetual Preferred Stock (the "**Exchangeable Preferred Stock**") of Shentel Broadband Holding Inc., a Delaware corporation (the "**Subsidiary Issuer**"), or the common stock, no par value (the "**Common Stock**"), of Shenandoah Telecommunications Company, a Virginia corporation (the "**Company**," and, together with the Subsidiary Issuer, the "**Issuers**"), or other Registrable Underlying Securities (as defined in the Registration Rights Agreement referred to below) understands that the Company has filed, or intends to file, with the Securities and Exchange Commission (the "**SEC**") a registration statement (the "**Registration Statement**") under the Securities Act of 1933, as amended (the "**Securities Act**") to register the resale of Registrable Underlying Securities, in accordance with the terms of the Registration Rights Agreement, dated as of [*closing date*] (the "**Registration Rights Agreement**"), among the Company and the securityholders named therein. The Issuers will provide a copy of the Registration Rights Agreement upon request at the address set forth below. All capitalized terms used in this Notice and Questionnaire without definition have the respective meanings given to them in the Registration Rights Agreement.

To sell or otherwise dispose of any Registrable Underlying Securities pursuant to the Registration Statement, the beneficial owner of those Registrable Underlying Securities generally must be named as a selling securityholder in the related prospectus, deliver a prospectus to the purchasers of the Registrable Underlying Securities and be bound by those provisions of the Registration Rights Agreement applicable to such beneficial owner (including certain indemnification provisions, as described below). Beneficial owners that do not complete this Notice and Questionnaire and deliver it to the Company as provided below will not be named as selling securityholders in the prospectus and will not be permitted to sell any Registrable Underlying Securities pursuant to the Registration Statement. Beneficial owners are encouraged to complete and deliver this Notice and Questionnaire as soon as possible.

Certain legal consequences arise from being named as a selling securityholder in the Registration Statement and the related prospectus. Accordingly, registered holders and beneficial owners of Registrable Underlying Securities should consult their legal counsel regarding the consequences of being named or not being named as a selling securityholder in the Registration Statement and the related prospectus.

NOTICE

By signing and returning this Notice and Questionnaire, the Selling Securityholder:

- notifies the Issuers of its intention to sell or otherwise dispose of Registrable Underlying Securities beneficially owned by it and listed below in Item 3 (except as otherwise specified under such Item 3) pursuant to the Registration Statement; and

- agrees to be bound by the terms and conditions of this Notice and Questionnaire and the Registration Rights Agreement.

Pursuant to the Registration Rights Agreement, the Selling Securityholder has agreed to indemnify and hold harmless the Issuers and their respective affiliates, the partners, directors, officers, members, stockholders, employees, advisors or other representatives of Issuers or their respective affiliates, and each person, if any, who controls either Issuer within the meaning of Section 15 of the Securities Act or Section 20 of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), from and against certain claims and losses arising in connection with (i) sales by the Selling Securityholder of Registrable Underlying Securities pursuant to the Registration Statement either (x) during a Blackout Period of which the Company has provided notice to the Selling Securityholder; or (y) without delivering, if required by the Securities Act, the most recent prospectus relating to the Registration Statement; or (ii) statements or omissions concerning the Selling Securityholder made in the General Resale Registration Statement or the related prospectus in reliance upon the information provided in this Notice and Questionnaire.

The Selling Securityholder hereby provides the following information to the Company and represents and warrants that such information is accurate and complete:

QUESTIONNAIRE

1. Selling Securityholder Information:

   (a) Full legal name of the Selling Securityholder:

   _____

   (b) If the Registrable Underlying Securities listed in Item 3 below are held in certificated form and not "in street name," state the full legal name of the registered holder through which the Registrable Underlying Securities listed in Item 3 below are held:

   _____

   (c) If the Registrable Underlying Securities listed in Item 3 below are held "in street name," state the full legal name of the Depository Trust Company participant through which the Registrable Underlying Securities listed in Item 3 below are held:

   _____

   (d) Taxpayer identification or social security number of the Selling Securityholder:

   _____

2. Address and Contact Information for Notices to the Selling Securityholder:

   _____

   _____

Telephone _____

Fax: _____

Email Address: _____

Contact Person: _____

3. Beneficial Ownership of Exchangeable Preferred Stock and Common Stock Issued Upon Exchange of Exchangeable Preferred Stock:

Check each of the following that applies to the Selling Securityholder.

☐ The Selling Securityholder owns Exchangeable Preferred Stock:

Number of Shares: _____

CUSIP No(s). (If Any): _____

☐ The Selling Securityholder owns shares of Common Stock that were issued upon exchange of the Exchangeable Preferred Stock:

Number of Shares: _____

CUSIP No(s). (If Any): _____

4. Beneficial Ownership of Other Securities of the Company:

Except as set forth below in this Item 4, the Selling Securityholder is not the beneficial or registered owner of any securities of the Company other than the securities listed in Item 3 above.

Type and amount of other securities beneficially owned by the Selling Securityholder:

Title of Security	Amount Beneficially Owned	CUSIP No(s). (If Any)

5. Relationships with the Company:

(a) Has the Selling Securityholder or any of its affiliates, officers, directors or principal equity holders (owners of 5% or more of the equity securities of the Selling Securityholder) held any position or office or had any other material relationship with the Company (or its predecessors or affiliates) during the past three years?

☐ Yes.

☐ No.

(b) If the response to (a) above is "Yes," then please state the nature and duration of the relationship with the Company:

_____

_____

_____

_____

6. Plan of Distribution:

Check the following box confirming the intended plan of distribution of the Registrable Underlying Securities:

☐ The Selling Securityholder (including its donees and pledgees) does not intend to distribute the Registrable Underlying Securities listed in Item 3 above pursuant to the Shelf Resale Registration Statement except as follows (if at all):

The Registrable Underlying Securities may be sold from time to time directly by the Selling Securityholder or, alternatively, through underwriters, broker-dealers or agents. If the Registrable Underlying Securities are sold through broker-dealers or agents, the Selling Securityholder will be responsible for underwriting discounts or commissions or agents' commissions. The Registrable Underlying Securities may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of sale, at varying prices determined at the time of sale or at negotiated prices. Such sales may be effected in transactions (which may involve block transactions) (1) on any national securities exchange or quotation service on which the Registrable Underlying Securities may be listed or quoted at the time of sale; (2) in the over-the-counter market; (3) otherwise than on such exchanges or services or in the over-the-counter market; or (4) through the writing of options. In connection with sales of the Registrable Underlying Securities or otherwise, the Selling Securityholder may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the Registrable Underlying Securities in the course of the hedging positions they assume. The Selling Securityholder may also sell Registrable Underlying Securities short and deliver Registrable Underlying Securities to close out short positions or loan or pledge Registrable Underlying Securities to broker-dealers that in turn may sell such securities. Notwithstanding anything to the contrary, in no event will the methods of distribution take the form of an underwritten offering of the Registrable Underlying Securities without the prior agreement of the Company.

State any exceptions:

_____

_____

_____

7. Broker-Dealers and Their Affiliates:

The Company may have to identify the Selling Securityholder as an underwriter in the Registration Statement or related prospectus if:

- the Selling Securityholder is a broker-dealer and did not receive the Registrable Underlying Securities as compensation for underwriting activities or investment banking services or as investment securities; or

- the Selling Securityholder is an affiliate of a broker-dealer and either (1) did not acquire the Registrable Underlying Securities in the ordinary course of business; or (2) at the time of its purchase of the Registrable Underlying Securities, had an agreement or understanding, directly or indirectly, with any person to distribute the Registrable Underlying Securities.

Persons identified as underwriters in the Registration Statement or related prospectus may be subject to additional potential liabilities under the Securities Act and should consult their legal counsel before submitting this Notice and Questionnaire.

(a) Is the Selling Securityholder a broker-dealer registered pursuant to Section 15 of the Exchange Act?

☐ Yes.

☐ No.

(b) If the response to (a) above is "No," is the Selling Securityholder an "affiliate" of a broker-dealer that is registered pursuant to Section 15 of the Exchange Act?

☐ Yes.

☐ No.

For the purposes of this Item 7(b), an "affiliate" of a registered broker-dealer includes any company that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such broker-dealer.

(c) Did the Selling Securityholder acquire the securities listed in Item 3 above in the ordinary course of business?

☐ Yes.

☐ No.

(d) At the time of the Selling Securityholder's purchase of the securities listed in Item 3 above, did the Selling Securityholder have any agreements or understandings, directly or indirectly, with any person to distribute the securities?

☐ Yes.

☐ No.

(e) If the response to (d) above is "Yes," then please describe such agreements or understandings:

_____

_____

_____

(f) Did the Selling Securityholder receive the securities listed in Item 3 above as compensation for underwriting activities or investment banking services or as investment securities?

☐ Yes.

☐ No.

(g) If the response to (f) above is Yes," then please describe the circumstances:

_____

_____

_____

8. Nature of Beneficial Ownership:

The purpose of this section is to identify the ultimate natural person(s) or publicly held entity(ies) that exercise(s) sole or shared voting or dispositive power over the Registrable Underlying Securities.

(a) Is the Selling Securityholder a natural person?

☐ Yes.

☐ No.

(b) Is the Selling Securityholder required to file, or is it a wholly owned subsidiary of an entity that is required to file, periodic and other reports (for example, Forms 10-K, 10-Q and 8-K) with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act?

☐ Yes.

☐ No.

(c) Is the Selling Securityholder an investment company, or a subsidiary of an investment company, registered under the Investment Company Act of 1940, as amended?

☐ Yes.

☐ No.

(d) If the Selling Securityholder is a subsidiary of such an investment company, please identify the investment company:

_____

_____

_____

(e) Identify below the name of each natural person or entity that has sole or shared investment or voting control over the securities listed in Item 3 above:

_____

_____

PLEASE NOTE THAT THE SEC REQUIRES THAT THESE NATURAL PERSONS AND ENTITIES BE NAMED IN THE PROSPECTUS

9. Securities Received from Named Selling Securityholder:

(a) Did the Selling Securityholder receive the Registrable Underlying Securities listed above in Item 3 as a transferee from selling securityholder(s) previously identified in the Registration Statement?

☐ Yes.

☐ No.

(b) If the response to (a) above is "Yes," then please answer the following two questions:

(i) Did the Selling Securityholder receive the Registrable Underlying Securities listed above in Item 3 from the named selling securityholder(s) prior to the effectiveness of the Registration Statement?

☐ Yes.

☐ No.

(ii) Identify below the names of the selling securityholder(s) from whom the Selling Securityholder received the Registrable Underlying Securities listed above in Item 3 and the date on which such securities were received.

_____

_____

_____

_____

If more space is needed for responses, then please attach additional sheets of paper. Please indicate the Selling Securityholder's name and the number of the item being responded to on each such additional sheet of paper, and sign each such additional sheet of paper, before attaching it to this Notice and Questionnaire. The Selling Securityholder may be asked to answer additional questions depending on the responses to the above questions.

ACKNOWLEDGEMENTS

The Selling Securityholder acknowledges its obligation to comply with the provisions of the Exchange Act and the rules thereunder relating to stock manipulation, particularly Regulation M thereunder (or any successor rules or regulations), in connection with any offer or sale of Registrable Underlying Securities. The Selling Securityholder agrees that neither it nor any person acting on its behalf will engage in any transaction in violation of such provisions.

The Selling Securityholder acknowledges its obligations under the Registration Rights Agreement to indemnify and hold harmless certain persons as set forth therein.

Pursuant to the Registration Rights Agreement, the Company has agreed under certain circumstances to indemnify the Selling Securityholder against certain liabilities.

In accordance with the Selling Securityholder's obligation under the Registration Rights Agreement to provide such information as may be required by law for inclusion in the Registration Statement, the Selling Securityholder agrees to promptly notify the Company of any inaccuracies or changes in the information provided in this Notice and Questionnaire that may occur after the date of this Notice and Questionnaire at any time while the Registration Statement remains effective.

Notices to the Selling Securityholder relating to this Notice and Questionnaire or pursuant to the Registration Rights Agreement will be made by email, or in writing, at the email or physical address set forth in Item 2 above.

By signing below, the Selling Securityholder consents to the disclosure of the information contained in this Notice and Questionnaire in its answers to Items 1 through 9 and the inclusion of such information in the Registration Statement and the related prospectus. The Selling Securityholder understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and the related prospectus.

[***The Remainder of This Page Intentionally Left Blank; Signature Page Follows***]

The Selling Securityholder has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated: _____

Legal Name of Selling Securityholder _____

By: _____

Name: _____

Title: _____

PLEASE RETURN THE COMPLETED AND EXECUTED NOTICE
AND QUESTIONNAIRE TO SHENANDOAH TELECOMMUNICATIONS COMPANY AT:

Shenandoah Telecommunications Company
500 Shentel Way
Edinburg, Virginia 22824
Attention: [__]
Facsimile: [__]
Email: [__]

EXHIBIT E

Potential Investor Designees

1. [***]
2. [***]
3. [***]
4. [***]

Exhibit 10.1

CONSENT AND AMENDMENT NO. 2 TO CREDIT AGREEMENT

This **CONSENT AND AMENDMENT NO. 2 TO CREDIT AGREEMENT** (this "**Amendment**") is made and entered into as of October 24, 2023, by and among **SHENANDOAH TELECOMMUNICATIONS COMPANY**, a Virginia corporation (the "**Existing Borrower**"), the guarantors party hereto, **COBANK, ACB** ("**CoBank**"), in its capacity as administrative agent under the Credit Agreement (as defined below; CoBank, in such capacity, the "**Administrative Agent**"), as swing line lender (in such capacity, the "**Swing Line Lender**") and as a Lender (including as an Issuing Lender) and each other Lender and Voting Participant party hereto.

W I T N E S S E T H

WHEREAS, pursuant to that certain Credit Agreement, dated as of July 1, 2021 (as the same has been amended, modified, supplemented, increased or extended from time to time prior to the date hereof, the "**Credit Agreement**"), among the Existing Borrower, the Guarantors from time to time party thereto, the Lenders (including the Issuing Lenders) from time to time party thereto, the Swing Line Lender and the Administrative Agent, the Lenders have agreed to provide the Existing Borrower with the credit facilities provided for therein;

WHEREAS, the Existing Borrower has informed the Administrative Agent that it desires to enter into a Material Acquisition pursuant to the terms of an Agreement and Plan of Merger (the "**Acquisition Agreement**") to be entered into among the Existing Borrower, Fox Merger Sub I Inc., a Delaware corporation ("**Merger Sub I**"), Fox Merger Sub II LLC, a Delaware limited liability company ("**Merger Sub II**"), Horizon Acquisition Parent LLC, a Delaware limited liability company ("**Horizon**" and, together with its direct and indirect Subsidiaries, the "**Target**"), the sellers party thereto and the seller representative party thereto, pursuant to the terms of which the Existing Borrower will acquire all of the issued and outstanding Equity Interests of Horizon (the "**Project Fox Acquisition**");

WHEREAS, in connection with, and prior to the consummation of, the Project Fox Acquisition, (i) the Existing Borrower will contribute all of the issued and outstanding Equity Interests of each of its direct and indirect Subsidiaries (other than Merger Sub I and Merger Sub II) to Shentel Broadband Holding Inc., a Delaware corporation ("**Holdco**"), and (ii) Holdco will contribute all of such issued and outstanding Equity Interests to Shentel Broadband Operations LLC, a Delaware limited liability company ("**Shentel Operations**") (collectively, such transactions are referred to as the "**Reorganization**");

WHEREAS, in connection with, and immediately following the consummation of, the Project Fox Acquisition, (i) the Existing Borrower will contribute all of the issued and outstanding Equity Interests of Merger Sub II, as the surviving entity of the mergers contemplated by the Acquisition Agreement, to Holdco, (ii) Holdco will contribute all of such issued and outstanding Equity Interests to Shentel Operations and (iii) Shentel Operations will contribute all of such issued and outstanding Equity Interests to Shenandoah Personal Communications, LLC, a Virginia limited liability company (collectively, such transactions are referred to as the "**Contribution**");

WHEREAS, in connection with the transactions contemplated by the Reorganization and the Contribution, Shentel Operations will replace the Existing Borrower as the Borrower under the Credit Agreement and the other Loan Documents and the Existing Borrower will be released of all of its rights, duties and obligations under the Credit Agreement (other than under Section 7.18 of the Amended Credit Agreement) and the other Loan Documents (the "**Borrower Transition**");

WHEREAS, either concurrently with, or following, the consummation of the Project Fox Acquisition, the Reorganization and the Contribution, Holdco may issue up to $100,000,000 of participating exchangeable preferred stock (the "**Preferred Stock**") to one or more investors (the "**Preferred Stock Issuance**");

WHEREAS, the Existing Borrower has requested that, in contemplation of the Project Fox Acquisition, the Lenders agree to (i) increase the amount of term loans permitted to be incurred pursuant to clause (a)(i) of the definition of "Incremental Amount" set forth in the Credit Agreement to $275,000,000 (the "**Incremental Increase**") and (ii) permit an amount not to exceed $50,000,000 of the Incremental Increase to be used to increase the Revolving Commitment (the "**Revolving Increase**"); and

WHEREAS, the Administrative Agent, the Swing Line Lender, the other Lenders (including the Issuing Lenders), the Voting Participants and the Loan Parties party hereto have hereby agreed to the following amendments to, and consents under, the Credit Agreement on the terms and subject to the conditions set forth herein (the Credit Agreement, as so amended, the "**Amended Credit Agreement**").

NOW, THEREFORE, in consideration of the premises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree to modify the Credit Agreement as follows:

1. **Certain Definitions; Interpretation**.

(a) Capitalized terms used but not otherwise defined herein shall have the meanings when used herein as set forth in the Credit Agreement.

(b) The rules of construction set forth in Section 1.2 of the Credit Agreement shall apply to this Amendment.

2. **Consent to Reorganization, Contribution and Borrower Transition**. The Administrative Agent and the Lenders hereby consent to the Reorganization, the Contribution and the Borrower Transition, including without limitation all transactions included within, or required in connection with, the Reorganization, the Contribution and the Borrower Transition, subject to the conditions set forth in Section 7 hereof and subject to the following additional conditions:

(a) concurrently with the consummation of the Reorganization, Shentel Operations shall become the "Borrower" under the Credit Agreement and the other Loan Documents and shall take all actions required by Section 6.10(b) of the Credit Agreement, and the Administrative Agent is hereby authorized to enter into any necessary assignment agreements with respect to the obligations of the Borrower under the Loan Documents and, in consultation with the Borrower, to make any technical or immaterial amendments to the Loan Documents in connection with the same and to release and discharge the Existing Borrower from its rights, duties and obligations under the Loan Documents (other than under Section 7.18 of the Amended Credit Agreement); provided further that such amendments shall become effective without any further action or consent of any other party to this Amendment or any other 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 (it is understood that posting such amendment electronically on SyndTrak or another relevant website with notice of such posting by the Administrative Agent to the Required Lenders shall be deemed adequate receipt of notice of such amendment);

(b) concurrently with the consummation of the Reorganization, Holdco shall become a "Guarantor" for all purposes under the Loan Documents and shall take all actions required by Section 6.10(b) of the Credit Agreement, and shall grant the Administrative Agent a Lien on and security interest in all issued and outstanding Equity Interests of Shentel Operations;

(c) each of the Existing Borrower, Shentel Operations and Holdco shall be in compliance with Section 7.18 of the Amended Credit Agreement; and

(d) (i) the Administrative Agent shall have received customary closing deliverables requested by the Administrative Agent in its sole discretion that are reasonably satisfactory to it, (ii) the Administrative Agent and each Lender shall have received at least five (5) Business Days prior to the Borrower Transition, all documentation and other information with respect to Shentel Operations and Holdco that has been reasonably requested to comply with regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act and (iii) to the extent that Shentel Operations qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, at least three (3) Business Days prior to the Borrower Transition, a customary certification regarding beneficial ownership as required by the Beneficial Ownership Regulation in relation to Shentel Operations shall have been received by any Lender that has requested it.

3. **Consent to Preferred Stock Issuance**. The Administrative Agent and the Lenders hereby consent to the Preferred Stock Issuance, subject to the conditions set forth in Section 7 hereof and subject to the following additional conditions:

(a) the Preferred Stock is issued by Holdco on or after the date of the consummation of the Project Fox Acquisition;

(b) the Preferred Stock shall not be subject to any mandatory redemption rights by the holders of the Preferred Stock except upon the occurrence of customary "fundamental change" events, which will be defined to include, among other customary terms, customary business combination transactions and de-listing events and the Existing Borrower ceasing to own 100% of the common equity and voting power of Holdco;

(c) the Preferred Stock may otherwise be redeemed, in cash or otherwise, subject to Section 7.6 of the Credit Agreement, as the same may be modified or amended by the Administrative Agent to give effect to the terms of the Reorganization and the joinder of Holdco as a Guarantor and the other transactions contemplated by this Amendment;

(d) subject to Section 7.6 of the Credit Agreement, cash dividends payable to the holders of the Preferred Stock (other than any dividends payable with respect to the common stock of Holdco in which the Preferred Stock participates in connection with any dividend to be paid by the Existing Borrower to its shareholders) shall not exceed 8.0% per annum; and

(e) the documentation evidencing the Preferred Stock shall be reasonably satisfactory to the Administrative Agent, it being understood and agreed that the terms set forth in the Summary of Terms provided to the Administrative Agent and posted to the Lenders prior to the date hereof are reasonably satisfactory to the Administrative Agent and the Lenders.

4. **Consent to Revolving Increase**.

(a) The Administrative Agent and the Lenders hereby agree that the Borrower may elect to use a portion of the Incremental Increase, in an amount not to exceed $50,000,000, to increase the Revolving Commitments, on such terms and conditions as may be agreed to among the Borrower, the Administrative Agent and any Revolving Lender agreeing to participate in the Revolving Increase, subject to the conditions set forth in Section 7 hereof and subject to the following additional conditions:

(i) the proceeds of the Revolving Increase shall be used by the Loan Parties initially to fund a portion of the purchase price in connection with the Project Fox Acquisition, to fund transaction expenses in connection therewith and thereafter to fund working capital and for other general corporate purposes of the Loan Parties;

(ii) if the Project Fox Acquisition has not been consummated on or before the "End Date" (or such other similar or analogous term as defined in the Acquisition Agreement, including, for the avoidance of doubt, any extensions contemplated by the Acquisition Agreement), the Revolving Increase shall immediately and automatically be terminated, and the Revolving Commitments relating to the Revolving Increase shall be correspondingly permanently terminated; and

(iii) the Revolving Increase shall be on substantially identical terms (including covenants, maturity date and interest rate but excluding upfront, arrangement, structuring, underwriting, ticking, consent, amendment and other fees and immaterial terms) as the terms of the Revolving Credit Facility existing under the Credit Agreement; provided that any such term applicable to the Revolving Increase that is more restrictive to the Loan Parties or beneficial to any Revolving Lender agreeing to participate in the Revolving Increase than the equivalent terms for the Revolving Credit Facility set forth in the Credit Agreement or any other Loan Document shall be deemed to be applicable to the Revolving Commitments existing under the Credit Agreement.

(b) The Lenders hereby further consent to the Administrative Agent making such changes to the terms of the Credit Agreement and the other Loan Documents as are necessary to implement the Revolving Increase on the terms and conditions agreed to among the Borrower, the Administrative Agent, and any participating Revolving Lender.

(c) The Borrower hereby agrees to consent to any amendments to the terms of the Credit Agreement and the other Loan Documents as are necessary to implement the Revolving Increase as set forth in this Section 4.

5. **Amendments to Credit Agreement**. Subject to the conditions set forth in Section 7 hereof, the Credit Agreement is hereby amended by:

(a) adding the following definitions to Section 1.1 thereof in alphabetical order as follows:

"**Borrower Transition**" shall have the meaning set forth in the Second Amendment.

"**Contribution**" shall have the meaning set forth in the Second Amendment.

"**Parent**" means Shenandoah Telecommunications Company, a Virginia corporation.

"**Parent Financials**" means the financial statements of Parent for the applicable reporting period that are substantially similar in form to the financial statements that were delivered to the Administrative Agent pursuant to Section 6.1(a) or (b), as applicable, prior to the consummation of the Reorganization and the Borrower Transition.

"**Preferred Stock**" means the participating exchangeable preferred stock issued by Holdco after the Second Amendment Effective Date in an aggregate amount up to $100,000,000.

"**Project Fox Acquisition**" means the Acquisition of the Project Fox Target pursuant to the terms of the Project Fox Acquisition Agreement.

"**Project Fox Acquisition Agreement**" means the Agreement and Plan of Merger entered into as of the Second Amendment Date among the Borrower, Fox Merger Sub I Inc., a Delaware corporation, Fox Merger Sub II LLC, a Delaware limited liability company, the Project Fox Target, the sellers party thereto and the seller representative party thereto, pursuant to the terms of the which the Borrower will acquire all of the issued and outstanding Equity Interests of the Project Fox Target.

"**Project Fox Target**" means Horizon Acquisition Parent LLC, a Delaware limited liability company (together with its direct and indirect Subsidiaries).

"**Reorganization**" shall have the meaning set forth in the Second Amendment.

"**Second Amendment**" means that certain Consent and Amendment No. 2 to Credit Agreement dated as of the Second Amendment Effective Date.

"**Second Amendment Effective Date**" means October 24, 2023.

"**Shentel Operations**" means Shentel Broadband Operations LLC, a Delaware limited liability company.

(b) amending and restating the following definitions in Section 1.1 thereof in their entirety as follows:

"**Borrower**" means, initially, Parent, and upon consummation of the transactions contemplated by the Reorganization and the Borrower Transition, Shentel Operations.

"**Change of Control**" means:

(a) at any time prior to the consummation of the transactions contemplated by the Reorganization and the Borrower Transition:

(i) any Person or group of Persons (within the meaning of Sections 13(d) or 14(a) of the Exchange Act) shall have acquired beneficial ownership (either within the meaning of Rules 13d-3 and 13d-5 promulgated by the SEC under the Exchange Act or by reason of such Person or group of Persons having the right to acquire such beneficial ownership, whether exercisable immediately or with the passage of time (each, an "Option Right")) of 30% or more of the voting Equity Interests of the Borrower entitled to vote for members of the board of directors or equivalent governing body of the Borrower on a fully diluted basis, taking into account any Option Rights as though such rights have been exercised;

(ii) the occurrence of (x) any consolidation or merger of the Borrower in which the Borrower is not the continuing or surviving Person or pursuant to which common shares of the Borrower will be converted into cash, securities or other property or (y) any sale, lease, exchange or other transfer (in one transaction or a series of transactions) of all or substantially all of the assets of the Borrower;

(iii) within a period of twenty-four (24) consecutive calendar months, individuals who were (x) directors of the Borrower on the first day of such period or (y) new directors of the Borrower whose nomination or election to the board of directors of the Borrower was approved by at least a majority of directors who were either directors on the first day of such period or whose nomination or election was previously so approved shall cease to constitute a majority of the board of directors of the Borrower; or

(b) at any time following consummation of the transactions contemplated by the Reorganization and the Borrower Transition,

(i) any Person or group of Persons (within the meaning of Sections 13(d) or 14(a) of the Exchange Act) shall have acquired beneficial ownership (either within the meaning of Rules 13d-3 and 13d-5 promulgated by the SEC under the Exchange Act or by reason of such Person or group of Persons having the right to acquire such beneficial ownership, whether exercisable immediately or with the passage of time (each, an "Option Right")) of 30% or more of the voting Equity Interests of the Parent entitled to vote for members of the board of directors or equivalent governing body of the Parent on a fully diluted basis, taking into account any Option Rights as though such rights have been exercised;

(ii) the occurrence of (x) any consolidation or merger of the Parent in which the Parent is not the continuing or surviving Person or pursuant to which common shares of the Parent will be converted into cash, securities or other property or (y) any sale, lease, exchange or other transfer (in one transaction or a series of transactions) of all or substantially all of the assets of the Parent;

(iii) within a period of twenty-four (24) consecutive calendar months, individuals who were (x) directors of the Parent on the first day of such period or (y) new directors of the Parent whose nomination or election to the board of directors of the Parent was approved by at least a majority of directors who were either directors on the first day of such period or whose nomination or election was previously so approved shall cease to constitute a majority of the board of directors of the Parent;

(iv) Holdco shall cease to directly own, beneficially and of record, 100% of the issued and outstanding Equity Interests of the Borrower; or

(v) Parent shall cease to directly own, beneficially and of record, 100% of the issued and outstanding Equity Interests (other than the Preferred Stock) of Holdco.

"**Incremental Amount**" means an amount equal to the sum of (a) the greater of (i) $75,000,000 and (ii) 100% of Consolidated EBITDA, calculated on a Pro forma Basis plus (b) an additional unlimited amount subject to a maximum Total Net Leverage Ratio of 4.00:1.00, calculated on a Pro forma Basis; provided that, subject to compliance with the covenants set forth in Article VIII calculated on a Pro forma Basis (which may be tested as of the time the applicable Loan Party enters into the Project Fox Acquisition Agreement), the amount specified in the foregoing clause (a)(i) shall be increased to $275,000,000; provided, further that the proceeds of such increased amount shall be used solely for purposes of calculating clause (a)(i) of this definition in connection with the Project Fox Acquisition.

"**Indebtedness**" means, with respect to any Person, without duplication: (a) all indebtedness for borrowed money; (b) that portion of obligations with respect to Capital Leases or other capitalized agreements that is properly classified as a liability on a balance sheet in conformity with GAAP; (c) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money; (d) any obligation owed for all or any part of the deferred purchase price of property or services (except trade payables arising in the ordinary course of business); (e) all obligations created or arising under any conditional sale or other title retention agreement; (f) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is nonrecourse to the credit of that Person, but only to the extent of the fair value of such property or asset; (g) all obligations of such Person under take-or-pay or similar arrangements or under commodities agreements; (h) net obligations of such Person under any Hedge Agreement (calculated as of any date of determination as the Hedge Termination Value thereof as of such date); (i) the maximum amount of all standby letters of credit issued or bankers' acceptance facilities created for the account of such Person and, without duplication, all drafts drawn thereunder (to the extent unreimbursed); (j) the principal balance outstanding under any Synthetic Lease Obligation; (k) with respect to the Indebtedness of any partnership or unincorporated joint venture in which such Person is a general partner or joint venturer, the lesser of (i) the amount of such Indebtedness and (ii) such Person's actual liability for such Indebtedness; (l) obligations with respect to principal under Contingent Obligations with respect to the repayment of money or the deferred purchase price of property, whether or not then due and payable (calculated as the maximum amount of such principal); and (m) obligations under partnership, organizational or other agreements to fund capital contributions or other equity calls with respect to any Person or Investment or to redeem, repurchase or otherwise make payments in respect of any Equity Interests of any Person; *provided, however,* that notwithstanding the foregoing, in no event shall the Preferred Stock or any obligations thereunder be considered Indebtedness for any purpose under this Agreement or any other Loan Document.

(c) amending and restating the proviso to the definition of "Net Cash Proceeds" as follows:

"provided, that so long as no Event of Default shall have occurred and be continuing or would result therefrom, Net Cash Proceeds shall not include any amounts with respect to clause (b) above to the extent that such amounts are reinvested in productive assets (other than inventory unless such Net Cash Proceeds result from a Casualty Event with respect to inventory) of a kind then used or usable in the business of any Loan Party or in the business of the Subsidiary who experienced such Casualty Event or Disposition, (x) in the case of any Disposition pursuant to Section 7.8(j), within 365 days after the receipt thereof, or are contractually committed to be applied to purchase productive assets (other than inventory) of a kind then used or usable in the business of any Loan Party, in each case, within 365 days after the receipt thereof and are so applied within eighteen (18) months of receipt and (y) in each other case, within 270 days after the receipt thereof, or are contractually committed to be applied to purchase productive assets (other than inventory unless such Net Cash Proceeds result from a Casualty Event with respect to inventory) of a kind then used or usable in the business of any Loan Party or in the business of the Subsidiary who experienced such Casualty Event or Disposition, in each case, within 270 days after the receipt thereof and are so applied within eighteen (18) months of receipt."

(d) amending each of clauses (a) and (b) of Section 6.1 thereof by adding a new proviso at the end of each such clause as follows:

"; provided that, after consummation of the transactions contemplated by the Reorganization and the Borrower Transition, the Borrower may provide corresponding Parent Financials in place of the above so long as (i) the Borrower, Parent and Holdco are in compliance with Section 7.18, (ii) such financial statements are not materially different from comparable financial statements of the Borrower and (iii) the Borrower shall provide detailed explanations of any differences between the Parent Financials and the financial statements that otherwise would be required for the Borrower."

(e) amending and restating Section 7.4(g) thereof in its entirety as follows:

"(g) Guarantees by any Loan Party of Indebtedness permitted hereunder (other than Indebtedness of any Subsidiary that is not a Loan Party and Excluded Swap Obligations) or other obligations permitted hereunder not constituting Indebtedness (other than any obligations with respect to the Preferred Stock);"

(f) amending and restating Section 7.5(j) thereof in its entirety as follows:

"(j) Investments made or deemed made pursuant to the Reorganization, the Contribution or the Borrower Transition;"

(g) amending and restating Section 7.6(a) thereof in its entirety as follows:

"(a) any Subsidiary of the Borrower may make, declare and pay lawful, cash dividends or distributions to, or redeem any Equity Interest held by, any Loan Party (other than Holdco);"

(h) amending and restating Section 7.6(f) thereof in its entirety as follows:

"(f) so long as no Default or Event of Default shall exist at the time of such declaration or could reasonably be expected to result from such Restricted Payment (tested solely at the time of declaration of any such Restricted Payment) and the Loan Parties shall be in compliance with the covenants set forth in Article VIII after giving effect to any such Restricted Payment on a Pro forma Basis for the four fiscal quarter period most recently then ended for which financial statements have been delivered (tested solely at the time of declaration of any such Restricted Payment), the Borrower may make, declare and pay Restricted Payments to Holdco, for further distribution by Holdco to Parent, (i) in any fiscal year, in an amount not to exceed $7,500,000 for ultimate distribution to the holders of common stock of the Parent and (ii) an additional amount, in the aggregate (including Restricted Payments in the form of cash distributions to the holders of the Preferred Stock in accordance with the terms of the Preferred Stock), not to exceed (A) when the Borrower's Total Net Leverage Ratio is greater than 4.00:1.00 on a Pro forma Basis, an amount equal to the greater of (x) 6.0% of the net cash proceeds from any public equity issuance of the Parent's Equity Interests and (y) 4.0% of the estimated fair market value of the Parent's Equity Interests (collectively, the "**Permitted Additional Distributions**") or (B) when the Borrower's Total Net Leverage is less than or equal to 4.00:1.00 on a Pro forma Basis, an unlimited amount; provided, however, that (x) the amount of any dividend or distribution that is not paid in cash but is reinvested in Equity Interests of the Parent (other than Disqualified Stock) shall be excluded from this calculation and (y) redemptions of Equity Interests of the Parent surrendered by employees and directors to cover withholding taxes shall be excluded from this calculation; and"

(i) amending Section 7.6 thereof by adding a new clause (g) as follows:

"(g) non-cash distributions consisting of an increase to the liquidation price of the Preferred Stock to the holders of the Preferred Stock."

(j) amending and restating Section 7.7(a) thereof in its entirety as follows:

"(a) subject to the terms of the Second Amendment, the Loan Parties and the Subsidiaries may consummate the transactions contemplated by the Reorganization, the Contribution and the Borrower Transition;"

(k) amending and restating Section 7.8(i) thereof in its entirety as follows:

"(i) transactions, including Dispositions, pursuant to the Reorganization, the Contribution and the Borrower Transition;"

(l) amending and restating Section 7.13 thereof in its entirety as follows:

"**Issuance of Equity Interests**. No Loan Party shall, nor shall any Loan Party permit any of its Subsidiaries to, commence or consummate any Equity Issuance, except for (a) any such Equity Issuances by any Loan Party to and for the benefit of a Loan Party and that are subject to the Administrative Agent's Prior Security Interest therein and otherwise comply with the Security Agreement, (b) any Equity Issuance by the Borrower, (c) any issuance of warrants or options for Equity Interests, stock appreciation rights or similar equity or equity-based awards of the Borrower to directors, officers or employees of the Borrower or any of its Subsidiaries pursuant to incentive, compensation or employee benefit plans established in the ordinary course of business and any such Equity Interests of the Borrower issued upon the exercise of such warrants or options and (d) the issuance of the Preferred Stock, and any Equity Issuances required pursuant to the terms governing the Preferred Stock upon conversion of the Preferred Stock or otherwise."

(m) amending and restating the proviso contained in Section 7.15 thereof in its entirety as follows:

"provided, however, that (i) the foregoing clauses (b) through (d) shall not apply to restrictions and conditions imposed by applicable Law, by this Agreement, any Negative Pledge Agreement or the Transition Services Agreement or the T-Mobile Asset Purchase Agreement, (ii) clauses (b) and (c) shall not prohibit any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 7.1(c) solely to the extent any such negative pledge relates to the property financed by or the subject of such Indebtedness and (iii) clauses (b) and (c) shall not prohibit any negative pledge incurred or provided in favor of any holder of the Preferred Stock solely with respect to the Preferred Stock."

(n) amending and restating Section 7.18 thereof in its entirety as follows:

"**Holding Company Covenants**.

(a) The Borrower covenants and agrees that it shall not own or acquire any assets other than the Equity Interests of its direct and indirect Subsidiaries, and shall not conduct, transact or otherwise engage in any business or operations other than (i) those incidental to its ownership of the Equity Interests of its direct and indirect Subsidiaries, (ii) the maintenance of its legal existence, including the ability to incur fees, costs and expenses relating to such maintenance, (iii) participating in tax, accounting and other administrative matters, (iv) the performance of its obligations under and in connection with the Loan Documents, (v) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying taxes (including the allocation of professional and other such fees and expenses among the Parent and its Subsidiaries on a consolidated basis), (vi) providing indemnification to officers and members of the its board of directors, (vii) guaranteeing the obligations of the other Loan Parties and its Subsidiaries in each case solely to the extent such obligations are not prohibited hereunder and (viii) activities incidental or reasonably related to the businesses or activities described in clauses (i) through (vii) of this paragraph.

(b) Upon and at all times following the consummation of the transactions contemplated by the Reorganization and the Borrower Transition, Holdco covenants and agrees that it shall not own or acquire any assets or have any liabilities other than the Equity Interests of its direct and indirect Subsidiaries and the Preferred Stock, and shall not conduct, transact or otherwise engage in any business or operations other than (i) those incidental to its ownership of the Equity Interests of its direct and indirect Subsidiaries, (ii) the maintenance of its legal existence, including the ability to incur fees, costs and expenses relating to such maintenance, (iii) participating in tax, accounting and other administrative matters, (iv) the performance of its obligations under and in connection with the Loan Documents, (v) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying taxes (including the allocation of professional and other such fees and expenses among the Parent and its Subsidiaries on a consolidated basis), (vi) providing indemnification to officers and members of the its board of directors, (vii) guaranteeing the obligations of the other Loan Parties and its Subsidiaries in each case solely to the extent such obligations are not prohibited hereunder and (viii) activities incidental or reasonably related to the businesses or activities described in clauses (i) through (vii) of this paragraph.

(c) Upon and at all times following the consummation of the transactions contemplated by the Reorganization and the Borrower Transition following the consummation of the transactions contemplated by the Reorganization and the Borrower Transition, Parent covenants and agrees that it shall not own or acquire any assets or have any liabilities other than the Equity Interests of Holdco, and shall not conduct, transact or otherwise engage in any business or operations other than (i) those incidental to its ownership of the Equity Interests of Holdco and Holdco's direct and indirect Subsidiaries, (ii) the maintenance of its legal existence, including the ability to incur fees, costs and expenses relating to such maintenance, (iii) participating in tax, accounting and other administrative matters, (iv) the performance of its obligations under and in connection with the Loan Documents, (v) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying taxes (including the allocation of professional and other such fees and expenses among the Parent and its Subsidiaries on a consolidated basis), (vi) providing indemnification to officers and members of the its board of directors, (vii) guaranteeing the obligations of the other Loan Parties and its Subsidiaries in each case solely to the extent such obligations are not prohibited hereunder and (viii) activities incidental or reasonably related to the businesses or activities described in clauses (i) through (vii) of this paragraph.

6. **Representations and Warranties of the Loan Parties**. Each Loan Party represents and warrants to the Administrative Agent and each of the Lenders, as of the Amendment Effective Date, that:

(a) the representations and warranties of each Loan Party contained in the Credit Agreement and the other Loan Documents to which such Loan Party is a party, are true, correct and complete in all material respects (unless such representation and/or warranty is qualified by materiality or Material Adverse Effect, in which case such representation and/or warranty shall be true and correct in all respects as written), before and after giving effect to this Amendment, as though made on and as of the date hereof (except for those representations and warranties that specifically relate to a prior date, which were true, correct and complete in all material respects (unless such representation and/or warranty is qualified by materiality or Material Adverse Effect, in which case such representation and/or warranty was true and correct in all respects as written) on such prior date);

(b) each Loan Party has taken all necessary limited liability company, corporate or other action to authorize the execution, delivery and performance of this Amendment;

(c) this Amendment is the legally valid and binding obligation of each Loan Party party hereto, enforceable against such Person in accordance with its terms, subject only to limitations on enforceability imposed by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and general equitable principles;

(d) both immediately before and after giving effect to the transactions contemplated by this Amendment, no event has occurred and is continuing, or would result from the transactions contemplated by this Amendment, that constitutes a Default or an Event of Default;

(e) no Loan Party has received written notice and no Authorized Officer of any Loan Party or any Subsidiary of a Loan Party has knowledge of any action, suit, proceeding or investigation pending against or threatened in writing against any Loan Party or any Subsidiary of any Loan Party or any of their respective properties, including the Licenses, in any court or before any arbitrator of any kind or before or by any other Governmental Authority (including the FCC and any applicable PUC) that would reasonably be expected to result in a Material Adverse Effect; and

(f) all material governmental and third-party consents, subordinations and waivers, as applicable, required to effectuate the transactions contemplated hereby a have been obtained and are in full force and effect, including any required material permits and authorizations of all applicable Governmental Authorities, including the FCC and all applicable PUCs.

7. **Conditions to Effectiveness**. The effectiveness of this Amendment is subject to the satisfaction of each of the following conditions (the Business Day on which such conditions are satisfied, the "**Amendment Effective Date**"):

(a) *Execution of Amendment.* The Administrative Agent shall have received duly authorized and executed copies of this Amendment, signed by an Authorized Officer of each applicable Loan Party and by each other Person party thereto.

(b) *Fees and Expenses*. The Borrower shall have paid to the Administrative Agent any invoiced and unpaid fees or commissions due hereunder and under the Credit Agreement (including legal fees and expenses).

(c) *Representations and Warranties*. The representations and warranties of each Loan Party contained in Section 6 of this Amendment shall be true and correct in all material respects (unless such representation and/or warranty is qualified by materiality or Material Adverse Effect, in which case such representation and/or warranty shall be true and correct in all respects), both immediately before and after giving effect to this Amendment, as though made on and as of the Amendment Effective Date (except for those representations and warranties that specifically relate to a prior date, which were true and correct on such prior date (unless such representation and/or warranty is qualified by materiality or Material Adverse Effect, in which case such representation and/or warranty was true and correct in all respects)).

(d) *No Default or Event of Default*. No Event of Default or Default shall have occurred and be continuing or would result from this Amendment.

(e) *Other Deliverables*. The Administrative Agent shall have received such other documents in connection with the transactions contemplated hereby as the Administrative Agent may reasonably request, in form and substance satisfactory to the Administrative Agent.

8. **Reaffirmations**. The Borrower and each Guarantor hereby acknowledges its receipt of a copy of this Amendment and its review of the terms and conditions hereof and consents to the terms and conditions of this Amendment and the transactions contemplated thereby. The Borrower and each Guarantor, as applicable, (a) affirms and confirms its guarantees, pledges, grants and other undertakings under the Credit Agreement and the other Loan Documents to which it is a party and (b) agrees that (i) each Loan Document to which it is a party shall continue to be in full force and effect and (ii) all guarantees, pledges, grants and other undertakings thereunder shall continue to be in full force and effect and shall accrue to the benefit of the Secured Parties, including the Administrative Agent.

9. **Expenses; Indemnity; Damage Waiver**. Section 11.3 of the Credit Agreement is hereby incorporated, *mutatis mutandis*, by reference as if such section was set forth in full herein.

10. **Miscellaneous**.

(a) Counterparts; Integrations; Effectiveness. This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Any such counterpart may be delivered by facsimile, email or other electronic transmission (including ".pdf" or ".tif") and shall be deemed the equivalent of an originally signed counterpart and shall be fully admissible in any enforcement proceedings regarding this Amendment. The words "execution," "signed," "signature," and words of like import in this Amendment shall be deemed to include electronic signatures 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 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, or any similar state laws based on the Uniform Electronic Transactions Act. This Amendment and the other Loan Documents 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.

(b) Successors and Assigns. This Amendment shall be binding upon and inure to the benefit of the Loan Parties, the Lenders, the Issuing Lender, the Administrative Agent, and their respective successors and assigns, except that Borrower may not assign or transfer its rights or obligations hereunder without the prior written consent of the Administrative Agent.

(c) Governing Law. This Amendment shall be governed by, and construed in accordance with, the law of the State of New York without regard to conflicts of law principles that require or permit application of the laws of any other state or jurisdiction. Section 11.10 of the Credit Agreement regarding governing law, submission to jurisdiction, waiver of venue, service of process and waiver of jury trial is hereby incorporated, *mutatis mutandis*, by reference as if such section was set forth in full herein.

(d) Severability. The provisions of this Amendment are intended to be severable. If any provision of this Amendment shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

(e) Headings. The headings of this Amendment are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

(f) Loan Document. This Amendment is a Loan Document and subject to the terms of the Amended Credit Agreement.

(g) Effect on the Credit Agreement and other Loan Documents. Except as specifically modified by this Amendment, the Credit Agreement and the other Loan Documents shall remain in full force and effect and are hereby ratified and confirmed and this Amendment shall not be considered a novation. The execution, delivery and performance of this Amendment shall not constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of the Administrative Agent, the Swing Lender or any Lender (including any Issuing Lender) under, the Credit Agreement or any of the other Loan Documents.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be executed by such party, or to be executed by a duly authorized officer of such party, as of the date first above written.

COBANK, ACB,
as Administrative Agent, an Issuing Lender,
Swing Line Lender, and a Lender

By: /s/ Gloria Hancock
Gloria Hancock
Managing Director

BORROWER:

SHENANDOAH TELECOMMUNICATIONS COMPANY

By: /s/ Christopher E. French
Name: Christopher E. French
Title: President and Chief Executive Officer

GUARANTORS:

SHENTEL PERSONAL COMMUNICATIONS, LLC
SHENANDOAH CABLE TELEVISION, LLC
SHENANDOAH MOBILE, LLC
SHENTEL MANAGEMENT COMPANY

By: /s/ Christopher E. French
Name: Christopher E. French
Title: President and Chief Executive Officer

BANK OF AMERICA, N.A.,
as a Lender

By: /s/ Holver Rivera
Name: Holver Rivera
Title: Senior Vice President

CITIZENS BANK, N.A.,
as a Lender

By: /s/ Carmen Malizia
Name: Carmen Malizia
Title: Vice President

FIFTH THIRD BANK, NATIONAL ASSOCIATION,
as a Lender

By: /s/ Nick Meece
Name: Nick Meece
Title: Associate

TRUIST BANK,
as a Lender

By: /s/ Paige Scheper
Name: Paige Scheper
Title: Director

Exhibit 10.2

CoBank, ACB
6340 South Fiddlers Green Circle
Greenwood Village, CO 80111
800-542-8072

Citizens Bank, N.A.
28 State Street
Boston, MA 02109

Bank of America, N.A.
100 North Tryon Street
Charlotte, NC 28255

Fifth Third Bank, National Association
38 Fountain Square Plaza
Cincinnati, OH 45263

CONFIDENTIAL

October 24, 2023

Shenandoah Telecommunications Company
Shentel Broadband Operations LLC
500 Shentel Way, P.O. Box 459
Edinburg, VA 22824
Attention: Christopher E. French

SHENANDOAH TELECOMMUNICATIONS COMPANY
SHENTEL BROADBAND OPERATIONS LLC
Commitment Letter

Ladies and Gentlemen:

Shenandoah Telecommunications Company (the "**Existing Borrower**") has advised CoBank, ACB ("**CoBank**") that it intends to acquire, directly or indirectly, all of the outstanding equity interests of the Target (as defined on Exhibit A hereto), and to consummate the other transactions described on Exhibit A hereto, including, without limitation, the assignment of all of its rights, duties and obligations under the Existing Credit Agreement (as defined on Exhibit A hereto) to the Successor Borrower (as defined on Exhibit A hereto; the Successor Borrower, together with the Existing Borrower, collectively, the "**Borrowers**"). Capitalized terms used but not defined herein are used with the meanings assigned to them on the Exhibits attached hereto (such Exhibits, together with this letter, collectively, the "**Commitment Letter**").

Each of CoBank, Citizens Bank, N.A., Bank of America, N.A. and Fifth Third Bank, National Association (each, an "**Initial Commitment Party**"; together with the Additional Commitment Parties described below, the "**Commitment Parties**" and each, individually, a "**Commitment Party**") is pleased to commit, on a several and not on a joint basis, and on the terms and subject solely to the conditions set forth herein and in the Summary of Terms and Conditions attached hereto as Exhibit B (the "**Term Sheet**"), to provide the portion of the Incremental Facilities set forth opposite each such Commitment Party's name set forth on Schedule I hereto and to act as joint lead arrangers (in such capacity, the "**Lead Arrangers**") and joint bookrunners to structure and arrange the Incremental Facilities with a group of financial institutions (including members of the Farm Credit System) (collectively, together with the Commitment Parties, the "**Incremental Lenders**") under the Existing Credit Agreement that will participate in the Incremental Facilities; provided, however, that it is further agreed that in any offering or marketing materials in respect of the Incremental Facilities and/or the Credit Agreement after giving effect to the Transactions, CoBank shall have "left side" designation and shall appear on the top left and shall hold the leading role and responsibility customarily associated with such "top left" placement (CoBank, in such capacity, the "**Left Lead Arranger**").

It is agreed that the Left Lead Arranger, in consultation with the Borrowers, will manage all aspects of the syndication of the Incremental Facilities including, without limitation, all decisions relating to the selection and timing of which institutions to approach, when and if commitments will be accepted from a particular institution, the allocation of commitments among the Incremental Lenders and the amount and distribution of fees among the Incremental Lenders. Notwithstanding the right of the Left Lead Arranger to syndicate the Incremental Facilities and receive commitments with respect thereto and except with respect to the Additional Commitment Parties, (i) the Commitment Parties shall retain exclusive control over all rights and obligations with respect to their respective commitments, including all rights with respect to consents, modifications and amendments (including, for the avoidance of doubt, the right of any applicable Commitment Party to provide or withhold consent to a conversion of its Revolver Increase commitment to a Term Loan A-3 commitment pursuant to the market flex provisions of the Fee Letter), until the Closing Date has occurred and (ii) the Commitment Parties will not be relieved, released or novated from all or any portion of their respective obligations or commitments hereunder (including their obligation to fund the Incremental Facilities on the Closing Date) in connection with any syndication, assignment or participation of the Incremental Facilities or otherwise, until the Closing Date has occurred. Except as contemplated in the immediately following paragraph, no other agents, co-agents or arrangers will be appointed, no other titles will be awarded and no compensation (other than that expressly contemplated by the Term Sheet and the Fee Letter (as defined below)) will be paid in connection with the Incremental Facilities unless the Borrowers and the Left Lead Arranger so agree. The Borrowers agree that, effective upon their acceptance of this Commitment Letter and continuing through the earlier of (a) the Closing Date and (b) the date this Commitment Letter is terminated, they shall not, and shall cause their respective Subsidiaries and use their best efforts to cause the Target not to, solicit, initiate, entertain or permit, or enter into any discussions in respect of, the offering, placement or arrangement of any competing debt securities or bank financings other than, in respect of the Target, any working capital or similar financing provided by the current members of the Target that will be repaid on or prior to the Closing Date.

Notwithstanding the foregoing, the Borrowers shall have the right at any time on or prior to the fifth (5^{th}) business day following the date of this Commitment Letter to appoint additional joint lead arrangers and joint bookrunners and appoint additional agents or co-agents or confer other titles with respect to the Incremental Facilities in a manner and with economics determined by the Borrowers and reasonably acceptable to the Initial Commitment Parties (the "**Additional Commitment Parties**"); *provided* that the aggregate economics payable to such Additional Commitment Parties for the Incremental Facilities shall not exceed fifty percent (50%) of the total economics which would otherwise be payable to the Initial Commitment Parties pursuant to the Fee Letter (exclusive of any fees payable to an administrative agent in its capacity as such) (it being understood that (i) the commitments of the Initial Commitment Parties hereunder in respect of the Incremental Facilities will be reduced dollar-for-dollar by the amount of the commitments of each such Additional Commitment Party (or its relevant lending affiliate) upon the execution of customary joinder documentation reasonably satisfactory to the Initial Commitment Parties and the Borrowers, (ii) the economics allocated to the Initial Commitment Parties as of the date hereof in respect of the Incremental Facilities will be reduced by the amount of the economics allocated to such Additional Commitment Parties upon the execution of customary joinder documentation reasonably satisfactory to the Initial Commitment Parties and the Borrowers, (iii) in no event shall any Additional Commitment Party individually receive more compensatory economics (as a percentage) than the Initial Commitment Parties (exclusive of any fees payable to an administrative agent in its capacity as such), and (iv) each Additional Commitment Party shall assume a portion of the commitments of the Initial Commitment Parties on the date hereof under the Incremental Facilities on a pro rata basis equal to the proportion of economics allocated to such Additional Commitment Party). Each party hereto agrees to execute such amendments to this Commitment Letter and other documents as are required to give effect to this paragraph.

The Lead Arrangers intend to commence their syndication efforts promptly after the execution of this Commitment Letter. The Borrowers agree to actively assist, to cause their respective subsidiaries to actively assist, and to use best efforts to cause the Target to actively assist, in the syndication process. Such assistance will require, among other things, that the Borrowers and their respective subsidiaries (and use best efforts to cause the Target to) (i) provide all information that the Lead Arrangers reasonably deem necessary to achieve a Successful Syndication (as defined in the Fee Letter), including all projections and other information and materials prepared by any Borrower or on its behalf relating to the transactions contemplated hereby and in the Term Sheet; (ii) assist in the preparation of a Confidential Information Memorandum and other marketing materials to be used in connection with the syndication of the Incremental Facilities; (iii) host with the Lead Arrangers one or more meetings with prospective Incremental Lenders; (iv) make members of senior management of the Borrowers available to prospective Incremental Lenders and participants at reasonable times and (v) provide a marketing period of at least fifteen (15) consecutive business days prior to the Closing Date, such period not commencing until the later of the date on which (x) the Confidential Information Memorandum is delivered and (y) the first meeting with prospective Incremental Lenders is hosted. In addition, the Borrowers agree to use their best efforts to assure that the syndication efforts benefit from their existing lending relationships and the lending relationships of their affiliates.

The Commitment Parties' commitments hereunder, and the Lead Arrangers' agreement to perform the services described in this Commitment Letter, are subject solely to the satisfaction (or the waiver by the Commitment Parties) of the conditions expressly set forth in this paragraph and in Exhibit C hereto (collectively, the "**Exclusive Funding Conditions**"). This paragraph, and the provisions herein, shall be referred to as the "**Certain Funds Provisions**." Subject to the foregoing: (a) the only representations and warranties the making or accuracy of which shall be a condition to availability of the Incremental Facilities on the Closing Date shall be (i) such of the representations and warranties made by the Company and the Sellers (as defined in the Acquisition Agreement) with respect to the Target in the Acquisition Agreement as are material to the interests of the Incremental Lenders, but only to the extent that the Existing Borrower has the right (determined after giving effect to any applicable notice and cure provisions) to terminate its obligations under the Acquisition Agreement or decline to consummate the Acquisition (as defined in Exhibit A hereto) as a result of the failure of a condition thereunder caused by a breach or inaccuracy of one or more of such representations and warranties in the Acquisition Agreement (the "**Specified Acquisition Agreement Representations**") (it being understood and agreed that the Specified Acquisition Agreement Representations shall not be required to be made by you or your affiliates (but shall be required to be accurate)) and (ii) the representations in the Existing Credit Agreement and the other Loan Documents (after giving effect to the Transactions) relating to the following: (A) corporate or other organizational existence, organizational power and authority of the Successor Borrower, Holdco and the other Guarantors (including the Target) (as they relate to due authorization, execution, delivery and performance of the

Credit Documentation); (B) due authorization, execution, delivery, validity and enforceability, in each case relating to the entering into and performance of the Loan Documents and the definitive documentation in respect of the Incremental Facilities (collectively, the "**Credit Documentation**"); (C) on the Closing Date, solvency of the Loan Parties on a consolidated basis (immediately after giving effect to the Transactions and substantially consistent with the definition of "Solvent" set forth in the Existing Credit Agreement); (D) no violations or conflicts of the Credit Documentation with charter documents of the Borrowers, Holdco and the other Guarantors (related to the entering into and performance of the Credit Documentation); (E) Federal Reserve margin regulations; (F) the Investment Company Act; (G) use of proceeds not violating OFAC, FCPA, PATRIOT Act or any other applicable anti-corruption, anti-terrorism or sanctions laws; (H) anti-money laundering laws; (I) the creation, validity and perfection of the security interests in the Collateral (subject to customary permitted liens and the limitations set forth in clause (c) below) and (J) receipt of required material governmental consents and approvals with respect to the Transactions (the "**Specified Representations**"); (b) the only events of default which shall be a condition to availability of the Incremental Facilities on the Closing Date shall be any payment, bankruptcy or insolvency event of default under the Existing Credit Agreement (the "**Specified Events of Default**") and (c) the terms of the Credit Documentation and all closing deliverables related thereto shall be in a form such that they do not impair the availability and/or initial funding of the Incremental Facilities on the Closing Date if the conditions expressly set forth in this paragraph are satisfied or waived, it being understood that to the extent any lien search, insurance certificate, endorsement or Collateral (including, without limitation, the creation or perfection of any security interest) is not or cannot be provided on the Closing Date (other than the creation and perfection of security interest in Collateral with respect to which a lien may be perfected solely by the filing of general "all asset" UCC-1 financing statements under the Uniform Commercial Code ("**UCC**") and/or by delivering stock or membership interest certificates of the certificated stock or membership interests, as the case may be, of any subsidiaries of the Borrowers to the extent the capital stock or membership interests represented thereby is required to be pledged under the Credit Documentation (other than, in the case of the Target and its subsidiaries, with respect to any such certificate that has not been received by you prior to the Closing Date, to the extent you have used commercially reasonable efforts to procure delivery thereof, in which case, such stock or equivalent certificate may instead be delivered within thirty (30) days after the Closing Date (or such later date as the Administrative Agent (acting at the direction of the Required Lenders) may agree in its reasonable discretion))) after your use of commercially reasonable efforts to do so without undue burden or expense, then the provision and/or perfection, as applicable, of any such lien search, insurance certificate, endorsement and/or Collateral shall not constitute a condition precedent to the availability of the Incremental Facilities on the Closing Date, but shall instead be provided within ninety (90) days after the Closing Date, subject to such extensions as are reasonably agreed by the Administrative Agent (acting at the direction of the Required Lenders), pursuant to arrangements to be mutually agreed by the parties hereto acting reasonably. There are no conditions (implied or otherwise) to the commitments hereunder, and there will be no conditions (implied or otherwise) under the Credit Documentation to the funding of the Incremental Facilities on the Closing Date, including, without limitation, compliance under the terms of this Commitment Letter, the Fee Letter and the Credit Documentation, other than the Exclusive Funding Conditions. Without limiting the conditions precedent provided herein to funding the consummation of the Acquisition with the proceeds of the Incremental Facilities, the Commitment Parties will cooperate with you as reasonably requested in coordinating the timing and procedures for the funding of the Incremental Facilities in a manner consistent with the Acquisition Agreement. You and we agree to negotiate in good faith to finalize the Credit Documentation for the Incremental Facilities following the execution of this Commitment Letter. Each party agrees that (a) the commitments to fund the Incremental Facilities on the Closing Date and (b) the agreements to perform the obligations and services described herein on the Closing Date, in each case, are subject only to the Exclusive Funding Conditions.

As consideration for the commitments of the Commitment Parties hereunder and the agreement of the Lead Arrangers and the Commitment Parties to perform the services described hereunder in their various capacities, the Borrowers agree, jointly and severally, to pay the non-refundable fees set forth in the fee letter dated the date hereof (the "**Fee Letter**") among the Borrowers and the Commitment Parties, at the times provided for therein.

Each Borrower hereby represents and warrants (with respect to the Target, and its operations and assets, to your knowledge) that (a) all written factual information and data (other than projections, budgets, estimates, forward looking statements and information of a general economic or industry-specific nature) concerning it, its subsidiaries, the Target, the Acquisition and the other Transactions (the "**Information**"), that have been or will be prepared by or on behalf of any Borrower, or any of your representatives and that have been made or will be made available to the Lead Arrangers, any Commitment Party or any other Incremental Lenders or participants by or on behalf of any Borrower, or any of your representatives in connection with the Acquisition or the other Transactions will be, taken as a whole and as supplemented or updated, complete and correct in all material respects and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made (after giving effect to any supplements or modifications thereto made available by such Borrower or its representatives) and (b) the projections that have been or will be made available to us by you or your representatives on your behalf in connection with the Transactions contemplated hereby have been or will be prepared in good faith based upon assumptions believed by you to be reasonable at the time furnished (it being recognized by each Commitment Party that (i) such projections are as to future events and are not to be viewed as facts or a guarantee of performance and are subject to significant uncertainties and contingencies many of which are beyond your control and (ii) no assurance can be given that any particular financial projections will be realized, and that actual results during the period or periods covered by any such projections may differ from the projected results, and such differences may be material). Each Borrower agrees that if, at any time prior to the Closing Date, it becomes aware that any of the representations and warranties in the preceding sentence are incorrect (to your knowledge with respect to Information relating to the Target, or its operations and assets) in any material respect it will (and, with respect to the Target, to the extent practical, appropriate and reasonable and in all instances not in contravention of the terms of the Acquisition Agreement, will use commercially reasonable efforts to) supplement the Information and projections from time to time so that the representations and warranties in the preceding sentence remain correct in all material respects. The accuracy of the foregoing representations and warranties, whether or not cured, shall not be a condition to the obligations of any Commitment Party hereunder unless the inaccuracy results in an express condition hereunder otherwise not having been satisfied. In arranging the Incremental Facilities, including the syndication of the Incremental Facilities, the Lead Arrangers will be using and relying primarily on the Information without independent verification thereof.

Each Borrower agrees, jointly and severally, to indemnify and hold harmless the Commitment Parties, the Lead Arrangers, the other Incremental Lenders and participants, their respective affiliates and their respective officers, directors, employees, advisors, representatives and agents (each an "**Indemnitee**") from and against any and all losses, claims, counterclaims, damages, liabilities, and related expenses (including, without limitation, the reasonable and documented fees, charges and disbursements of counsel to such Indemnitee) (each a "**Claim**") incurred by any Indemnitee or asserted against any Indemnitee by any person (including the Borrowers, any of their respective subsidiaries or the Target) arising out of, in connection with or relating to this Commitment Letter, the Fee Letter, the Incremental Facilities or the transactions contemplated hereby or thereby, regardless of whether any Indemnitee is a party thereto, and to reimburse each Indemnitee upon demand for any reasonable and documented legal or other expenses incurred in connection with the foregoing; provided that the foregoing indemnity will not, as to any Indemnitee, be available to the extent that such Claim or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from (i) the gross negligence, bad faith or willful misconduct of such Indemnitee, (ii) a material breach of such Indemnitee's obligations under this Commitment Letter or the Fee Letter or (iii) any disputes solely among Indemnitees (other than any claims against a Commitment Party in its capacity as a Lead Arranger, the Administrative Agent, a Lender or any similar role under the Credit Documentation) and not arising out of any act or omission of any Borrower or the Target or any of their respective affiliates. No Indemnitee shall be liable for the use by others of Information or other materials obtained through electronic communications or other information transmission systems; provided that such Indemnitee shall have taken commercially reasonable precautions to confirm the reliability of such transmission system. Under no circumstances shall any Indemnitee be responsible or liable to any other party hereto for consequential, punitive, special or indirect damages that may be alleged as a result of this Commitment Letter, the Term Sheet, the Fee Letter or the transactions contemplated hereby or thereby.

Each Borrower agrees, jointly and severally, to reimburse the Commitment Parties, the Lead Arrangers and their respective affiliates on demand for all reasonable and documented out-of-pocket expenses (including the reasonable fees, charges and disbursements of counsel to the Left Lead Arranger) incurred in connection with syndication of the Incremental Facilities, ongoing due diligence investigations and the preparation, negotiation, execution and delivery of any related documentation (including, without limitation, this Commitment Letter, the Fee Letter and the Credit Documentation), whether or not the transactions contemplated hereby or thereby shall be consummated.

This Commitment Letter is delivered with the understanding that neither it, the Term Sheet, the Fee Letter nor the substance hereof or thereof, shall be disclosed to any third party without the Left Lead Arranger's prior written consent, except (i) on a confidential and need-to-know basis, to the Borrowers' directors, officers, employees, agents, accountants, attorneys and other professional advisors retained in connection with the Incremental Facilities (it being understood that (A) the persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and (B) the Borrowers shall be responsible for such person's compliance with this paragraph), (ii) as required by applicable regulations and laws or any subpoena or similar legal process, or any governmental, regulatory or supervisory agency, (iii) this Commitment Letter (but not the Fee Letter) may be disclosed as required by the rules and regulations of the Securities and Exchange Commission (the "**SEC**") in connection with any filings with the SEC in connection with the transactions contemplated by this Commitment Letter and (iv) this Commitment Letter and the Fee Letter (on a redacted basis) may be disclosed on a confidential basis to the Target and the initial purchasers of the Preferred Stock and their respective directors, officers, employees, agents, accountants, attorneys and other professional advisors retained in connection with the Acquisition or the issuance of the Preferred Stock, as applicable (it being understood that the persons to whom such disclosure is made will be informed of the confidential nature thereof).

The Commitment Parties and the Lead Arrangers agree to maintain the confidentiality of the Protected Information (as defined below), except that Protected Information may be disclosed by any Commitment Party (i) to its affiliates and to its Related Parties (as defined below) (it being understood that the persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (ii) in any legal, judicial, administrative proceeding or other compulsory process or otherwise as required by applicable law, rule or regulations (in which case the applicable Commitment Party will promptly notify the Borrowers, in advance, to the extent practicable and permitted by law, rule or regulation, except in connection with any request as part of any regulatory audit or examinations conducted by accountants or any governmental regulatory authority exercising examination or regulatory authority), (iii) upon the request or demand of any governmental or regulatory authority having jurisdiction over any Commitment Party or upon the good faith determination by counsel that such information should be disclosed in light of ongoing oversight or review by any governmental or regulatory authority having jurisdiction over such Commitment Party (in which case such Commitment Party shall, to the extent practicable and permitted by law, rule or regulation, except with respect to any audit or examination conducted by accountants or any governmental regulatory authority exercising examination or regulatory authority, promptly notify the Borrowers, in advance, to the extent lawfully permitted to do so); (iv) to any other party hereto; (v) in connection with the exercise of any remedies hereunder or under the Fee Letter, any Credit Documentation or any action or proceeding relating to this Commitment Letter (including the Term Sheet), the Fee Letter, any Credit Documentation or the enforcement of rights hereunder or thereunder; (vi) subject to an agreement containing provisions substantially the same as those of this paragraph, to (1) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights and obligations under this Commitment Letter, the Fee Letter, or any Credit Documentation, or (2) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrowers and their respective obligations, this Commitment Letter (including the Term Sheet), the Fee Letter, any Credit Documentation or payments hereunder; (vii) on a confidential basis to (1) any rating agency in connection with rating the Borrowers or their respective subsidiaries or the Incremental Facilities or (2) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Incremental Facilities; (viii) to prospective and actual Additional Commitment Parties on a confidential basis, (ix) with the consent of the Borrowers; or (x) to the extent such Protected Information (1) becomes publicly available other than as a result of a breach of this paragraph, or (2) becomes available to such Commitment Party or any of its affiliates on a nonconfidential basis from a source other than the Borrowers. Any person required to maintain the confidentiality of Protected Information as provided in this paragraph 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 Protected Information as such person would accord to its own confidential information. For purposes of this paragraph, (A) "**Protected Information**" means all information received from the Borrowers or any of their respective subsidiaries or the Target or its subsidiaries relating to the Borrowers, the Target, any of their respective subsidiaries, or any of their respective businesses, other than any such information that is available to the Commitment Parties on a nonconfidential basis prior to disclosure by the Borrowers, the Target, or any of their respective subsidiaries; provided that, in the case of information received from the Borrowers, the Target or any of their respective subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential; and (B) "**Related Parties**" means, with respect to any person, such person's affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such person and of such person's affiliates.

The Lead Arrangers hereby notify the Borrowers that pursuant to the requirements of the USA PATRIOT Act, Title III of Pub. L. 107 56 (signed into law October 26, 2001) (the "**PATRIOT Act**"), the Commitment Parties are required to obtain, verify and record information that identifies the Borrowers, which information includes the Borrowers' names and addresses and other information that will allow the Commitment Parties to identify the Borrowers and their respective subsidiaries in accordance with the PATRIOT Act. This notice is given in accordance with the requirements of the PATRIOT Act and is effective for each Commitment Party and its affiliates and each Incremental Lender and participant and their respective affiliates.

Each Borrower acknowledges that the Incremental Lenders and the Lead Arrangers may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Borrower or its subsidiaries may have conflicting interests regarding the transactions described herein or otherwise. Neither any Incremental Lender nor any Lead Arranger will use confidential information obtained from the Borrowers by virtue of the transactions contemplated by this Commitment Letter or its other relationships with the Borrowers in connection with the performance by such Incremental Lender or such Lead Arranger of services for other companies, and no Incremental Lender nor any Lead Arranger will furnish any such information to other companies. Each Borrower also acknowledges that no Incremental Lender nor any Lead Arranger has any obligation to use in connection with the transactions contemplated by this Commitment Letter, or to furnish to the Borrower, confidential information obtained by such Incremental Lender or such Lead Arranger from other companies.

This Commitment Letter and the Fee Letter are not assignable by any party hereto without the prior written consent of the other party hereto. This Commitment Letter and the Fee Letter are intended to be solely for the benefit of the parties hereto (and Indemnitees) and are not intended to create a fiduciary relationship between the parties hereto or to confer any benefits upon, or create rights in favor of, any persons other than the parties hereto (and Indemnitees). This Commitment Letter, the Term Sheet and the Fee Letter are the only agreements that have been entered into among the parties hereto with regard to the structuring, arrangement or syndication of the Incremental Facilities and set forth the entire agreement of the parties with respect hereto and thereto. Except as set forth in the fourth paragraph of this Commitment Letter, neither this Commitment Letter nor the Fee Letter shall be amended, restated, supplemented or otherwise modified, and no waiver or consent with respect hereto or thereto shall be effective, except by a written instrument signed by all the parties hereto or thereto, as the case may be. Any provision of this Commitment Letter or the Fee Letter that is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof.

The reimbursement, indemnification, confidentiality, jurisdiction, governing law and waiver of jury trial provisions contained herein shall remain in full force and effect regardless of whether definitive Credit Documentation shall be executed and delivered and notwithstanding the termination of this Commitment Letter; provided that (i) the Borrowers' confidentiality, indemnification and reimbursement obligations under this Commitment Letter shall terminate and be superseded by applicable provisions upon execution of the definitive Credit Documentation and (ii) if the Credit Documentation is not executed, the confidentiality obligations under this Commitment Letter shall expire on the date that is two years after the date of this Commitment Letter.

This Commitment Letter, the Term Sheet and the Fee Letter shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflicts of law principles. EACH PARTY HERETO WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY MATTER RELATING TO THIS COMMITMENT LETTER, THE TERM SHEET OR THE FEE LETTER AND AGREES THAT THE STATE AND FEDERAL COURTS LOCATED IN NEW YORK, NEW YORK SHALL HAVE NONEXCLUSIVE JURISDICTION OVER ANY DISPUTE REGARDING THIS COMMITMENT LETTER, THE TERM SHEET OR THE FEE LETTER AND, BY EXECUTION AND DELIVERY OF THIS COMMITMENT LETTER, EACH PARTY IRREVOCABLY SUBMITS TO SUCH JURISDICTION.

This Commitment Letter may be executed in any number of counterparts, each of which shall be original and all of which, when taken together, shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Commitment Letter by facsimile or electronic transmission shall have the same effect as delivery of a manually executed counterpart hereof. The words "execution," "signed," "signature," and words of like import in this Commitment Letter, the Term Sheet and the Fee Letter shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

Please sign and return to the Initial Commitment Parties a copy of this Commitment Letter and the Fee Letter no later than 5:00 p.m., Denver, Colorado time, on October 24, 2023. This Commitment Letter shall terminate if the Existing Borrower has not so accepted this Commitment Letter and the Fee Letter prior to such time (such date of execution and acceptance, the "**Acceptance Date**"). Thereafter, this Commitment Letter (and all of the Commitment Parties' obligations hereunder, other than their confidentiality obligations, which shall survive for a period of two years following the date of termination of this Commitment Letter) will terminate upon the earlier of (x) 11:59 p.m. on the "End Date" (as defined in the Acquisition Agreement); provided, that the End Date may not be later than July 1, 2024 and (y) the termination of the Acquisition Agreement by you in accordance with the terms thereof (such earliest date, the "**Commitment Termination Date**"). In addition to the foregoing, this Commitment Letter and the Fee Letter may be terminated at any time by mutual agreement of the parties hereto or thereto, as applicable.

We look forward to working with you on this transaction.

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Very truly yours,

COBANK, ACB

By: /s/ Gloria Hancock
Name: Gloria Hancock
Title: Managing Director

BANK OF AMERICA, N.A.

By: /s/ Holver Rivera
Name: Holver Rivera
Title: Senior Vice President

CITIZENS BANK, N.A.

By: /s/ Carmen Malizia
Name: Carmen Malizia
Title: Vice President

FIFTH THIRD BANK, NATIONAL ASSOCIATION

By: /s/ Nick Meece
Name: Nick Meece
Title: Vice President

Agreed to and Accepted as of the date first written above:

SHENANDOAH TELECOMMUNICATIONS COMPANY

By: /s/ Christopher R. French
Name: Christopher E. French
Title: President and CEO

SHENTEL BROADBAND OPERATIONS LLC

By: /s/ Christopher R. French
Name: Christopher E. French
Title: President and CEO

COMMITMENTS OF THE COMMITMENT PARTIES

Lender	Revolving Increase		Term Loan A-3		Totals	
	Revolving Loan Commitment	**Pro Rata Share of Revolving Loan Commitment**	**Term Loan A-3**	**Pro Rata Share of Term Loan A-3**	**Total Initial Commitments**	**Pro Rata Share of Total Initial Commitments**
CoBank, ACB	$17,500,000.00	35.00%	$168,750,000.00	75.00%	$186,250,000.00	67.73%
Bank of America, N.A.	$6,250,000.00	12.50%	$28,125,000.00	12.50%	$34,375,000.00	12.50%
Citizens Bank, N.A.	$20,000,000.00	40.00%	$0	0.00%	$20,000,000.00	7.27%
Fifth Third Bank, National Association	$6,250,000.00	12.50%	$28,125,000.00	12.50%	$34,375,000.00	12.50%
Total Commitments	**$50,000,000.00**	**100.00%**	**$225,000,000.00**	**100.00%**	**$275,000,000.00**	**100.00%**