

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-K

(Mark One)

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

For the fiscal year ended **June 30, 2018**

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

For the transition period from _____ to _____

Commission file number: **0-26642**

MYRIAD GENETICS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or organization)
320 Wakara Way, Salt Lake City, UT
(Address of principal executive offices)

87-0494517
(I.R.S. Employer
Identification No.)
84108
(Zip Code)

Registrant's telephone number, including area code: **(801) 584-3600**

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

Title of each class	Name of each exchange on which registered
Common Stock, \$.01 Par Value Per Share	The NASDAQ Global Select Market

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

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

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

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

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

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

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

Large accelerated filer <input checked="" type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input type="checkbox"/> (do not check if a smaller reporting company)	Smaller reporting company <input type="checkbox"/>
Emerging growth company <input type="checkbox"/>	

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

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

The aggregate market value of the registrant's common stock held by non-affiliates of the registrant (without admitting that any person whose shares are not included in such calculation is an affiliate), computed by reference to the price at which the common stock was last sold on December 31, 2017, the last business day of the registrant's most recently completed second fiscal quarter, was \$2,331,343,328.

As of August 20, 2018 the registrant had 70,920,354 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

The following documents (or parts thereof) are incorporated by reference into the following parts of this Form 10-K: Certain information required in Part III of this Annual Report on Form 10-K is incorporated from the Registrant's Proxy Statement, to be filed no later than 120 days following June 30, 2018, for the Annual Meeting of Stockholders to be held on November 29, 2018.

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“We,” “us,” “Myriad” and the “Company” as used in this Annual Report on Form 10-K refer to Myriad Genetics, Inc., a Delaware corporation, and its subsidiaries.

“Myriad,” BRACAnalysis, BRACAnalysis CDx, BART, COLARIS, COLARIS AP, MELARIS, myPath, myPlan, myChoice, myRisk, Myriad myRisk, PANEXIA, PREZEON, Prolaris, myChoice HRD, Vectra, Vectravis, TruCulture, DiscoveryMAP, RodentMap, GeneSight, and EndoPredict are registered trademarks or trademarks of Myriad.

Item 1. BUSINESS**Overview**

We are one of the largest specialty molecular diagnostic laboratories in the world and since our founding in 1992, have tested over 3.0 million patients. We are headquartered in Salt Lake City, Utah and generated worldwide revenues of \$772.6 million during our fiscal year ended June 30, 2018. We are a leading personalized medicine company acting as a trusted advisor to transform patient lives through pioneering molecular diagnostics. Through our proprietary technologies, we believe we are positioned to identify important disease genes, the proteins they produce, and the biological pathways in which they are involved to better understand the genetic basis of human disease. We believe that identifying these biomarkers (DNA, RNA and proteins) will enable us to develop novel molecular diagnostic tests that can provide important information to solve unmet medical needs.

Our Mission

Our goal is to provide physicians with critical information to guide the healthcare management of their patients by addressing four major questions a patient may have about their healthcare:

- What is the likelihood of my getting a disease?
- Do I have a disease?
- How aggressively should my disease be treated?
- Which therapy will work best to treat my disease?

Over time, we have developed and plan to develop additional products that answer these important questions in six medical specialties: oncology, women's health, urology, dermatology, autoimmune and neuroscience. We believe that these commercial channels represent markets where there is a significant opportunity for high-value molecular diagnostic tests to positively impact patient care and drive value for the healthcare system.

Our Business Strategy

Our strategy is focused on executing the following five critical success factors:

1. Build upon a solid hereditary cancer foundation - In fiscal year 2018, approximately 65 percent of our revenue was derived from the sale of products to assess a patient's risk for hereditary cancer. Given that this is our most important market and that we are the worldwide leader in hereditary cancer testing, we are focused on maintaining this global leadership position. We are currently working on expanding professional guidelines for hereditary cancer testing to expand the addressable market, and have signed long-term contracts with commercial insurers to ensure pricing visibility going forward.
2. Grow new product volume - In fiscal year 2018, volume from new products outside of hereditary cancer comprised greater than two-thirds of our overall volume. We are currently less than 10 percent penetrated in the U.S. market with our new products and see significant opportunity for future revenue growth. We are focused on further penetrating these markets and believe in the future our new products could represent the largest component of our revenue.
3. Expand reimbursement coverage for new products - Our new tests, in the United States, have insurance coverage for anywhere from 5% to 90% of the total addressable market. We are actively working on demonstrating scientific evidence supporting both the clinical efficacy and utility of these products to commercial payers to broaden insurance coverage.
4. Increase RNA kit sales internationally - Outside of the United States, we are primarily focused on selling kit-based versions of our RNA expression based tests. We currently market one RNA expression based test, EndoPredict, which we acquired through our acquisition of Sividon Diagnostics. In addition, we are working on kit based versions of Prolaris and myPath Melanoma which we also plan to sell in international markets.
5. Improve profitability - In the fourth-quarter of fiscal year 2017 we launched a new operating margin improvement program called Elevate 2020. The goal of this program is to identify projects that can lead to \$50 million in incremental operating income by fiscal year 2020 through leveraging centralized resources, implementing new technology solutions, executing strategic sourcing agreements, and focusing on laboratory efficiency.

Molecular Diagnostic Testing

Our molecular diagnostic tests are designed to analyze genes, their expression levels and corresponding proteins to assess an individual's risk for developing disease later in life, accurately diagnose disease, determine a patient's likelihood of responding to a particular drug, or disease recurrence and assess a patient's risk of disease progression. Provided with this valuable information, physicians may more effectively manage their patient's healthcare.

Below are the descriptions of our molecular diagnostic tests:

- **myRisk™ Hereditary Cancer:** *DNA sequencing test for assessing the risks for hereditary cancers.* Our myRisk Hereditary Cancer test represents the next generation of our existing hereditary cancer testing franchise which we anticipate will eventually replace our current predictive medicine test offerings (BRACAnalysis, BART, Colaris and Colaris AP, and Melaris) with a single comprehensive test. myRisk Hereditary Cancer is designed to determine a patient's hereditary cancer risk for breast cancer, ovarian cancer, colon cancer, uterine cancer, melanoma, pancreatic cancer, prostate cancer and gastric cancer. The test analyzes 28 separate genes to look for deleterious mutations that would put a patient at a substantially higher risk than the general population for developing one or more of the above cancers. All 28 genes in the panel are well documented in clinical literature for the role they play in hereditary cancer and have been shown to have actionable clinical interventions for the patient to lower disease risk or risk of cancer recurrence. The myRisk report presents the myRisk Genetic Test Result and myRisk Management Tool that summarizes published management guidelines related to the patient's genetic mutation as well as their personal and family history of cancer. myRisk Hereditary Cancer testing identifies more mutation carriers than BRACAnalysis® and COLARIS® combined. We believe the global market for myRisk Hereditary Cancer and all of our hereditary cancer tests is approximately \$5 billion annually. myRisk Hereditary Cancer was initially released through an early access launch that began in September 2013.
- **BRACAnalysis®:** *DNA sequencing test for assessing the risk of developing breast and ovarian cancer.* Our BRACAnalysis test is an analysis of the BRCA1 and BRCA2 genes for assessing a woman's risk of developing hereditary breast and ovarian cancer. A woman who tests positive for a deleterious mutation with the BRACAnalysis test has up to an 87% risk of developing breast cancer and up to a 44% risk of developing ovarian cancer by age 70. As published in the *New England Journal of Medicine*, researchers have shown that pre-symptomatic individuals who have a high risk of developing breast or ovarian cancer can reduce their risk by more than 90% with appropriate preventive therapies. Additionally, BRACAnalysis may be used to assist patients already diagnosed with breast or ovarian cancer and their physicians in determining the most appropriate therapeutic interventions to address their disease.
- **riskScore™:** *clinically validated personalized medicine tool that enhances our myRisk Hereditary Cancer test.* The riskScore test is clinically validated to predict a woman's risk of developing breast cancer using family history, clinical risk factors and genetic-markers. The proprietary algorithm combines proprietary single nucleotide polymorphisms (SNP's) and clinical factors to provide women with their remaining lifetime and 5-year risk for developing breast cancer.
- **BRACAnalysis CDx™:** *DNA sequencing test for use as a companion diagnostic with the PARP inhibitor Lynparza™ (olaparib) currently indicated for use in identifying ovarian cancer patients with deleterious or suspected deleterious germline BRCA variants eligible for treatment with Lynparza™, and as a complementary diagnostic test in ovarian cancer patients associated with enhanced progression-free survival (PFS) from Tesaro's PARP inhibitor Zejula™ (niraparib) maintenance therapy.* Approximately 15% of patients with epithelial ovarian cancer are BRCA positive.
- **GeneSight®:** *DNA genotyping test to optimize psychotropic drug selection for neuroscience patients.* Our GeneSight test helps healthcare providers take a personalized approach to prescribing medicine for patients. Because genes influence the way a person's body responds to specific medications, the medications may not work the same for everyone. Using DNA gathered with a simple cheek swab, GeneSight analyzes a patient's genes and provides individualized information to help healthcare providers select medications that better match their patient's genes. Multiple clinical studies have shown that when clinicians used GeneSight to help guide treatment decisions, patients were more likely to respond to the selected medication compared to standard of care.
- **Vectra®DA:** *protein quantification test for assessing the disease activity of rheumatoid arthritis.* Our Vectra DA test is a quantitative, objective multi-biomarker blood test validated to measure rheumatoid arthritis (RA) disease activity. Vectra DA assesses multiple mechanisms and pathways associated with RA disease activity and integrates the concentrations of 12 serum proteins into a single score reported on a scale of 1 to 100. The test may be used

throughout the course of a patient's disease and provides clinicians with expanded insight on disease severity and the risk of radiographic progression.

We believe the global market for Vectra DA is approximately \$3 billion annually.

- **Prolaris®:** *RNA expression test for assessing the aggressiveness of prostate cancer.* Our Prolaris test is a gene expression assay that assesses whether a patient is likely to have a slow growing, indolent form of prostate cancer that can be safely monitored through active surveillance, or a more aggressive form of the disease that would warrant aggressive intervention such as a radical prostatectomy or radiation therapy. The Prolaris test was developed to improve physicians' ability to predict disease outcome and to thereby optimize patient treatment. A study published by *Urologic Oncology* in June 2018 demonstrated that Prolaris can identify 50% more patients as suitable for active surveillance without any change in prostate cancer mortality.

We believe the global market for Prolaris is approximately \$1.5 billion annually.

- **EndoPredict®:** *RNA expression test for assessing the aggressiveness of breast cancer.* The EndoPredict test is a next-generation RNA expression test used to determine which women with breast cancer would benefit from chemotherapy. EndoPredict predicts the likelihood of metastases to help guide treatment decisions for chemotherapy and extended anti-hormonal therapy. EndoPredict has been shown to accurately predict recurrence in Her 2-, ER+, node negative and node positive breast cancer patients with no confusing intermediate results in 13 published clinical studies with more than 2,200 patients and is CE marked. We believe the global market opportunity for EndoPredict is greater than \$600 million annually with the majority of that market existing in major European countries, Canada, and the United States.
- **myPath™ Melanoma:** *RNA expression test for diagnosing melanoma.* Our myPath Melanoma test is a gene expression based profile that is performed on biopsy tissue for the purpose of aiding a dermatopathologist in the diagnosis of melanoma. Every year in the United States, there are approximately two million skin biopsies performed specifically for the diagnosis of melanoma. Approximately 14% of these biopsies are classified as indeterminate where a dermatopathologist cannot make a definitive call as to whether the biopsy is benign or malignant. Outcomes for patients are poor if melanoma is not caught in early stages with five year survival rates dropping from 98% for localized to less than 20% for distant stage disease cancer based upon data from the American Cancer Society. We believe myPath Melanoma may provide an accurate tool to assist physicians in correctly diagnosing indeterminate skin lesions. Based upon three clinical validation studies which were published in the *Journal of Cutaneous Pathology* in 2015, *Cancer* in 2016 and *Cancer Epidemiology Biomarkers and Prevention* in 2017, myPath Melanoma has been shown to have a diagnostic accuracy of 90 to 95 percent.

We believe the global market for myPath Melanoma is approximately \$1 billion annually. myPath Melanoma was released through an early access launch that began in November 2013.

- **myChoice® HRD:** *Companion diagnostic to measure three modes of homologous recombination deficiency (HRD) including loss of heterozygosity, telomeric allelic imbalance and large-scale state transitions in cancer cells.* Our myChoice HRD test is the most comprehensive homologous recombination deficiency test to detect when a tumor has lost the ability to repair double-stranded DNA breaks, resulting in increased susceptibility to DNA-damaging drugs such as platinum drugs or PARP inhibitors. The myChoice HRD score is a composite of three proprietary technologies: loss of heterozygosity, telomeric allelic imbalance and large-scale state transitions. Positive myChoice HRD scores, reflective of DNA repair deficiencies, are prevalent in all breast cancer subtypes, ovarian and most other major cancers. In previously published data, Myriad showed that the myChoice HRD test predicted drug response to platinum therapy in certain patients with triple-negative breast and ovarian cancers. It is estimated that 1.4 million people in the United States and Europe who are diagnosed with cancers annually may be candidates for treatment with DNA-damaging agents.
- **Tumor BRACAnalysis CDx™:** *DNA sequencing test designed to be utilized to predict response to DNA damaging agents such as platinum based chemotherapy agents and poly ADP ribose (PARP) inhibitors.* Tumor BRACAnalysis CDx evaluates both germline and somatic mutations in the BRCA1 and BRCA2 genes giving a more complete picture of potential loss of DNA repair ability within the tumor. Approximately 22% of epithelial ovarian cancer patients will test positive for Tumor BRACAnalysis CDx.

Pharmaceutical and Clinical Services

Our pharmaceutical and clinical services consist of the following:

- Through Myriad RBM, we provide biomarker discovery and pharmaceutical and clinical services to the pharmaceutical, biotechnology, and medical research industries utilizing our multiplexed immunoassay technology. Our technology

enables us to efficiently screen large sets of well-characterized clinical samples from both diseased and non-diseased populations against our extensive menu of biomarkers. During the year ended June 30, 2018, Myriad RBM accounted for 4.0% of total revenue. In addition to the fees received from analyzing these samples, we also use this information to create and validate potential molecular diagnostic tests.

- Privatklinik Dr. Robert Schindlbeck GmbH & Co. KG (the “Clinic”) located approximately 15 miles from our European laboratories in Munich, Germany. It is an internal medicine emergency hospital that is considered a specialized hospital for internal medicine and hemodialysis.

The Molecular Diagnostic Industry and Competition

The markets in which we compete are rapidly evolving, and we face competition from multiple public companies, private companies, and academic/university laboratories for a number of our laboratory testing services.

In the hereditary cancer testing market we have faced increased competition since a U.S. Supreme Court decision in June 2013 invalidated some of the key patent claims covering our hereditary cancer testing products. These patents were originally set to begin expiring in 2015 and beyond. Since this Supreme Court decision, numerous large reference laboratories, small private laboratories, and academic/university laboratories have launched competing hereditary cancer tests. Despite the impact from competition, we continue to believe we are the world leader in hereditary cancer testing.

The market for hereditary cancer testing has evolved dramatically over time. Broad reimbursement coverage for hereditary cancer tests began emerging in the early 2000s and coupled with increased public awareness around genetics and our marketing and promotional efforts, there has been significant growth in testing volumes. One of the largest drivers of growth has been increased testing in asymptomatic patients in the preventive care setting which now comprise over half of all tests performed in the United States. We are working to continue to expand awareness around hereditary cancer testing and expand the number of patients that qualify for hereditary cancer testing under medical guidelines and health insurance coverage policies.

Another factor influencing the marketplace has been the advent of next generation sequencing. This has allowed the transition from single syndrome tests to targeted pan-cancer panels in a cost effective manner without sacrificing test accuracy. We launched our first pan-cancer panel, myRisk Hereditary Cancer, in September, 2013, and we believe panel based tests will become standard of care in the marketplace based upon their greater sensitivity at finding cancer causing mutations. We have presented multiple studies showing that myRisk Hereditary Cancer can detect greater than 60 percent more deleterious mutations when compared to our legacy hereditary cancer tests.

We compete in the hereditary cancer testing market based upon several factors including:

- 1) the analytical accuracy of our tests
- 2) our ability to classify genetic variants in hereditary cancer genes
- 3) the quality of our sales and marketing for our products
- 4) the quality of our customer service and support
- 5) turnaround time
- 6) Additional information about cancer risks provided by riskScore; and
- 7) value associated with our test quality

We believe that we have substantial advantages in terms of our test accuracy and ability to classify variants. Based on our testing experience of over 2.0 million patients, and our substantial investments in our variant classification program, we have compiled a proprietary database of over 50,000 unique genetic variants in the genes tested by myRisk Hereditary Cancer. We believe this database allows us to provide more accurate results to patients and return a variant of unknown significance (VUS) result to patients less frequently. We have demonstrated that this classification advantage leads to lower long-term healthcare costs and lower utilization of unnecessary healthcare services.

Given our scale relative to other laboratories in the hereditary cancer testing market, we believe we also have substantial competitive advantages in terms of cost efficiencies and laboratory automation, which leads to faster turnaround times for our tests.

In the oncology companion diagnostic market, we currently sell our FDA approved BRACAnalysis CDx test as a companion diagnostic for the prediction of response to a class of drugs called PARP inhibitors. Currently we are the only laboratory with

an FDA approved germline test for this indication and have received approvals in ovarian and metastatic breast cancer from the U.S. FDA. We also have proprietary tests in development including our myChoice HRD assay which we believe could be even better predictors of response to PARP inhibitors but are not yet broadly commercially available. We compete in this market based upon the quality and turnaround time of our testing, our ability to garner regulatory approvals for new indications, and based upon our proprietary testing methodologies.

In the urology market, we compete against a small number of public and private companies for our prostate cancer prognostic test, Prolaris. We compete in this market primarily based upon the quality of the clinical data supporting the test, our first mover advantage in the marketplace and the strength of our sales support and customer service.

In the autoimmune market, our Vectra DA test competes primarily against traditional methodologies for assessing rheumatoid arthritis disease activity such as a physician's clinical assessment of the patient and single marker laboratory tests such as C-reactive protein (CRP). We believe we have the most predictive product on the market to assess rheumatoid arthritis disease activity.

In the neuroscience market, our GeneSight test meets a significant unmet clinical need and is the leading product for psychotropic drug selection. It is used by healthcare providers to help patients who are affected by neuropsychiatric conditions including depression, anxiety, ADHD, bipolar disorder, schizophrenia, post-traumatic stress disorder (PTSD) and other behavioral health conditions, as well as chronic pain. The test is clinically proven to enhance medication selection, helping healthcare providers get their patients on the right medication faster.

In the pharmaceutical and clinical services segment, our Myriad RBM division competes against other contract research organizations and academic laboratories for business from pharmaceutical and research customers.

Sales and Marketing

We sell our tests through our own direct sales force and marketing efforts in the United States, Europe, Australia and Canada. Our United States sales force is comprised of approximately 750 individuals across six separate sales channels. In connection with any additional tests that we may launch, we may expand our existing oncology, women's health, urology, dermatology, neuroscience and autoimmune care sales forces, or build new sales forces to address other physician specialty groups. In addition to our direct sales force, we have entered into distributor agreements with organizations in selected European, Latin American, Middle Eastern, Asian and African countries.

Research and Development

We plan to continue to use our proprietary DNA sequencing, RNA expression and protein analysis technologies, including our supporting bioinformatics and robotic technologies, in an effort to efficiently discover important genes and their proteins and to understand their role in human disease. Based on these biomarkers we plan to develop highly accurate, informative tests that may help physicians better manage their patients' healthcare. We believe that our technologies provide us with a significant competitive advantage and the potential for numerous product opportunities. For the years ended June 30, 2018, 2017 and 2016, we had research and development expense of \$70.8 million, \$74.4 million, and \$70.6 million, respectively.

Acquisitions

We intend to continue to take advantage of in-licensing or acquisition opportunities to augment our internal research and development programs. We recognize that we cannot meet all of our research discovery goals internally and can benefit from the research performed by other organizations. We hope to leverage our financial strength, product development expertise, and sales and marketing presence to acquire new product opportunities in our molecular diagnostic areas of focus.

In February 2014, we completed the acquisition of privately-held Crescendo Bioscience, Inc. ("Crescendo") for \$270 million in cash, which was reduced by the repayment of a loan made to Crescendo and other customary adjustments in accordance with the acquisition agreement. We believe that the acquisition of Crescendo facilitates our entry into the high growth autoimmune and inflammatory disease market, diversifies our product revenues and enhances our strength in protein-based diagnostics. The business of Crescendo, including its Vectra®DA blood test for rheumatoid arthritis disease management, is operated as a wholly owned subsidiary.

In February 2015, we completed the acquisition of the Clinic located approximately 15 miles from our European laboratories in Munich, Germany for total consideration of \$20.1 million.

In May 2016, we completed the acquisition of Sividon Diagnostics GmbH (“Sividon”), a leading breast cancer prognostic company, for \$39.0 million upfront with the potential for €15.0 million (\$17.5 million converted at the June 30, 2018 period end exchange rate) in additional performance-based milestones. We believe the acquisition brings us the best-in-class breast cancer prognostic test and strengthens our market leading oncology portfolio of high value personalized medicine products.

In August 2016, we completed the acquisition of Assurex Health, Inc. (“Assurex”) for total consideration of \$351.6 million, net of cash acquired of \$5.5 million, including a cash payment of \$216.1 million, and two potential performance-based milestones totaling \$185.0 million. We believe the acquisition establishes the foundation for our neuroscience business and leverages our existing preventative care business unit with the addition of a product, GeneSight, which has significant growth potential.

Subsequent to the end of fiscal 2018, we completed the acquisition of Counsyl for preliminary consideration of \$408.6, consisting of \$281.3 in cash, and 2,994,251 shares of common stock issued, valued at \$127.3. The purchase price is subject to revision through certain working capital adjustments, which are expected to be finalized by the end of the Company’s first quarter of fiscal 2019.

Seasonality

We experience seasonality in our testing business. The volume of testing is negatively impacted by the summer holiday season which is generally reflected in our fiscal first quarter. Our fiscal second quarter ending December 31 is generally strong as we see an increase in volume from patients who have met their annual insurance deductible. Conversely, fiscal third quarter ending March 31 is typically negatively impacted by the annual reset of patient deductibles.

Patents and Proprietary Rights

We own or have license rights to various issued patents as well as patent applications in the United States and foreign countries. These patents and patent applications relate to a variety of subject matter including, diagnostic biomarkers, gene expression signatures, antibodies, primers, probes, assays, disease-associated genetic mutations, methods for determining genetic predisposition, methods for disease diagnosis, methods for determining disease progression, methods for disease treatment, methods for determining disease treatment, and general molecular diagnostic techniques. For some of the patent assets, we hold rights through exclusive or non-exclusive license agreements. We also own additional patent assets and hold other non-exclusive license rights to patents which relate to various aspects of our tests or processes. Material patent assets relating to our tests that generate material revenue are described below.

Vectra DA. We hold an exclusive license to one or more issued U.S. patent and pending patent applications in the U.S. and other jurisdictions relating to Vectra®DA testing. This issued U.S. patent has a term expected to expire in 2031 and these U.S. applications, if issued as patents and depending on term adjustments or terminal disclaimers if applicable, are expected to have similar expiration timeframes. These patents and applications contain multiple claims including but not limited to claims relating to biomarkers, kits, systems and methods for measuring and monitoring inflammatory disease activity.

Prolaris. We own or hold an exclusive license to one or more issued patents and pending patent applications in the U.S. and other jurisdictions relating to Prolaris® testing. These issued U.S. patents will have terms to begin expiring in 2032 and these applications, if issued as patents and depending on term adjustments or terminal disclaimers if applicable, are expected to have similar expiration timeframes. These patents and applications contain multiple claims including but not limited to claims relating to biomarkers, kits, systems and methods for detecting, diagnosing, prognosing and selecting therapy for prostate cancer.

EndoPredict. We own or hold an exclusive license to one or more issued European patents and pending patent applications in the U.S. and other jurisdictions relating to EndoPredict® testing. These issued European patents have terms expected to begin expiring in 2031 and these applications, if issued as patents and depending on term adjustments or terminal disclaimers if applicable, are expected to have similar expiration timeframes. These patents and applications contain multiple claims including but not limited to claims relating to biomarkers, kits, systems and methods for prognosing and selecting therapy for breast cancer.

myChoice HRD. We own or hold an exclusive license to one or more issued patents and pending patent applications in the U.S. and other jurisdictions relating to myChoice® HRD testing. These issued patents have terms expected to expire in 2032 and these applications, if issued as patents and depending on term adjustments or terminal disclaimers if applicable, are expected to have similar expiration timeframes. These patents contain multiple claims including but not limited to claims relating to biomarkers, kits, systems and methods for detecting homologous recombination deficiency and selecting therapy based on such detection.

GeneSight. We own or hold an exclusive license to one or more issued patents and pending patent applications in the U.S. and other jurisdictions relation to GeneSight® testing. These issued patents have terms expected to begin expiring in 2024 and these applications, if issued as patents and depending on term adjustments or terminal disclaimers if applicable, are expected to have similar expiration timeframes. These patents contain multiple claims including but not limited to claims relating to biomarkers, kits, systems and methods for detecting single nucleotide polymorphisms and selecting and/or optimizing therapy based on such detection.

We intend to seek patent protection in the United States and major foreign jurisdictions for synthetic nucleic acids, antibodies, biomarker signatures, assays, probes, primers, technologies, methods, processes and other inventions which we believe are patentable and where we believe our interests would be best served by seeking patent protection. However, any patents issued to us or our licensors may not afford meaningful protection for our products or technology or may be subsequently circumvented, invalidated or narrowed or found unenforceable. Any patent applications which we have filed, or will file, or to which we have licensed or will license rights may not issue, and patents that do issue may not contain commercially valuable claims. In addition, others may obtain patents having claims which cover aspects of our tests or processes which are necessary for or useful to the development, use or performance of our diagnostic products. Should any other group obtain patent protection with respect to our discoveries, our commercialization of our molecular diagnostic tests could be limited or prohibited.

Others may offer clinical diagnostic genomic laboratory testing services which may infringe patents we control. We may seek to negotiate a license to use our patent rights or decide to seek enforcement of our patent rights through litigation. Patent litigation is expensive and the outcome is often uncertain and we may not be able to enforce our patent rights against others.

Our tests and processes may also conflict with patents which have been or may be granted to competitors, academic institutions or others. In addition, third parties could bring legal actions against us seeking to invalidate our owned or licensed patents, claiming damages, or seeking to enjoin clinical testing, developing and marketing of our tests or processes. If any of these actions are successful, in addition to any potential liability for damages, we could lose patent coverage for our tests, be required to cease the infringing activity or obtain a license in order to continue to develop or market the relevant test or process. We may not prevail in any such action, and any license required under any such patent may not be made available on acceptable terms, if at all. Our failure to maintain patent protection for our test and processes or to obtain a license to any technology that we may require to commercialize our tests and technologies could have a material adverse effect on our business.

We also rely upon unpatented proprietary technology, and in the future may determine in some cases that our interests would be better served by reliance on trade secrets or confidentiality agreements rather than patents or licenses. These include some of our genomic, proteomic, RNA expression, mutation analysis, robotic and bioinformatic technologies which may be used in discovering and characterizing new genes and proteins and ultimately used in the development or analysis of molecular diagnostic tests. We also maintain a database of gene mutations and their status as either harmful or benign for all of our hereditary cancer tests. To further protect our trade secrets and other proprietary information, we require that our employees and consultants enter into confidentiality and invention assignment agreements. However, those confidentiality and invention assignment agreements may not provide us with adequate protection. We may not be able to protect our rights to such unpatented proprietary technology and others may independently develop substantially equivalent technologies. If we are unable to obtain strong proprietary rights to our processes or tests, competitors may be able to market competing processes and tests.

License Agreements

We are a party to license agreements which give us the rights to use certain technologies in the research, development, testing processes, and commercialization of our molecular diagnostic tests and pharmaceutical and clinical services. We may not be able to continue to license these technologies on commercially reasonable terms, if at all. Additionally, patents underlying our license agreements may not afford meaningful protection for our technology or tests or may be subsequently circumvented, invalidated or narrowed, or found unenforceable. Our failure to maintain rights to this technology could have a material adverse effect on our business.

In 2006, Assurex Health, Inc. (now our wholly-owned subsidiary) entered into an agreement with the Mayo Foundation for Medical Education and Research (“Mayo”), which granted to Assurex an exclusive world-wide license to utilize certain rights of Mayo in intellectual property relating to what is now GeneSight testing. Under this license agreement we pay Mayo a royalty based on net sales of our GeneSight test. This license expires upon expiration of the last to expire patent covered by the Mayo agreement, which presently is not anticipated to expire until 2024. Mayo has the right to terminate the agreement for the uncured breach of any material term of the agreement.

In 2006, Assurex Health, Inc. entered into a license agreement with the Children’s Hospital Medical Center in Cincinnati (“CHMC”) for the exclusive world-wide right to utilize certain rights of CHMC in intellectual property relating to what is now GeneSight testing. Under this license agreement we pay CHMC a royalty based on net sales of our GeneSight test. This license agreement has no expiration, but CHMC has the right to terminate the agreement for the uncured breach of any material term of the license agreement.

In 2010, Crescendo Bioscience, Inc. (now our wholly-owned subsidiary) entered into a license agreement with the Oklahoma Medical Research Foundation (the “OMRF”), for the exclusive world-wide right to utilize certain intellectual property rights of OMRF including patent applications relating to what is now Vectra DA testing. Under this license agreement we pay OMRF a royalty based on net sales of our Vectra DA test. This license agreement ends on expiration of the last to expire patent covered by the license agreement, which presently is not anticipated to expire until 2031. OMRF has the right to terminate the license agreement for the uncured breach of any material term of the license agreement.

In 2012, we entered into a license agreement with the University of Texas M.D. Anderson Cancer Center (the “UTMDACC”), for the exclusive world-wide right to utilize certain rights of UTMDACC in intellectual property relating to what is now myChoice® HRD testing. Under this license agreement we will pay UTMDACC a royalty based on net sales of our myChoice® HRD test, if any. This license agreement ends on expiration of the last to expire patent covered by the license agreement, which presently is not anticipated to expire until 2032. UTMDACC has the right to terminate the license agreement for the uncured breach of any material term of the license agreement.

In 2012, we entered into a license agreement with Children’s Medical Center in Boston (“CMCC”) for the exclusive world-wide right to utilize certain rights of CMCC in intellectual property relating to what is now myChoice® HRD testing. Under this license agreement we expect to pay CMCC a royalty based on net sales of our myChoice® HRD test, if any. This license agreement ends on expiration of the last to expire patent covered by the license agreement, which presently is not anticipated to expire until 2032. CMCC has the right to terminate the license agreement for the uncured breach of any material term of the license agreement.

In 2013, we entered into a license agreement with Institut Curie and INSERM (“INSERM”) for the exclusive world-wide right to utilize certain rights of INSERM in intellectual property relating to what is now myChoice® HRD testing. Under this license agreement we expect to pay INSERM a royalty based on net sales of our myChoice® HRD test, if any. This license agreement ends on expiration of the last to expire patent covered by the license agreement, which presently is not anticipated to expire until 2032. INSERM has the right to terminate the license agreement for the uncured breach of any material term of the license agreement.

Governmental Regulation

The services that we provide are regulated by federal, state and foreign governmental authorities. Failure to comply with the applicable laws and regulations can subject us to repayment of amounts previously paid to us, significant civil and criminal penalties, loss of licensure, certification, or accreditation, or exclusion from state and federal health care programs. The significant areas of regulation are summarized below.

Clinical Laboratory Improvement Amendments of 1988 and State Regulation

Each of our clinical laboratories must hold certain federal, state and local licenses, certifications and permits to conduct our business. Laboratories in the United States that perform testing on human specimens for the purpose of providing information for the diagnosis, prevention, or treatment of disease are subject to the Clinical Laboratory Improvement Amendments of 1988 (“CLIA”). CLIA requires such laboratories to be certified by the federal government and mandates compliance with various operational, personnel, facilities administration, quality and proficiency testing requirements intended to ensure that testing services are accurate, reliable and timely. CLIA certification also is a prerequisite to be eligible to bill state and federal health care programs, as well as many private insurers, for laboratory testing services. Our laboratories in Salt Lake City, Utah, Austin, Texas, Mason, Ohio, and South San Francisco, California are CLIA certified to perform high complexity tests.

In addition, CLIA requires each of our certified laboratories to enroll in an approved proficiency testing program if performing testing in any category for which proficiency testing is required. Each of our laboratories periodically tests specimens received from an outside proficiency testing organization and then submits the results back to that organization for evaluation. If one of our laboratories fails to achieve a passing score on a proficiency test, then it loses its right to perform testing. Further, failure to comply with other proficiency testing regulations, such as the prohibition on referral of a proficiency testing specimen to another laboratory for analysis, can result in revocation of the laboratory’s CLIA certification.

As a condition of CLIA certification, each of our laboratories is subject to survey and inspection every other year, in addition to being subject to additional random inspections. The biennial survey is conducted by the Centers for Medicare & Medicaid Services (“CMS”), a CMS agent (typically a state agency), or, a CMS-approved accreditation organization. Because our laboratories are accredited by the College of American Pathologists (“CAP”), which is a CMS-approved accreditation organization, they are typically subject to CAP inspections.

Our laboratories are licensed by the appropriate state agencies in the states in which they operate, if such licensure is required. In addition, our laboratories hold state licenses or permits, as applicable, from various states including, but not limited to, California, Florida, New York, Pennsylvania, Rhode Island and Maryland, to the extent that they accept specimens from one or more of these states, each of which requires out-of-state laboratories to obtain licensure.

If a laboratory is out of compliance with state laws or regulations governing licensed laboratories or with CLIA, penalties may include suspension, limitation or revocation of the license or CLIA certificate, assessment of financial penalties or fines, or imprisonment. Loss of a laboratory’s CLIA certificate or state license may also result in the inability to receive payments from state and federal health care programs as well as private third party payors. We believe that we are in material compliance with CLIA and all applicable licensing laws and regulations.

Food and Drug Administration

Although the Food and Drug Administration (FDA) has consistently claimed that it has the authority to regulate laboratory-developed tests (“LDTs”) that are developed, validated and performed only by a CLIA certified laboratory, it has historically exercised enforcement discretion in not otherwise regulating most LDTs and has not required laboratories that furnish LDTs to comply with the agency’s requirements for medical devices (e.g., establishment registration, device listing, quality systems regulations, premarket clearance or premarket approval, and post-market controls). More recently, the FDA has indicated that it will apply a risk-based approach to determine the regulatory pathway for all in vitro diagnostics (“IVDs”), including IVD companion and complementary diagnostic devices, as it does with all medical devices. This means that the regulatory pathway will depend on the level of risk to patients, based on the intended use of the IVD and the controls necessary to provide a reasonable assurance of safety and effectiveness. The two primary types of marketing pathways for medical devices are clearance of a premarket notification under Section 510(k) of the Federal Food, Drug, and Cosmetic Act, or 510(k), and approval of a premarket approval application, or PMA. IVD companion diagnostic devices developed for use with drugs typically will utilize the PMA pathway which would be preceded by a clinical trial performed under an investigational device exemption, or IDE, that would have to be completed before the PMA can be submitted.

We are developing companion diagnostic tests for use with drug products in development by pharmaceutical companies, such as our collaborations with pharmaceutical companies on PARP inhibitors for the treatment of ovarian, breast and other cancers. Companion diagnostic tests are currently subject to regulation by the FDA as medical devices. The FDA issued Guidance on In-Vitro Companion Diagnostic Devices in July 2014, which is intended to assist companies developing in vitro companion diagnostic devices and companies developing therapeutic products that depend on the use of a specific in-vitro companion diagnostic for the safe and effective use of the product. The FDA defined an in vitro companion diagnostic device (“IVD Companion Dx”) as a device that provides information that is essential for the safe and effective use of a corresponding therapeutic product. The FDA expects that the therapeutic sponsor will address the need for an approved or cleared IVD Companion Dx in its therapeutic product development plan and that, in most cases, the therapeutic product and its corresponding companion diagnostic will be developed contemporaneously. On July 15, 2016, the FDA released a draft guidance entitled, “Principles for Codevelopment of an In Vitro Companion Diagnostic Device with a Therapeutic Product. This draft guidance document is intended to be a practical guide to assist therapeutic product sponsors and IVD sponsors in developing a therapeutic product and an accompanying IVD companion diagnostic.

The FDA has also introduced the concept of a complementary diagnostic that it defines as a test that is not required but which provides significant information about the use of a drug. A complementary test can help guide treatment strategy and identify which patients are likely to derive the greatest benefit from therapy, and if approved by the FDA information regarding the IVD will be included in the therapeutic product labelling. Although the FDA has not yet issued any written guidance regarding complementary diagnostics, it has already approved a couple of complementary diagnostics, including a supplementary premarket approval for BRACAnalysis CDx, which was approved in March 2017, as a complementary diagnostic test in ovarian cancer patients associated with enhanced progression-free survival (PFS) when used with Tesaro’s PARP inhibitor Zejula™ (niraparib) maintenance therapy.

In December 2014, we obtained premarket approval for BRACAnalysis CDx, which is used as a companion diagnostic test to identify ovarian cancer patients who may benefit from AstraZeneca’s PARP inhibitor Lynparza™ (olaparib). The premarket

approval process is a complex, costly and time consuming procedure. Approvals must be supported by valid scientific evidence, submitted as part of a premarket approval application (“PMA”), which typically requires extensive data, including quality technical, preclinical, clinical and manufacturing data to demonstrate to the FDA’s satisfaction the safety and effectiveness of the companion diagnostic. We are currently collaborating with several pharmaceutical companies, including an expanded collaboration with AstraZeneca for an additional indication for BRACAnalysis CDx, to evaluate the use of several of our tests as companion diagnostics with other drugs.

After a medical device is placed on the market, numerous regulatory requirements apply. These include:

- compliance with the FDA’s Quality System Regulation (“QSR”), which requires manufacturers to follow stringent design, testing, control, documentation, record maintenance, including maintenance of complaint and related investigation files, and other quality assurance controls during the manufacturing process;
- labeling regulations, which prohibit the promotion of products for uncleared, or unapproved uses, or “off-label” uses, and impose other restrictions on labeling; and
- medical device reporting obligations, which require that manufacturers investigate and report to the FDA adverse events, including deaths, or serious injuries that may have been or were caused by a medical device and malfunctions in the device that would likely cause or contribute to a death or serious injury if it were to recur.

Failure to comply with applicable regulatory requirements can result in enforcement action by the FDA, which may include sanctions, including but not limited to, warning letters; fines, injunctions, and civil penalties; recall or seizure of the device; operating restrictions, partial suspension or total shutdown of production; refusal to grant 510(k) clearance or approval of PMAs of new devices; withdrawal of clearance or approval; and civil or criminal prosecution. To ensure compliance with regulatory requirements, medical device manufacturers are subject to market surveillance and periodic, pre-scheduled and unannounced inspections by the FDA.

Other Regulatory Requirements

Our laboratories are subject to federal, state and local regulations relating to the handling and disposal of regulated medical waste, hazardous waste and biohazardous waste, including chemical, biological agents and compounds, blood and bone marrow samples and other human tissue. Typically, we use outside vendors who are contractually obligated to comply with applicable laws and regulations to dispose of such waste. These vendors are licensed or otherwise qualified to handle and dispose of such waste.

HIPAA and other privacy laws

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), established comprehensive federal standards for the privacy and security of health information. The HIPAA standards apply to three types of organizations: health plans, healthcare clearing houses, and healthcare providers that conduct certain healthcare transactions electronically (“Covered Entities”). Title II of HIPAA, the Administrative Simplification Act, contains provisions that address the privacy of health data, the security of health data, the standardization of identifying numbers used in the healthcare system and the standardization of certain healthcare transactions. The privacy regulations protect medical records and other protected health information by limiting their use and release, giving patients the right to access their medical records and limiting most disclosures of health information to the minimum amount necessary to accomplish an intended purpose. The HIPAA security standards require the adoption of administrative, physical, and technical safeguards and the adoption of written security policies and procedures.

On February 17, 2009, Congress enacted Subtitle D of the Health Information Technology for Economic and Clinical Health Act, or HITECH, provisions of the American Recovery and Reinvestment Act of 2009. HITECH expanded and strengthened HIPAA, created new targets for enforcement, imposed new penalties for noncompliance and established new breach notification requirements for Covered Entities. Regulations implementing major provisions of HITECH were finalized on January 25, 2013 through publication of the HIPAA Omnibus Rule (the “Omnibus Rule”).

Under HITECH's breach notification requirements, Covered Entities must report breaches of protected health information that has not been encrypted or otherwise secured in accordance with guidance from the Secretary of the U.S. Department of Health and Human Services (the “Secretary”). Required breach notices must be made as soon as is reasonably practicable, but no later than 60 days following discovery of the breach. Reports must be made to affected individuals and to the Secretary and, in some cases depending on the size of the breach; they must be reported through local and national media. Breach reports can lead to investigation, enforcement and civil litigation, including class action lawsuits.

We are currently subject to the HIPAA regulations and maintain an active compliance program that is designed to identify security incidents and other issues in a timely fashion and enable us to remediate, mitigate harm or report if required by law. We are subject to prosecution and/or administrative enforcement and increased civil and criminal penalties for non-compliance, including a new, four-tiered system of monetary penalties adopted under HITECH. We are also subject to enforcement by state attorneys general who were given authority to enforce HIPAA under HITECH. To avoid penalties under the HITECH breach notification provisions, we must ensure that breaches of protected health information are promptly detected and reported within the company, so that we can make all required notifications on a timely basis. However, even if we make required reports on a timely basis, we may still be subject to penalties for the underlying breach.

In May 2016, a complaint was filed with the Office for Civil Rights of the Department of Health and Human Services (“OCR”) by four patients alleging deficiencies in our policies regarding information that must be disclosed to patients as part of a “designated record set” under HIPAA. We proactively reached out to OCR on these issues to explain our compliance with all applicable regulations and OCR guidance. We are currently working with OCR to favorably resolve the concerns raised by the allegations.

In addition to the federal privacy and security regulations, there are a number of state laws regarding the privacy and security of health information and personal data that are applicable to our clinical laboratories. Many states have also implemented genetic testing and privacy laws imposing specific patient consent requirements and protecting test results by strictly limiting the disclosure of those results. State requirements are particularly stringent regarding predictive genetic tests, due to the risk of genetic discrimination against healthy patients identified through testing as being at a high risk for disease. We believe that we have taken the steps required of us to comply with health information privacy and security statutes and regulations, including genetic testing and genetic information privacy laws in all jurisdictions, both state and federal. However, these laws constantly change and we may not be able to maintain compliance in all jurisdictions where we do business. Failure to maintain compliance, or changes in state or federal laws regarding privacy or security could result in civil and/or criminal penalties, significant reputational damage and could have a material adverse effect on our business.

We are subject to laws and regulations related to the protection of the environment, the health and safety of employees and the handling, transportation and disposal of medical specimens, infectious and hazardous waste and radioactive materials. For example, the U.S. Occupational Safety and Health Administration (“OSHA”) has established extensive requirements relating specifically to workplace safety for healthcare employers in the U.S. This includes requirements to develop and implement multi-faceted programs to protect workers from exposure to blood-borne pathogens, including preventing or minimizing any exposure through needle stick injuries. For purposes of transportation, some biological materials and laboratory supplies are classified as hazardous materials and are subject to regulation by one or more of the following agencies: the U.S. Department of Transportation, the U.S. Public Health Service, the United States Postal Service and the International Air Transport Association. We generally use third-party vendors to dispose of regulated medical waste, hazardous waste and radioactive materials and contractually require them to comply with applicable laws and regulations.

Transparency Laws and Regulations

A federal law known as the Physician Payments Sunshine Act (the “Sunshine Act”) requires medical device manufacturers to track and report to the federal government certain payments and other transfers of value made to physicians and teaching hospitals and ownership or investment interests held by physicians and their immediate family members. Manufacturers must report data for the previous calendar year by the 90th day of the then-current calendar year. CMS then publishes the data on a publicly available website no later than June 30th. There are also state “sunshine” laws that require manufacturers to provide reports to state governments on pricing and marketing information. Several states have enacted legislation requiring medical device manufacturers to, among other things, establish marketing compliance programs, file periodic reports with the state, make periodic public disclosures on sales and marketing activities, and such laws may also prohibit or limit certain other sales and marketing practices. These laws may adversely affect our sales, marketing, and other activities by imposing administrative and compliance burdens on us. If we fail to track and report as required by these laws or to otherwise comply with these laws, we could be subject to the penalty provisions of the pertinent state and federal authorities.

Reimbursement and Billing

Reimbursement and billing for diagnostic services is highly complex. Laboratories must bill various payors, such as private third-party payors, including managed care organizations (“MCO”), and state and federal health care programs, such as Medicare and Medicaid, and each may have different billing requirements. Additionally, the audit requirements we must meet to ensure compliance with applicable laws and regulations, as well as our internal compliance policies and procedures, add further complexity to the billing process. Other factors that complicate billing include:

- variability in coverage and information requirements among various payors;
- patient financial assistance programs;
- missing, incomplete or inaccurate billing information provided by ordering physicians;
- billings to payors with whom we do not have contracts;
- disputes with payors as to which party is responsible for payment; and
- disputes with payors as to the appropriate level of reimbursement.

Depending on the reimbursement arrangement and applicable law, the party that reimburses us for our services may be:

- a third party who provides coverage to the patient, such as an insurance company or MCO;
- a state or federal healthcare program; or
- the patient.

Presently, approximately 85% of our revenue comes from private third party payors.

Federal and State Fraud and Abuse Laws

A variety of federal laws prohibit fraud and abuse involving state and federal health care programs, such as Medicare and Medicaid. These laws are interpreted broadly and enforced aggressively by various state and federal agencies, including CMS, the Department of Justice, the Office of Inspector General for the Department of Health and Human Services (“OIG”), and various state agencies. In addition, the Medicare and Medicaid programs increasingly use a variety of contractors to review claims data and to identify improper payments as well as fraud and abuse. Any overpayments must be repaid within 60 days of identification unless a favorable decision is obtained on appeal. In some cases, these overpayments can be used as the basis for an extrapolation, by which the error rate is applied to a larger universe of claims, and which can result in even higher repayments.

Anti-Kickback Laws

The Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting, receiving or providing remuneration, directly or indirectly, in exchange for or to induce either the referral of an individual, or the furnishing, arranging for or recommending of an item or service that is reimbursable, in whole or in part, by a federal health care program. “Remuneration” is broadly defined to include anything of monetary value, such as, for example, cash payments, gifts or gift certificates, discounts, or the furnishing of services, supplies or equipment. The Anti-Kickback Statute is broad and prohibits many arrangements and practices that are lawful in businesses outside of the health care industry.

Recognizing the breadth of the Anti-Kickback Statute and the fact that it may technically prohibit many innocuous or beneficial arrangements within the health care industry, the OIG has issued a series of regulations, or safe harbors intended to protect such arrangements. Compliance with all requirements of a safe harbor immunizes the parties to the business arrangement from prosecution under the Anti-Kickback Statute. The failure of a business arrangement to fit within a safe harbor does not necessarily mean that the arrangement is illegal or that the OIG will pursue prosecution. Still, in the absence of an applicable safe harbor, a violation of the Anti-Kickback Statute may occur even if only one purpose of an arrangement is to induce referrals. The penalties for violating the Anti-Kickback Statute can be severe. These sanctions include criminal and civil penalties, imprisonment and possible exclusion from the federal health care programs. Many states have adopted laws similar to the Anti-Kickback Statute, and some apply to items and services reimbursable by any payor, including private third-party payors.

Physician Self-Referral Bans

The federal ban on physician self-referrals, commonly known as the Stark Law, prohibits, subject to certain exceptions, physician referrals of Medicare patients to an entity providing certain designated health services, which include laboratory services, if the physician or an immediate family member of the physician has any financial relationship with the entity. Several Stark Law exceptions are relevant to arrangements involving clinical laboratories, including but not limited to: (1) fair market value compensation for the provision of items or services; (2) payments by physicians to a laboratory for clinical laboratory services; (3) certain space and equipment rental arrangements that satisfy certain requirements; and (4) personal services arrangements. Penalties for violating the Stark Law include the return of funds received for all prohibited referrals, fines, civil monetary penalties and possible exclusion from federal health care programs. In addition to the Stark Law, many states have their own self-referral bans, which may extend to all self-referrals, regardless of the payor.

State and Federal Prohibitions on False Claims

The federal False Claims Act imposes liability on any person or entity that, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment to the federal government. Under the False Claims Act, a person acts knowingly if he has actual knowledge of the information or acts in deliberate ignorance or in reckless disregard of the truth or falsity of the information. Specific intent to defraud is not required. The qui tam provisions of the False Claims Act allow a private individual to bring an action on behalf of the federal government and to share in any amounts paid by the defendant to the government in connection with the action. Penalties include payment of up to three times the actual damages sustained by the government, plus civil penalties of between \$5,500 and \$11,000 for each false claim, as well as possible exclusion from the federal health care programs. In addition, various states have enacted similar laws modeled after the False Claims Act that apply to items and services reimbursed under Medicaid and other state health care programs, and, in several states, such laws apply to claims submitted to any payor.

Civil Monetary Penalties Law

The federal Civil Monetary Penalties Law, or the CMP Law, prohibits, among other things, (1) the offering or transfer of remuneration to a Medicare or state health care program beneficiary if the person knows or should know it is likely to influence the beneficiary's selection of a particular provider, practitioner, or supplier of services reimbursable by Medicare or a state health care program, unless an exception applies; (2) employing or contracting with an individual or entity that the provider knows or should know is excluded from participation in a federal health care program; (3) billing for services requested by an unlicensed physician or an excluded provider; and (4) billing for medically unnecessary services. The penalties for violating the CMP Law include exclusion, substantial fines, and payment of up to three times the amount billed, depending on the nature of the offense.

International regulations

We market some of our tests outside of the United States and are subject to foreign regulatory requirements governing laboratory licensure, human clinical testing, use of tissue, privacy and data security, and marketing approval for our tests. These requirements vary by jurisdiction, differ from those in the United States and may require us to implement additional compliance measures or perform additional pre-clinical or clinical testing. On September 26, 2012, the European Commission released the first drafts of the new European Union ("EU") regulations for medical devices and IVDs that if finalized will impose additional regulatory requirements on IVDs used in the EU. In many countries outside of the United States, coverage, pricing and reimbursement approvals are also required. We are also required to maintain accurate information on and control over sales and distributors' activities that may fall within the purview of the Foreign Corrupt Practices Act, its books and records provisions and its anti-bribery provisions.

Human Resources

As of June 30, 2018, we have over 2,400 full-time equivalent employees. Most of our employees are engaged directly in research, development, production, sales and marketing activities. We believe that the success of our business will depend, in part, on our ability to attract and retain qualified personnel. Our employees are not covered by a collective bargaining agreement, and we consider our relations with our employees to be good.

Available Information

We are a Delaware corporation with our principal executive offices located at 320 Wakara Way, Salt Lake City, Utah 84108. Our telephone number is (801) 584-3600 and our web site address is www.myriad.com. We make available free of charge

through the Investor Relations section of our web site our Corporate Code of Conduct and Ethics, our Audit Committee and other committee charters and our other corporate governance policies, as well as our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, current reports on Form 8-K and all amendments to those reports as soon as reasonably practicable after such material is electronically filed with or furnished to the Securities and Exchange Commission. We include our web site address in this Annual Report on Form 10-K only as an inactive textual reference and do not intend it to be an active link to our web site.

Risks Related to Our Business and Our Strategy

We may not be successful in transitioning from our existing product portfolio to our new products, such as our myRisk Hereditary Cancer test, which represents the next generation of our existing hereditary cancer franchise. We may not be able to generate sufficient revenue from our existing tests and our new tests or develop new tests to maintain profitability.

Although we have developed and marketed several molecular diagnostic tests to date, we believe our future success is dependent upon our ability to successfully market our existing molecular diagnostic tests to additional patients within the United States, to expand into new markets outside the United States, and to develop and commercialize new molecular diagnostic and companion diagnostic tests. Importantly, in 2014 we launched our myRisk Hereditary Cancer test, which represents the next generation of our existing hereditary cancer testing franchise. We anticipate that the myRisk Hereditary Cancer test will eventually replace our current predictive medicine test offerings (BRACAnalysis, BART, Colaris and Colaris AP and Melaris) with a single comprehensive test. However, we may not be successful in transitioning from our existing product portfolio to our new tests and in launching and commercializing our new tests. The demand for our existing molecular diagnostic tests may decrease or may not continue to increase at historical rates due to sales of the myRisk Hereditary Cancer test and our other new tests that are replacing our existing product portfolio, or for other reasons. For example, because most of our molecular diagnostic tests are only utilized once per patient, we will need to sell our services through physicians to new patients or develop new molecular diagnostic tests in order to continue to generate revenue. Our pipeline of new molecular diagnostic and companion diagnostic test candidates is in various stages of development and may take several more years to develop and must undergo extensive clinical validation. We may be unable to discover or develop any additional molecular diagnostic or companion diagnostic tests through the utilization of our technologies or technologies we license or acquire from others. Even if we develop tests or services for commercial use, we may not be able to develop tests or services that:

- meet applicable regulatory standards, in a timely manner or at all;
- successfully compete with other technologies and tests;
- avoid infringing the proprietary rights of others;
- are adequately reimbursed by third-party payors;
- can be performed at commercial levels or at reasonable cost; or
- can be successfully marketed.

We must generate significant revenue to maintain profitability. Even if we succeed in marketing myRisk Hereditary Cancer and our existing molecular diagnostic tests to physicians for use in new patients and in developing and commercializing any additional molecular diagnostic tests and companion diagnostic tests, we may not be able to generate sufficient revenue and we may not be able to maintain profitability.

We may not be able to sustain or increase profitability on a quarterly or annual basis.

In order to develop and commercialize our molecular diagnostic and companion diagnostic tests, we expect to incur significant expenses over the next several years as we increase our research and development activities, expand clinical validation trials for our molecular diagnostic tests and companion diagnostic tests currently in development, potentially license or acquire additional companies or technologies and engage in commercialization activities in anticipation of the launch of additional molecular diagnostic tests companion diagnostic tests. Because of the numerous risks and uncertainties associated with developing our tests and their potential for commercialization, we are unable to predict the extent of any future profits. If we are unable to sustain or increase profitability, the market value of our common stock will likely decline. Our ability to maintain profitability will depend upon numerous factors, including:

- our ability to transition from our existing product portfolio to our new products, such as our myRisk Hereditary Cancer test, and to commercialize these new tests;
- successful outcomes of clinical trials (including but not limited to the GeneSight clinical trial);
- our ability to obtain full or partial reimbursement for new products;
- our ability to sell our other existing molecular diagnostic tests to new patients;
- our ability to identify biomarkers that may lead to future molecular diagnostic tests and companion diagnostic tests;

- our ability to develop test candidates and receive any required regulatory approvals, including FDA approval as may be required for existing tests if LDTs become FDA regulated or for new tests such as myChoice HRD testing or a kit version of EndoPredict;
- our ability to successfully commercialize our tests in our existing markets and to extend into new markets outside the United States;
- the approval and introduction of competitive tests;
- reductions in reimbursement by third-party payors or their willingness to provide full or even partial reimbursement for our tests;
- our ability to maintain and enforce our intellectual property rights covering our molecular diagnostic tests and companion diagnostic tests;
- our ability to maintain and grow our sales force and marketing team to market our tests;
- our ability to successfully integrate, develop and grow products and services and the business of any other companies or technologies that we may license or acquire;
- our ability to increase commercial acceptance of our current molecular diagnostic tests; and
- our ability to maintain or grow our current revenues.

If we do not continue to generate sufficient revenue from sales of our molecular diagnostic tests and are unable to secure additional funding, we may have to reduce our operations.

As of June 30, 2018, we had \$211.3 million in cash, cash equivalents and marketable securities. For the fiscal year ended June 30, 2018 our consolidated revenues were \$772.6 million, and net cash from operating activities was \$115.9 million. To develop and bring new molecular diagnostic tests and companion diagnostic tests to market, we must commit substantial resources to costly and time-consuming research, development testing and clinical testing. In addition, we entered into an unsecured revolving debt facility (the “Facility”) in December 2016, pursuant to which we borrowed a principal amount of \$205.0 million. The Facility is due on December 23, 2021. As of June 30, 2018, the balance due under our Facility was \$9.3 million. In addition, we amended our unsecured revolving debt facility (as amended, the “Facility”) on July 31, 2018, providing for an aggregate principle amount of up to \$350.0 million. Pursuant to the Facility, we borrowed an aggregate principal amount of \$300.00 million on July 31, 2018. The Facility is due on July 31, 2023.

While we anticipate that our existing cash, cash equivalents and marketable securities and expected net cash to be generated from sales of our molecular diagnostic tests and pharmaceutical and clinical services will be sufficient to fund our current operations for the foreseeable future, changes could occur that would consume available capital resources more quickly than we currently expect and we may need or want to raise additional financing. If we are unable to secure additional funding, we may be unable to repay our Facility when it becomes due, and be required to reduce research and development projects, limit sales and marketing activities, scale back our expansion efforts outside the United States, reduce headcount or potentially even discontinue operations. Our future capital requirements will depend on many factors that are currently unknown to us, including:

- the scope, progress, results and cost of development, clinical testing and pre-market studies of any new molecular diagnostic tests that we may discover or acquire;
- the progress, results, and costs to develop additional molecular diagnostic tests;
- the costs of preparing, filing and prosecuting patent applications, maintaining and enforcing our current issued patents, and defending intellectual property-related claims;
- our ability to enter into collaborations, licensing or other arrangements favorable to us;
- the costs of acquiring technologies or businesses, and our ability to successfully integrate and achieve the expected benefits of our business development activities and acquisitions;
- the progress, cost and results of our international expansion efforts;
- the costs of expanding our sales and marketing functions and commercial operation facilities in the United States and in new markets;
- the costs, timing and outcome of any litigation against us; and

- the costs to satisfy our current and future obligations.

We are subject to debt covenants that impose operating and financial restrictions on us and could limit our ability to grow our business.

Covenants in the Facility, which went into effect during the quarter ending March 31, 2017, impose operating and financial restrictions on us. These restrictions may prohibit or place limitations on, among other things, our ability to incur additional indebtedness, create certain types of liens, mergers or consolidations, and/or change in control transactions. The Facility may also prohibit or place limitations on our ability to sell assets, pay dividends or provide other distributions to shareholders. These restrictions could also limit our ability to take advantage of business opportunities. We must maintain specified leverage and interest ratios measured as of the end of each quarter as a financial covenant in the Facility. Our ability to comply with this ratio may be affected by events beyond our control, including prevailing economic, financial and industry conditions.

Under the Facility, a change in control in the Company, which means that a shareholder or a group of shareholders is or becomes the beneficial owner, directly or indirectly, of more than 35% of the total voting power of the voting stock of the Company would require mandatory prepayment of the outstanding debt.

If we are unable to comply with the covenants and ratio in the Facility in the future, we may be in default under the agreement. A default would result in an increase in the rate of interest and may cause the loan repayment to be accelerated. This could have a material adverse effect on our business.

We may acquire technologies, assets or other businesses that could cause us to incur significant expense and expose us to a number of unanticipated operational and financial risks.

In addition to organic growth, we intend to continue to pursue growth through the acquisition of technology, assets or other businesses that may enable us to enhance our technologies and capabilities, expand our geographic market, add experienced management personnel and increase our test offerings. For example, in May 2011, we completed the acquisition of Rules Based Medicine, Inc., which we renamed Myriad RBM, and are now offering pharmaceutical and clinical services and developing additional product candidates using the acquired technology. In February 2014, we completed the acquisition of Crescendo Bioscience, Inc., and are now offering molecular diagnostic tests for patients suffering from rheumatoid arthritis and developing additional product candidates in the inflammatory and autoimmune disease area. In February 2015, we acquired the Clinic and believe the acquisition may facilitate our penetration into the German molecular diagnostic market. In May 2016, we acquired Sividon Diagnostics GmbH. Now as a wholly-owned subsidiary, Sividon will continue to offer EndoPredict testing in the European market, which we offered under an exclusive distribution agreement with Sividon prior to the acquisition. In August 2016, we acquired Assurex Health, Inc. and are now offering a molecular diagnostic test providing treatment decision support to healthcare providers for mental health patients. However, these acquisitions may not achieve profitability or generate a positive return on our investment. Additionally, we may be unable to implement our growth strategy if we cannot identify suitable acquisition candidates, reach agreement on potential acquisitions on acceptable terms, successfully integrate personnel or assets that we acquire or for other reasons. Our acquisition efforts may involve certain risks, including:

- we may have difficulty integrating operations and systems;
- key personnel and customers of the acquired company may terminate their relationships with the acquired company as a result of the acquisition;
- we may not be successful in launching new molecular diagnostic tests or companion diagnostic tests, or if those tests are launched they may not prove successful in the market place;
- we may experience additional financial and accounting challenges and complexities in areas such as tax planning and financial reporting;
- we may assume or be held liable for risks and liabilities, including for environmental-related costs, as a result of our acquisitions, some of which we may not discover during our due diligence;
- we may incur significant additional operating expenses;
- our ongoing business may be disrupted or receive insufficient management attention; and
- we may not be able to realize synergies, the cost savings or other financial and operational benefits we anticipated, or such synergies, savings or benefits may take longer than we expected.

The process of negotiating acquisitions and integrating acquired tests, services, technologies, personnel or businesses might result in operating difficulties and expenditures and might require significant management attention that would otherwise be

available for ongoing development of our business, whether or not any such transaction is ever consummated. Moreover, we might never realize the anticipated benefits of any acquisition. Future acquisitions could result in the use of our available cash and marketable securities, potentially dilutive issuances of equity securities, the incurrence of debt, contingent liabilities, or impairment expenses related to goodwill, and impairment or amortization expenses related to other intangible assets, which could harm our financial condition. In addition, if we are unable to integrate any acquired businesses, tests or technologies effectively, our business, financial condition and results of operations may be materially adversely affected.

We may not be able to successfully integrate the operations of businesses that we acquire with our own or realize the anticipated benefits of the acquisitions, which could adversely affect our financial condition, results of operations and business prospects.

There can be no assurance that we will be able to successfully integrate our recent acquisitions or develop or commercialize products based on recently acquired technologies, or that we will be able to successfully integrate any other companies, products or technologies that we acquire and may not realize all or any of the expected benefits of any acquisitions as and when planned. Additionally, we may experience increased expenses, distraction of our management, personnel and customer uncertainty.

The difficulties and risks associated with the integration of any other businesses that we may acquire include:

- possible inconsistencies in the standards, controls, procedures, policies and compensation structures;
- the increased scope and complexity of the acquired company's operations;
- the potential loss of key employees and the costs associated to retain key employees;
- risks and limitations on our ability to consolidate corporate and administrative infrastructures of the two companies; and
- the possibility of unanticipated delays, costs or inefficiencies associated with the integration of our operations with the operations of any other companies that we may acquire.

As a result of these difficulties and risks, we may not accomplish the integration of the business of any companies we may acquire smoothly, successfully or within our budgetary expectations and anticipated timetable. Accordingly, we may fail to realize some or all of the anticipated benefits of the acquisition, such as increase in our scale, diversification, cash flows and operational efficiency and meaningful accretion to our diluted earnings per share.

If we were successfully sued for product liability, we could face substantial liabilities that exceed our resources.

Our business exposes us to potential liability risks inherent in the testing, marketing and processing of molecular diagnostic products, including possible misdiagnoses. Although we are insured against such risks in amounts that we believe to be commercially reasonable, our present professional and product liability insurance may be inadequate. A successful product liability claim in excess of our insurance coverage could have a material adverse effect on our business. Any successful product liability claim may prevent us from obtaining adequate product liability insurance in the future on commercially desirable or reasonable terms. An inability to obtain sufficient insurance coverage at an acceptable cost or otherwise to protect against potential product liability claims could prevent or inhibit the commercialization of our products.

We are dependent on our information technology and telecommunications systems, and any failure of these systems could harm our business.

We depend on information technology, or IT, and telecommunications systems for significant aspects of our business. These IT and telecommunications systems support a variety of functions, including sample processing, tracking, quality control, customer service and support, billing, research and development activities, and various general and administrative activities. Failures or significant downtime of our IT or telecommunications systems could prevent us from processing samples, providing test results to physicians, billing payors, addressing patient or physician inquiries, conducting research and development activities and conducting general and administrative elements of our business. Any disruption or loss of IT or telecommunications systems on which critical aspects of our operations depend could have an adverse effect on our business, financial condition and results of operations.

Security breaches, loss of data and other disruptions could compromise sensitive information related to our business, prevent us from accessing critical information or expose us to liability, which could adversely affect our business and our reputation.

In the ordinary course of our business, we collect and store sensitive data, including legally protected patient health information, credit card information, personally identifiable information about our employees, intellectual property, and proprietary business information. We manage and maintain our applications and data utilizing on-site systems. These applications and data encompass a wide variety of business critical information including research and development information, commercial information and business and financial information.

The secure processing, storage, maintenance and transmission of this critical information is vital to our operations and business strategy, and we devote significant resources to protecting such information. Although we take measures to protect sensitive information from unauthorized access or disclosure, our information technology and infrastructure may be vulnerable to attacks by hackers, or viruses, breaches or interruptions due to employee error, malfeasance or other disruptions, or lapses in compliance with privacy and security mandates. Any such virus, breach or interruption could compromise our networks and the information stored there could be accessed by unauthorized parties, publicly disclosed, lost or stolen. We have measures in place that are designed to prevent, and if necessary to detect and respond to such security incidents and breaches of privacy and security mandates. While we have experienced unauthorized accesses to our information technology systems and infrastructure in the past, which may occur again in the future, our security measures have been able to detect, respond to and prevent any material adverse effect to our information systems and business operations from such breaches. However, in the future, any such access, disclosure or other loss of information could result in legal claims or proceedings, liability under laws that protect the privacy of personal information, such as HIPAA, government enforcement actions and regulatory penalties. Unauthorized access, loss or dissemination could also disrupt our operations, including our ability to process samples, provide test results, bill payors or patients, provide customer support services, conduct research and development activities, process and prepare company financial information, manage various general and administrative aspects of our business and may damage our reputation, any of which could adversely affect our business, financial condition and results of operations.

In May 2016, the European Union formally adopted the General Data Protection Regulation (GDPR), which applies to all EU member states from May 25, 2018 and replaced the EU Data Protection Directive. The regulation introduces stringent new data protection requirements in the European Union and substantial fines for breaches of the data protection rules. It has increased our responsibility and liability in relation to personal data that we process and we may be required to put in place additional mechanisms ensuring compliance with the new EU data protection rules. The GDPR is a complex law and the regulatory guidance is still evolving, including with respect to how the GDPR should be applied in the context of clinical studies or other transactions from which we may gain access to personal data. Furthermore, many of the countries within the European Union are still in the process of drafting supplementary data protection legislation in key fields where the GDPR allows for national variation, including the fields of clinical study and other health-related information. These variations in the law may raise our costs of compliance and result in greater legal risks.

If our current operating plan changes and we find that our existing capital resources will not meet our needs, we may find it necessary to raise additional funding, which may not be available.

We anticipate that our existing capital resources and expected net cash to be generated from sales of our molecular diagnostic tests will enable us to maintain our currently planned operations for the foreseeable future. However, we base this expectation on our current operating plan, which may change. We have incurred, and will continue to incur, significant costs in the discovery, development and marketing of current and prospective molecular diagnostic and companion diagnostic tests. Our ongoing efforts to develop tests and expand our business which may be through internally developed products, in licensing and mergers and acquisitions will require substantial cash resources. If, due to changes in our current operating plan, adequate funds are not available, we may be required to raise additional funds. Sources of potential additional capital resources may include, but are not limited to, public or private equity financings, establishing a credit facility, or selling convertible or non-convertible debt securities. This additional funding, if necessary, may not be available to us on reasonable terms, or at all. If we issue shares of stock or other securities to acquire new companies or technologies, the ownership interests of our existing stockholders may be significantly diluted.

Because of our potential long-term capital requirements, we may access the public or private equity or debt markets whenever conditions are favorable, even if we do not have an immediate need for additional capital at that time. Under SEC rules, we currently qualify as a well-known seasoned issuer, or WKSI, and can at any time file a registration statement registering securities to be sold to the public which would become effective upon filing. If additional funds are raised by issuing equity securities, existing shareholders may suffer significant dilution. Debt financing, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring debt, making capital expenditures or declaring dividends. If we raise additional funds through collaborations, strategic alliances and licensing arrangements with

third parties, we may have to relinquish valuable rights to our technologies or tests, or grant licenses on terms that are not favorable to us.

Our business involves environmental risks that may result in liability for us.

In connection with our research and development activities, we are subject to federal, state and local laws, rules, regulations and policies governing the use, generation, manufacture, storage, air emission, effluent discharge, handling and disposal of certain materials, biological specimens, chemicals and wastes. Although we believe that we have complied with the applicable laws, regulations and policies in all material respects and have not been required to correct any material noncompliance, we may be required to incur significant costs to comply with environmental and health and safety regulations in the future. Although we believe that our safety procedures for handling and disposing of controlled materials comply with the standards prescribed by state and federal regulations, accidental contamination or injury from these materials may occur. In the event of such an occurrence, we could be held liable for any damages that result and any such liability could exceed our resources.

Changes in health care policy could increase our costs, decrease our revenues and impact sales of and reimbursement for our tests.

In March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Affordability Reconciliation Act, or the ACA became law. This law substantially changed the way health care is financed by both governmental and private insurers, and significantly impacts our industry. The ACA contains a number of provisions that are expected to impact our business and operations, some of which in ways we cannot currently predict, including those governing enrollment in state and federal health care programs, reimbursement changes and fraud and abuse, which will impact existing state and federal health care programs and will result in the development of new programs. Since its enactment, there have been judicial and Congressional challenges to certain aspects of the ACA. Both Congress and President Trump have expressed their intention to repeal or repeal and replace the ACA, and as a result, certain sections of the ACA have not been fully implemented or were effectively repealed. The uncertainty around the future of the ACA, and in particular the impact to reimbursement levels and the number of insured individuals, may lead to uncertainty or delay in the purchasing decisions of our customers, which may in turn negatively impact our product sales. If there are not adequate reimbursement levels, our business and results of operations could be adversely affected.

In addition to the ACA, there will continue to be proposals by legislators at both the federal and state levels, regulators and private third-party payors to reduce costs while expanding individual healthcare benefits. Certain of these changes could impose additional limitations on the prices we will be able to charge for our tests or the amounts of reimbursement available for our tests from governmental agencies or private third-party payors.

We face risks associated with currency exchange rate fluctuations, which could adversely affect our operating results.

We receive a portion of our revenues and pay a portion of our expenses in currencies other than the United States dollar, such as the Euro, the Swiss franc, the British pound, the Australian dollar and the Canadian dollar. As a result, we are at risk for exchange rate fluctuations between such foreign currencies and the United States dollar, which could affect the results of our operations. If the U.S. dollar strengthens against foreign currencies, the translation of these foreign currency denominated transactions will result in decreased revenues and operating expenses. We may not be able to offset adverse foreign currency impact with increased revenues. We do not currently utilize hedging strategies to mitigate foreign currency risk and even if we were to implement hedging strategies to mitigate foreign currency risk, these strategies might not eliminate our exposure to foreign exchange rate fluctuations and would involve costs and risks of their own, such as ongoing management time and expertise, external costs to implement the strategies and potential accounting implications.

Risks Related to Commercialization of Our Tests, Our Services and Test Candidates

We may not be able to maintain revenue growth and profitability.

We may not be able to generate revenue growth or maintain existing revenue levels. Presently, our molecular diagnostic business operates profitably providing a cash contribution to our current funding and operational needs. We may not, however, be able to continue to operate our molecular diagnostic business on a profitable basis. Potential events or factors that may have a significant impact on our ability to sustain revenue growth and profitability for our molecular diagnostic business include the following:

- increased costs of reagents and other consumables required for molecular diagnostic testing;

- increased personnel and facility costs;
- our inability to hire competent, trained staff, including laboratory directors required to review and approve all reports we issue in our molecular diagnostic business, and sales personnel;
- our inability to obtain necessary equipment or reagents to perform molecular diagnostic testing;
- our inability to increase production capacity as demand increases;
- our inability to expand into new markets outside the United States;
- the efforts of third party payors to limit or decrease the amounts that they are willing to pay for our tests;
- increased licensing or royalty costs, and our ability to maintain and enforce the intellectual property rights underlying our tests and services;
- changes in intellectual propriety law applicable to our patents or enforcement in the United States and foreign countries;
- potential obsolescence of our tests;
- our inability to increase commercial acceptance of our molecular diagnostic tests;
- increased competition and loss of market share; and
- increased regulatory requirements.

Our international business exposes us to business, regulatory, political, operational, financial and economic risks associated with doing business outside of the United States.

As part of our business strategy, we have expanded into international markets. We have established sales offices in Germany, Switzerland, France, Spain, the United Kingdom, Italy, Canada and Australia; laboratory and production operations in Germany; and international headquarters in Switzerland. We may establish additional operations or acquire additional properties outside the United States in order to advance our international sales doing business internationally involves a number of risks, including:

- failure by us to obtain regulatory approvals or adequate reimbursement for the use of our tests in various countries;
- difficulty in staffing and managing foreign operations;
- managing multiple payor reimbursement and self-pay systems;
- logistics and regulations associated with shipping patient samples, including infrastructure conditions and transportation delays;
- limits in our ability to penetrate international markets if we are not able to process tests locally;
- financial risks, such as longer payment cycles, difficulty collecting accounts receivable and exposure to foreign currency exchange rate fluctuations;
- political and economic instability, including wars, terrorism, and political unrest, outbreak of disease, boycotts, curtailment of trade and other business restrictions;
- multiple, conflicting and changing laws and regulations such as tax laws, export and import restrictions, employment laws, data and privacy laws such as the EU General Data Protection Regulation (GDPR), regulatory requirements and other governmental approvals, permits and licenses; and
- regulatory and compliance risks that relate to maintaining accurate information and control over sales and distributors' activities that may fall within the purview of the U.S. Foreign Corrupt Practice Act, UK Bribery Act, anti-boycott laws and other anti-corruption laws.

Any of these factors could significantly harm our international operations and, consequently, our revenues and results of operations. In addition, any failure to comply with applicable legal and regulatory obligations could impact us in a variety of ways that include, but are not limited to, significant criminal, civil and administrative penalties, including imprisonment of individuals, fines and penalties, denial of export privileges, seizure of shipments, and restrictions on certain business activities. Also, the failure to comply with applicable legal and regulatory obligations could result in the disruption of our distribution and sales activities.

Our international operations could be affected by changes in laws, trade regulations, labor and employment regulations, and procedures and actions affecting approval, production, pricing, reimbursement and marketing of tests, as well as by inter-governmental disputes. Any of these changes could adversely affect our business.

Our success internationally will depend, in part, on our ability to develop and implement policies and strategies that are effective in anticipating and managing these and other risks in the countries in which we do business. Failure to manage these and other risks may have a material adverse effect on our operations in any particular country and on our business as a whole.

International data protection laws and regulations may restrict our activities and increase our costs.

International data protection laws and regulations may affect our collection, use, storage, and transfer of information obtained outside of the United States. In particular, the European Union’s General Data Protection Regulation, or GDPR, took effect in May 2018, and will require us to meet new and more stringent requirements regarding the handling of personal data about European Union residents. Failure to meet GDPR requirements could result in penalties of up to 4% of our worldwide revenue. The GDPR is a complex law and the regulatory guidance is still evolving. Furthermore, many of the countries within the European Union are still in the process of drafting supplementary data protection legislation in key fields where the GDPR allows for national variation, including the fields of clinical study and other health-related information. These variations in European data protection laws may raise our costs of compliance and result in greater legal risks. Failure to comply with data protection laws and regulations could result in government enforcement actions, which may involve civil and criminal penalties, private litigation and/or adverse publicity and could negatively affect our operating results and business. Claims that we have violated individuals’ privacy rights or breached our contractual obligations, even if we are not found liable, could be expensive and time-consuming to defend and could result in adverse publicity that could harm our business.

Foreign governments may impose reimbursement standards, which may adversely affect our future profitability.

We market our tests in foreign jurisdictions and as such may be subject to rules and regulations in those jurisdictions relating to our testing. In some foreign countries, including countries in the European Union, the reimbursement of diagnostic tests is subject to governmental control. In these countries, reimbursement negotiations with governmental authorities can take considerable time after the receipt of marketing approval for a test candidate. If reimbursement of our future tests is unavailable or limited in scope or amount, or if reimbursement rates are set at unsatisfactory levels, we may be unable to achieve or sustain profitability.

We may experience increased price competition and price erosion.

We may experience pricing pressures from managed care organizations and other private third-party payors in the future. Any declines in average selling prices of our products due to pricing pressures may have an adverse impact on our business, results of operations and financial condition.

Our pharmaceutical testing services customers may reduce the amount of testing they conduct through us.

If there is a change in the regulatory environment or intellectual property law, or our pharmaceutical testing services customers consolidate, our customers may divert resources from testing, resulting in a reduced demand for our laboratory testing services. Alternatively, customers may decide to perform their own laboratory testing services in-house.

We rely on a single laboratory facility to process each of our molecular diagnostic tests in the United States and Europe and a single laboratory facility to perform our pharmaceutical and clinical services. Failure to maintain the operations of these laboratories in compliance with applicable regulations would seriously harm our business.

We rely on a CLIA-certified and FDA approved laboratory facility in Salt Lake City, Utah to perform most of our molecular diagnostic tests; a CLIA-certified laboratory in South San Francisco, California to perform our VectraDA test; a single laboratory facility in Munich, Germany to perform our international molecular diagnostic tests; a single laboratory facility in Cologne, Germany to perform and produce our EndoPredict test kits; a CLIA-certified lab in Mason, Ohio to perform our GeneSight test; and a CLIA-certified laboratory facility in Austin, Texas to perform our pharmaceutical and clinical testing services. These facilities and certain pieces of laboratory equipment would be difficult to replace and may require significant replacement lead-time. In the event our clinical testing facilities were to lose their CLIA certification or other required certifications or licenses or were affected by a man-made or natural disaster, we would be unable to continue our molecular diagnostic and pharmaceutical and clinical services business at current levels to meet customer demands for a significant period

of time. Although we maintain insurance on these facilities, including business interruption insurance, it may not be adequate to protect us from all potential losses if these facilities were damaged or destroyed. In addition, any interruption in our molecular diagnostic or pharmaceutical and clinical services business would result in a loss of goodwill, including damage to our reputation. If our molecular diagnostic or pharmaceutical and clinical services business were interrupted, it would seriously harm our business.

We depend on a limited number of third parties for some of our supplies of equipment and reagents. If these supplies become unavailable, then we may not be able to successfully perform our research or operate our business on a timely basis or at all.

We currently rely on a small number of suppliers to provide our gene sequencing equipment, content enrichment equipment, multiplex protein analysis equipment, robots, and specialty reagents and laboratory supplies required in connection with our testing and research. We believe that currently there are limited alternative suppliers of these equipment, robots, and reagents. The equipment, robots, or the reagents may not remain available in commercial quantities at acceptable costs. If we are unable to obtain when needed additional or alternative equipment, robots, or an adequate supply of reagents or other ingredients at commercially reasonable rates, our ability to continue to identify genes and perform molecular diagnostic testing and pharmaceutical and clinical services would be adversely affected.

Our molecular diagnostic and companion diagnostic tests in development may never achieve significant commercial market acceptance.

We may not succeed in achieving significant commercial market acceptance of our diagnostic test and clinical service offerings that we have launched in recent years or are currently developing. Our ability to successfully develop and commercialize our current molecular diagnostic and companion diagnostic tests, as well as any future molecular diagnostic and companion diagnostic tests that we may develop, will depend on several factors, including:

- our ability to convince the medical community of the clinical utility of our tests and their potential advantages over existing tests;
- our ability to collaborate with biotechnology and pharmaceutical companies to develop and commercialize companion diagnostic tests for their therapeutic drugs and drug candidates;
- the agreement by third-party payors to reimburse our tests, the scope and extent of which will affect patients' willingness or ability to pay for our tests and will likely heavily influence physicians' decisions to recommend our tests; and
- the willingness of physicians to utilize our tests, which can be difficult to interpret. This difficulty is caused by the ability of our tests to predict only as to a probability, not certainty, that a tested individual will develop, have the disease, benefit from a particular therapy or has an aggressive form of the disease that the test is intended to predict.

These factors present obstacles to commercial acceptance of our tests, which we would have to spend substantial time and money to overcome, if we can do so at all. Our inability to successfully do so would harm our business.

If we do not compete effectively with scientific and commercial competitors, we may not be able to successfully commercialize our tests.

The clinical laboratory and genetics testing fields are intense and highly competitive. Tests that are developed are characterized by rapid technological change. Our competitors in the United States and abroad are numerous and include, among others, major diagnostic companies, reference laboratories, molecular diagnostic firms, universities and other research institutions. Some of our potential competitors have considerably greater financial, technical, marketing and other resources than we do, which may allow these competitors to discover important genes and determine their function before we do. We could be adversely affected if we do not discover genes, proteins or biomarkers and characterize their function, develop molecular diagnostic and pharmaceutical and clinical services based on these discoveries, obtain required regulatory and other approvals and launch these tests and their related services before our competitors. We also expect to encounter significant competition with respect to any molecular diagnostic and companion diagnostic tests that we may develop or commercialize. Those companies that bring to market new molecular diagnostic and companion tests before we do may achieve a significant competitive advantage in marketing and commercializing their tests. We may not be able to develop additional molecular diagnostic tests successfully and we or our licensors may not obtain or enforce patents covering these tests that provide protection against our competitors. Moreover, our competitors may succeed in developing molecular diagnostic and companion diagnostic tests that circumvent our technologies or tests. Furthermore, our competitors may succeed in developing technologies or tests that are more effective or

less costly than those developed by us or that would render our technologies or tests less competitive or obsolete. We expect competition to intensify in the fields in which we are involved as technical advances in these fields occur and become more widely known and changes in intellectual property laws generate challenges to our intellectual property position.

If our current research collaborators or scientific advisors terminate their relationships with us or develop relationships with a competitor, our ability to discover genes, proteins, and biomarkers, and to validate and commercialize molecular diagnostic and companion diagnostic tests could be adversely affected.

We have relationships with research collaborators at academic and other institutions who conduct research at our request. These research collaborators are not our employees. As a result, we have limited control over their activities and, except as otherwise required by our collaboration agreements, can expect only limited amounts of their time to be dedicated to our activities. Our ability to discover genes, proteins, and biomarkers involved in human disease and validate and commercialize molecular diagnostic and companion diagnostic tests will depend in part on the continuation of these collaborations. If any of these collaborations are terminated, we may not be able to enter into other acceptable collaborations. In addition, our existing collaborations may not be successful.

Our research collaborators and scientific advisors may have relationships with other commercial entities, some of which could compete with us. Our research collaborators and scientific advisors sign agreements which provide for the confidentiality of our proprietary information and the results of studies conducted at our request. We may not, however, be able to maintain the confidentiality of our technology and other confidential information related to all collaborations. The dissemination of our confidential information could have a material adverse effect on our business.

If we fail to retain our key personnel and hire, train and retain qualified employees and consultants, we may not be able to successfully continue our business.

Because of the specialized scientific nature of our business, we are highly dependent upon our ability to attract and retain qualified management, scientific and technical personnel. We are currently recruiting additional qualified management, scientific and technical personnel. Competition for such personnel is intense. Loss of the services of or failure to recruit additional key management, scientific and technical personnel would adversely affect our research and development programs and molecular diagnostic and pharmaceutical and clinical services business and may have a material adverse effect on our business as a whole.

Our agreements with our employees generally provide for employment that can be terminated by either party without cause at any time, subject to specified notice requirements. Further, the non-competition provision to which each employee is subject expires for certain key employees on the applicable date of termination of employment.

As we expand our commercial tests we may be required to incur significant costs and devote significant efforts to expand our existing tests sales and marketing capabilities.

Our sales and marketing experience and capabilities consist primarily of our sales force that markets our molecular diagnostic tests to oncologists, obstetricians, gynecologists, urologists, dermatopathologists and rheumatologists in the United States. We are currently expanding our sales efforts outside the United States, which will require us to hire additional personnel and engage in additional sales and marketing efforts. We have limited sales and marketing experience outside the United States. As we expand our business operations internationally, we expect to face a number of additional costs and risks, including the need to recruit a large number of additional experienced marketing and sales personnel.

We are currently subject to a purported securities class action lawsuit, the unfavorable outcome of which may have a material adverse effect on our financial condition, results of operations and cash flows.

On April 20, 2018, a purported securities class action lawsuit was filed against us and certain of our current and former executive officers alleging violations of the Securities Exchange Act of 1934, as amended, and Rule 10b-5 promulgated thereunder. This lawsuit is premised upon allegations that the defendants made false and misleading statements regarding our business, operational and compliance policies, specifically by allegedly failing to disclose that we were allegedly submitting false or otherwise improper claims for payment under Medicare and Medicaid for our hereditary cancer testing. While we intend to vigorously defend against this action, there is no assurance that we will be successful in the defense or that insurance will be available or adequate to fund any settlement or judgment or the litigation costs of the action. This action may divert management resources, we may incur substantial costs, and any unfavorable outcome may have a material adverse effect on our financial condition, results of operations and cash flows.

The recently passed comprehensive tax reform bill could adversely affect our business and financial condition.

On December 22, 2017, the Tax Cuts and Jobs Act, or the Tax Act, was enacted. The Tax Act makes broad and complex changes to the U.S. tax code, with many of its provisions effective for tax years beginning on or after January 1, 2018. The Tax Act, among other things, contains significant changes to corporate taxation, including a permanent reduction of the corporate income tax rate, a partial limitation on the deductibility of business interest expense, a limitation of the deduction for net operating loss carryforwards to 80% of current year taxable income, an indefinite NOL carryforward, immediate deductions for certain new investments instead of deductions for depreciation expense over time, the modification or repeal of many business deductions and credit, and puts into effect the migration from a “worldwide” system of taxation to a territorial system. We continue to examine the impact this legislation may have on our business. The overall impact of the Tax Act is uncertain and our business and financial condition could be adversely affected.

Risks Related to Our Intellectual Property

If we are not able to protect our proprietary technology, others could compete against us more directly, which would harm our business.

As of June 30, 2018, our patent portfolio included issued patents owned or licensed by us and numerous patent applications in the United States and other countries with claims protecting our intellectual property rights. Our commercial success will depend, in part, on our ability to obtain additional patents and licenses and protect our existing patent position, both in the United States and in other countries, for compositions, processes, methods and other inventions that we believe are patentable. Our ability to preserve our trade secrets, proprietary data bases and other intellectual property is also important to our long-term success. If our intellectual property is not adequately protected, competitors may be able to use our technologies and erode or negate any competitive advantage we may have, which could harm our business and ability to maintain profitability. Patents may also issue to third parties which could interfere with our ability to bring our molecular diagnostic tests to market. The laws of some foreign countries do not protect our proprietary rights to the same extent as U.S. laws, and we may encounter significant problems in protecting our proprietary rights in these countries.

The patent positions of diagnostic companies, including our patent position, are generally highly uncertain and involve complex legal and factual questions, and, therefore, any patents issued to us may be challenged, deemed unenforceable, invalidated or circumvented. We will be able to protect our proprietary rights from unauthorized use by third parties only to the extent that our proprietary technologies and any future tests are covered by valid and enforceable patents or are effectively maintained as trade secrets. Our patent applications may never issue as patents, and the claims of any issued patents may not afford meaningful protection for our technology or tests. In addition, any patents issued to us or our licensors may be challenged, and subsequently narrowed, invalidated or circumvented.

Where necessary, we may initiate litigation to enforce our patent or other intellectual property rights. Any such litigation may require us to spend a substantial amount of time and money and could distract management from our day-to-day operations. Moreover, there is no assurance that we will be successful in any such litigation.

The degree of future protection for our proprietary rights is uncertain, and we cannot ensure that:

- we or our licensors were the first to make the inventions covered by each of our patent applications;
- we or our licensors were the first to file patent applications for these inventions;
- others will not independently develop similar or alternative technologies or duplicate any of our technologies;
- any of our or our licensors’ patent applications will result in issued patents;
- any of our or our licensors’ patents will be valid or enforceable;
- any patents issued to us or our licensors and collaborators will provide a basis for commercially viable tests, will provide us with any competitive advantages or will not be challenged by third parties;
- we will develop additional proprietary technologies or tests that are patentable;
- the patents of others will not have an adverse effect on our business; or
- our patents or patents that we license from others will survive legal challenges, and remain valid and enforceable.

If a third party files a patent application with claims to subject matter we have invented, the Patent and Trademark Office (“PTO”) may declare interference between competing patent applications. If an interference is declared, we may not prevail in

the interference. If the other party prevails in the interference, we may be precluded from commercializing services or tests based on the invention or may be required to seek a license. A license may not be available to us on commercially acceptable terms, if at all.

We also rely upon unpatented proprietary technologies and databases. Although we require employees, consultants and collaborators to sign confidentiality agreements, we may not be able to adequately protect our rights in such unpatented proprietary technologies and databases, which could have a material adverse effect on our business. For example, others may independently develop substantially equivalent proprietary information or techniques or otherwise gain access to our proprietary technologies or disclose our technologies to our competitors.

If we were sued for patent infringement by third parties, we might incur significant costs and delays in test introduction.

Our tests may also conflict with patents that have been or may be granted to others. Our industry includes many organizations that have or are seeking to discern biomarkers and develop genomic, proteomic and other technologies. To the extent any patents are issued or have been issued to those organizations, the risk increases that the sale of our molecular diagnostic and companion diagnostic tests currently being marketed or under development may give rise to claims of patent infringement. Others may have filed and in the future are likely to file patent applications covering biomarkers that are similar or identical to our tests. Any of these patent applications may have priority over our patent applications and these entities or persons could bring legal proceedings against us seeking damages or seeking to enjoin us from testing or marketing our tests. Patent litigation is costly, and even if we prevail, the cost of such litigation could have a material adverse effect on us. If the other parties in any such actions are successful, in addition to any liability for damages, we could be required to cease the infringing activity or obtain a license. Any license required may not be available to us on commercially acceptable terms, if at all. Our failure to obtain a license to any technology that we may require to commercialize our tests could have a material adverse effect on our business. We believe that there may be significant litigation in the industry regarding patent and other intellectual property rights. If we become involved in this litigation, it could consume a substantial portion of our managerial and financial resources.

We may be unable to adequately prevent disclosure of trade secrets, proprietary databases, and other proprietary information.

We rely on trade secrets to protect our proprietary technologies and databases, especially where we do not believe patent protection is appropriate or obtainable. However, trade secrets are difficult to protect. We rely in part on confidentiality agreements with our employees, consultants, outside scientific collaborators, sponsored researchers and others to protect our trade secrets and other proprietary information. These agreements may not effectively prevent disclosure of confidential information and may not provide an adequate remedy if unauthorized disclosure of confidential information occurs. In addition, others may independently discover our trade secrets and proprietary information. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and failure to obtain or maintain trade secret protection could adversely affect our competitive position.

If we fail to comply with our obligations under license or technology agreements with third parties, we could lose license rights that are critical to our business.

We license intellectual property that is important to our business, including licenses underlying the technology in our molecular diagnostic and pharmaceutical and clinical services, and in the future we may enter into additional agreements that provide us with licenses to valuable intellectual property or technology. These licenses impose various royalty payments, milestones, and other obligations on us. If we fail to comply with any of these obligations, the licensor may have the right to terminate the license. Termination by the licensor would cause us to lose valuable rights, and could prevent us from distributing our current tests, or inhibit our ability to commercialize future test candidates. Our business would suffer if any current or future licenses terminate, if the licensors fail to abide by the terms of the license, if the licensors fail to prevent infringement by third parties, if the licensed patents or other rights are found to be invalid or unenforceable, or if we are unable to enter into necessary licenses on acceptable terms.

We may be subject to claims that we or our employees have wrongfully used or disclosed alleged trade secrets of their former employers.

As is commonplace in our industry, we employ individuals who were previously employed at other biotechnology or pharmaceutical companies, including our potential competitors. Although no claims against us are currently pending, we may be subject to claims that these employees have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management.

Risks Related to Government Regulation

If we fail to comply with the complex federal, state, local and foreign laws and regulations that apply to our business, we could suffer severe consequences that could materially and adversely affect our operating results and financial condition.

Our operations are subject to extensive federal, state, local and foreign laws and regulations, all of which are subject to change. These laws and regulations currently include, among other things:

- CLIA, which requires that laboratories obtain certification from the federal government, and state licensure laws;
- FDA laws and regulations;
- HIPAA, which imposes comprehensive federal standards with respect to the privacy and security of protected health information and requirements for the use of certain standardized electronic transactions; amendments to HIPAA under HITECH, which strengthen and expand HIPAA privacy and security compliance requirements, increase penalties for violators, extend enforcement authority to state attorneys general and impose requirements for breach notification;
- state laws regulating genetic testing and protecting the privacy of genetic test results, as well as state laws protecting the privacy and security of health information and personal data and mandating reporting of breaches to affected individuals and state regulators;
- the federal anti-kickback law, or the Anti-Kickback Statute, which prohibits knowingly and willfully offering, paying, soliciting, receiving, or providing remuneration, directly or indirectly, in exchange for or to induce either the referral of an individual, or the furnishing, arranging for, or recommending of an item or service that is reimbursable, in whole or in part, by a federal health care program;
- the federal False Claims Act, which imposes liability on any person or entity that, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment to the federal government;
- the federal Civil Monetary Penalties Law, which prohibits, among other things, the offering or transfer of remuneration to a Medicare or state health care program beneficiary if the person knows or should know it is likely to influence the beneficiary's selection of a particular provider, practitioner, or supplier of services reimbursable by Medicare or a state health care program, unless an exception applies;
- other federal and state fraud and abuse laws, such as anti-kickback laws, prohibitions on self-referral, and false claims acts, which may extend to services reimbursable by any third-party payor, including private insurers;
- the federal Physician Payments Sunshine Act, which requires medical device manufactures to track and report to the federal government certain payments and other transfers of value made to physicians and teaching hospitals and ownership or investment interests held by physicians and their immediate family members;
- Section 216 of the federal Protecting Access to Medicare Act of 2014 ("PAMA"), which requires applicable laboratories to report private payer data in a timely and accurate manner beginning in 2017 and every three years thereafter (and in some cases annually);
- state laws that impose reporting and other compliance-related requirements; and
- similar foreign laws and regulations that apply to us in the countries in which we operate.

These laws and regulations are complex and are subject to interpretation by the courts and by government agencies. Our failure to comply could lead to civil or criminal penalties, exclusion from participation in state and federal health care programs, or prohibitions or restrictions on our laboratories' ability to provide or receive payment for our services. We believe that we are in material compliance with all statutory and regulatory requirements, but there is a risk that one or more government agencies could take a contrary position, or that a private party could file suit under the qui tam provisions of the federal False Claims Act or a similar state law. Such occurrences, regardless of their outcome, could damage our reputation and adversely affect important business relationships with third parties, including managed care organizations, and other private third-party payors.

Failure to comply with government laws and regulations related to submission of claims for our services could result in significant monetary damages and penalties and exclusion from the Medicare and Medicaid programs and corresponding foreign reimbursement programs.

We are subject to laws and regulations governing the submission of claims for payment for our services, such as those relating to: coverage of our services under Medicare, Medicaid and other state, federal and foreign health care programs; the amounts that we may bill for our services; and the party to which we must submit claims. Our failure to comply with applicable laws and regulations could result in our inability to receive payment for our services or in attempts by state and federal healthcare programs, such as Medicare and Medicaid, to recover payments already made. Submission of claims in violation of these laws and regulations can result in recoupment of payments already received, substantial civil monetary penalties, and exclusion from state and federal health care programs, and can subject us to liability under the federal False Claims Act and similar laws. The failure to report and return an overpayment to the Medicare or Medicaid program within 60 days of identifying its existence can give rise to liability under the False Claims Act. Further, a government agency could attempt to hold us liable for causing the improper submission of claims by another entity for services that we performed if we were found to have knowingly participated in the arrangement at issue.

We are currently subject to government investigations, the unfavorable outcome of which may have a material adverse effect on our financial condition, results of operations and cash flows.

In February 2018, we received a Subpoena from the Department of Health and Human Services, Office of Inspector General, in connection with an investigation into possible false or otherwise improper claims submitted for payment under Medicare and Medicaid. The Subpoena requested that we produce documents relating primarily to our billing to government-funded healthcare programs for our hereditary cancer testing. The time period covered by the Subpoena is January 1, 2014 through the date of issuance of the Subpoena. We are cooperating with the Government's request and are in the process of responding to the Subpoena. We are unable to predict what action, if any, might be taken in the future by the Government or any other regulatory authority as a result of the matters related to this investigation.

In June 2016, our wholly-owned subsidiary, Crescendo Bioscience, Inc. ("CBI"), received a Subpoena from the Department of Health and Human Services, Office of Inspector General, requesting that CBI produce documents relating to a designated unrelated company, other third party entities, and healthcare providers who received payment from CBI for the collection and processing of blood specimens for testing. In connection with this investigation, in December 2017, the Government requested additional documents. CBI is providing the documents requested and continues to cooperate with the Government's requests. We are unable to predict what action, if any, might be taken in the future by the Government or any other regulatory authority as a result of the matters related to this investigation.

While no claims have been made against us with respect to these investigations, these investigations may divert management resources, we may incur substantial costs, and any unfavorable outcome may have a material adverse effect on our financial condition, results or operations and cash flows.

Our business could be harmed by the loss, suspension, or other restriction on a license, certification, or accreditation, or by the imposition of a fine or penalties, under CLIA, its implementing regulations, or other state, federal and foreign laws and regulations affecting licensure or certification, or by future changes in these laws or regulations.

The diagnostic testing industry is subject to extensive laws and regulations, many of which have not been interpreted by the courts. CLIA requires virtually all laboratories to be certified by the federal government and mandates compliance with various operational, personnel, facilities administration, quality and proficiency testing requirements intended to ensure that testing services are accurate, reliable and timely. CLIA certification is also a prerequisite to be eligible to bill state and federal health care programs, as well as many private third-party payors, for laboratory testing services. As a condition of CLIA certification, each of our laboratories is subject to survey and inspection every other year, in addition to being subject to additional random inspections. The biennial survey is conducted by CMS; a CMS agent (typically a state agency); or, if the laboratory holds a CLIA certificate of accreditation, a CMS-approved accreditation organization. Sanctions for failure to comply with CLIA

requirements, including proficiency testing violations, may include suspension, revocation, or limitation of a laboratory's CLIA certificate, which is necessary to conduct business, as well as the imposition of significant fines or criminal penalties. In addition, we are subject to regulation under state laws and regulations governing laboratory licensure. Some states have enacted state licensure laws that are more stringent than CLIA. We are also subject to laws and regulations governing our reference laboratory in Germany. Changes in state or foreign licensure laws that affect our ability to offer and provide diagnostic services across state or foreign country lines could materially and adversely affect our business. In addition, state and foreign requirements for laboratory certification may be costly or difficult to meet and could affect our ability to receive specimens from certain states or foreign countries.

Any sanction imposed under CLIA, its implementing regulations, or state or foreign laws or regulations governing licensure, or our failure to renew a CLIA certificate, a state or foreign license, or accreditation, could have a material adverse effect on our business. If the CLIA certificate of any one of our laboratories is revoked, CMS could seek revocation of the CLIA certificates of our other laboratories based on their common ownership or operation, even though they are separately certified.

Changes in the way that the FDA regulates tests performed by laboratories like ours could result in delay or additional expense in offering our tests and tests that we may develop in the future.

Historically, the FDA has exercised enforcement discretion with respect to most LDTs and has not required laboratories that furnish LDTs to comply with the agency's requirements for medical devices (e.g., establishment registration, device listing, quality systems regulations, premarket clearance or premarket approval, and post-market controls). In recent years, however, the FDA publicly announced its intention to regulate certain LDTs and issued two draft guidance documents that set forth a proposed phased-in risk-based regulatory framework that would apply varying levels of FDA oversight to LDTs. However, these guidance documents were withdrawn at the end of the Obama administration and replaced by an informal discussion paper reflecting some of the feedback that FDA had received on LDT regulation. The FDA acknowledged that the discussion paper in January 2017 that the FDA stated does not represent the formal position of the FDA and is not enforceable. Nevertheless, the FDA wanted to share its synthesis of the feedback that it had received in the hope that it might advance public discussion on future LDT oversight. Notwithstanding the discussion paper, the FDA continues to exercise enforcement discretion and may decide to regulate certain LDTs on a case-by-case basis at any time, which could result in delay or additional expense in offering our tests and tests that we may develop in the future.

Companion and complementary diagnostic tests require FDA approval and we may not be able to secure such approval in a timely manner or at all.

Our companion and complementary diagnostic products, marketing, sales and development activities and manufacturing processes are subject to extensive and rigorous regulation by the FDA pursuant to the Federal Food, Drug, and Cosmetic Act (FDC Act), by comparable agencies in foreign countries, and by other regulatory agencies and governing bodies. Under the FDC Act, companion diagnostics must receive FDA clearance or approval before they can be commercially marketed in the U.S. The process of obtaining marketing approval or clearance from the FDA or by comparable agencies in foreign countries for new products could:

- take a significant period of time;
- require the expenditure of substantial resources;
- involve rigorous pre-clinical testing, as well as increased post-market surveillance;
- require changes to products; and
- result in limitations on the indicated uses of products.

Although we obtained FDA approval for our BRACAnalysis CDx test, which is used as a companion diagnostic to identify ovarian cancer patients who may benefit from AstraZeneca's PARP inhibitor Lynparza™ (olaparib) and as a complementary diagnostic in ovarian cancer patients associated with enhanced progression-free survival (PFS) from Tesaro's PARP inhibitor Zejula™ (niraparib) maintenance therapy, we cannot predict whether or when we will be able to obtain FDA approval for other companion diagnostics that we are developing.

If the government and third-party payors fail to provide coverage and adequate payment for our tests and future tests, if any, our revenue and prospects for profitability will be harmed.

In both domestic and foreign markets, sales of our molecular diagnostic tests or any future diagnostic tests will depend in large part, upon the availability of reimbursement from third-party payors. Such third-party payors include state and federal health

care programs such as Medicare, managed care providers, private health insurers and other organizations. These third-party payors are increasingly attempting to contain healthcare costs by demanding price discounts or rebates and limiting both coverage on which diagnostic tests they will pay for and the amounts that they will pay for new molecular diagnostic tests. We have recently experienced price reductions from CMS for some of our products and may experience future price reductions from managed care organizations and other third-party payors. The fact that a diagnostic test has been approved for reimbursement in the past, for any particular indication or in any particular jurisdiction, does not guarantee that such a diagnostic test will remain approved for reimbursement or that similar or additional diagnostic tests will be approved in the future. Moreover, there can be no assurance that any new tests we launch, such as myRisk Hereditary Cancer, myPath Melanoma and myPlan Lung Cancer, will be reimbursed at rates that are comparable to the rates that we historically obtained for our existing product portfolio. As a result, third-party payors may not cover or provide adequate payment for our current or future molecular diagnostic tests. Adequate third-party reimbursement might not be available to enable us to maintain price levels sufficient to realize an appropriate return on investment in product development. Further, beginning in 2018 under PAMA, Medicare reimbursement for any given diagnostic test will be based on the weighted-median of the payments made by private payors for such test, rendering private payor payment levels even more significant. As a result, future Medicare payments may fluctuate more often and become subject to the willingness of private payors to recognize the value of diagnostic tests generally and any given test individually.

U.S. and foreign governments continue to propose and pass legislation designed to reduce the cost of health care. For example, in some foreign markets, the government controls the pricing of many health care products. We expect that there will continue to be federal and state proposals to implement governmental controls or impose health care requirements. In addition, the Medicare program and increasing emphasis on managed care in the United States will continue to put pressure on product pricing. Cost control initiatives could decrease the price that we would receive for any tests in the future, which would limit our revenue and profitability.

Our business could be adversely impacted by our failure or the failure of physicians to comply with the ICD-10-CM Code Set.

CMS adopted a new coding set for diagnoses, commonly known as ICD-10-CM, which significantly expanded the previous coding set. Compliance with ICD-10-CM is required for all claims with dates of service on or after October 1, 2015. We believe we have fully implemented ICD-10-CM, however, our failure to implement and apply the new code set could adversely impact our business. In addition, if physicians fail to provide appropriate codes for desired tests, we may not be reimbursed for tests we perform.

Risks Related to Our Common Stock

We recently identified a material weakness in our internal control over financial reporting, and our business and stock price may be adversely affected if our internal control over financial reporting is not effective

Under Section 404 of the Sarbanes-Oxley Act of 2002 and rules promulgated by the SEC, companies are required to conduct a comprehensive evaluation of their internal control over financial reporting. As part of this process, we are required to document and test our internal control over financial reporting; management is required to assess and issue a report concerning our internal control over financial reporting; and our independent registered public accounting firm is required to attest to the effectiveness of our internal control over financial reporting. Our internal control over financial reporting may not prevent or detect misstatements because of its inherent limitations, including the possibility of human error, the circumvention or overriding of controls, or fraud. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be prevented or detected timely. Even effective internal controls over financial reporting can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements.

During the financial close for fiscal year 2018 we identified a material weakness in our internal controls over financial reporting related to insufficient controls to ensure the timely recognition of sales allowance adjustments. A more complete description of this material weakness is included in Item 9A, "Controls and Procedures" in this Form 10-K.

The existence of a material weakness could result in errors in our financial statements that could result in a restatement of financial statements, which could cause us to fail to meet our reporting obligations, lead to a loss of investor confidence and have a negative impact on the trading price of our common stock.

Our stock price is highly volatile, and our stock may lose all or a significant part of its value.

The market prices for securities of molecular diagnostic companies have been volatile. This volatility has significantly affected the market prices for these securities for reasons frequently unrelated to the operating performance of the specific companies. These broad market fluctuations may adversely affect the market price of our common stock. The market price for our common stock has fluctuated significantly since public trading commenced in October 1995, and it is likely that the market price will continue to fluctuate in the future. In the two years ended June 30, 2018, our stock price has ranged from \$15.15 per share to \$41.57 per share. In addition, the stock market in general has experienced extreme price and volume fluctuations. Events or factors that may have a significant impact on our business and on the market price of our common stock include the following:

- failure of any of our recently launched tests and any new test candidates to achieve commercial success;
- failure to sustain revenue growth or margins in our molecular diagnostic business;
- changes in the structure of healthcare payment systems and changes in the governmental or private insurers reimbursement levels for our molecular diagnostic tests;
- introduction of new commercial tests or technological innovations by competitors;
- termination of the licenses underlying our molecular diagnostic and pharmaceutical and clinical services;
- delays or other problems with operating our laboratory facilities;
- failure of any of our research and development programs;
- changes in intellectual property laws of our patents or enforcement in the United States and foreign countries;
- developments or disputes concerning patents or other proprietary rights involving us directly or otherwise affecting the industry as a whole;
- missing or changing the financial guidance we provide;
- changes in estimates or recommendations by securities analysts relating to our common stock or the securities of our competitors;
- changes in the governmental regulatory approved process for our existing and new tests;
- failure to meet estimates or recommendations by securities analysts that cover our common stock;
- public concern over our approved tests and any test candidates;
- litigation;
- government and regulatory investigations;
- future sales or anticipated sales of our common stock by us or our stockholders;
- the timing and amount of repurchases of our common stock;
- general market conditions;
- seasonal slowness in sales, particularly in the quarters ending September 30 and March 31, the effects of which may be difficult to understand during periods of growth;
- celebrity publicity;
- economic, healthcare and diagnostic trends, disasters or crises and other external factors; and
- period-to-period fluctuations in our financial results.

These and other external factors may cause the market price and demand for our common stock to fluctuate substantially, which may limit or prevent investors from readily selling their shares of common stock and may otherwise negatively affect the liquidity of our common stock. In addition, securities class action litigation against companies has been on the rise. If any of our

stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit regardless of the outcome. Such a lawsuit could also divert the time and attention of our management.

Anti-takeover provisions of Delaware law, provisions in our charter and bylaws and re-adoption of our stockholders' rights plan, or poison pill, could make a third-party acquisition of us difficult.

Because we are a Delaware corporation, the anti-takeover provisions of Delaware law could make it more difficult for a third party to acquire control of us, even if the change in control would be beneficial to stockholders. We are subject to the provisions of Section 203 of the General Corporation Law of Delaware, which prohibits us from engaging in certain business combinations, unless the business combination is approved in a prescribed manner. In addition, our restated certificate of incorporation and restated bylaws also contain certain provisions that may make a third-party acquisition of us difficult, including:

- a classified board of directors, with three classes of directors each serving a staggered three-year term;
- the ability of the board of directors to issue preferred stock;
- a 70% super-majority shareholder vote to amend our bylaws and certain provisions of our certificate of incorporation; and
- the inability of our stockholders to call a special meeting or act by written consent.

In the past, we implemented a stockholders' rights plan, also called a poison pill, which could make it uneconomical for a third party to acquire our company on a hostile basis. Although the plan expired in July 2011, our Board of Directors could adopt a new plan at any time. The provisions in a stockholders' rights plan, as well as Section 203, may discourage certain types of transactions in which our stockholders might otherwise receive a premium for their shares over then current market price, and may limit the ability of our stockholders to approve transactions that they think may be in their best interests.

Item 1B. UNRESOLVED STAFF COMMENTS

None.

Item 2. PROPERTIES

Our corporate headquarters and facilities are located in Salt Lake City, Utah. We currently lease a total of 307,000 square feet of building space in Salt Lake City dedicated to research and development, administration and our laboratory that has received federal certification under CLIA. Activities related to our oncology, urology, dermatology and women's health molecular diagnostic business are performed at this location. The leases on our existing Salt Lake City facilities have terms of fifteen years, expiring from 2022 through 2027, and provide for renewal options for up to ten additional years.

We also lease approximately 36,000 square feet in Austin, Texas under a lease that expires in June 2020. This space is dedicated to administration, research and development and the CLIA-certified laboratory. Activities related to our pharmaceutical and clinical services are performed at this location.

In addition, we lease approximately 54,000 square feet in South San Francisco, California under a lease that expires in February 2021. This space is dedicated to administration, research and development and the CLIA-certified laboratory for our Crescendo subsidiary. Activities related to our autoimmune molecular diagnostic business are performed at this location.

We also lease approximately 3,600 square feet in Munich, Germany under a lease expiring in March 2019. This space is used as a laboratory for our international molecular diagnostic businesses.

We also lease approximately 5,000 square feet in Zurich, Switzerland that expires in September 2021. This space is used for the administration of our international operations. We also maintain lease agreements for our administrative offices in Paris, France; Milan, Italy; London, United Kingdom; Canada and Australia.

We also have a lease on an approximately 7,500 square foot facility with laboratory, production and office space in Cologne, Germany expiring in December 2022.

We also have 20 buildings comprising 127,000 square feet in Herrsching, Germany. Activities related to our pharmaceutical and clinical services are performed at this location.

We also lease 2 spaces in Mason, OH and one in Toronto, ON Canada with a total square footage of approximately 33,700 expiring in November 2018 and August 2024.

We believe that our existing facilities and equipment are well maintained and in good working condition. We believe our current facilities and those planned will provide adequate capacity for at least the next two years. We continue to make investments in capital equipment as needed to meet the anticipated demand for our molecular diagnostic tests and our pharmaceutical and clinical services.

Item 3. LEGAL PROCEEDINGS

Investigations of the Department of Health and Human Services, Office of Inspector General

In February 2018, we received a Subpoena from the Department of Health and Human Services, Office of Inspector General, in connection with an investigation into possible false or otherwise improper claims submitted for payment under Medicare and Medicaid. The Subpoena requested that we produce documents relating primarily to our billing to government-funded healthcare programs for our hereditary cancer testing. The time period covered by the Subpoena is January 1, 2014 through the date of issuance of the Subpoena. We are cooperating with the Government's request and are in the process of responding to the Subpoena. We are unable to predict what action, if any, might be taken in the future by the Government or any other regulatory authority as a result of the matters related to this investigation. No claims have been made against us.

In June 2016, our wholly-owned subsidiary, Crescendo Bioscience, Inc. ("CBI"), received a Subpoena from the Department of Health and Human Services, Office of Inspector General, requesting that CBI produce documents relating to a designated unrelated company, other third party entities, and healthcare providers who received payment from CBI for the collection and processing of blood specimens for testing. In connection with this investigation, in December 2017, the Government requested additional documents. CBI is providing the documents requested and continues to cooperate with the Government's requests. CBI is unable to predict what action, if any, might be taken in the future by the Government or any other regulatory authority as a result of the matters related to this investigation. No claims have been made against CBI.

Purported Securities Class Action

On April 20, 2018, Matthew Kessman, individually and on behalf of all others similarly situated, filed a purported class action complaint in the United States District Court, District of Utah, No. 2:18-cv-0336-DAK-EJF, against us, our President and Chief Executive Officer, Mark C. Capone, our former President and Chief Executive Officer, Peter D. Meldrum, our Executive Vice President and Chief Financial Officer, R. Bryan Riggsbee, and our former Chief Financial Officer, James S. Evans. This action is premised upon allegations that the defendants made false and misleading statements regarding our business, operational and compliance policies, specifically by allegedly failing to disclose that the Company was allegedly submitting false or otherwise improper claims for payment under Medicare and Medicaid for our hereditary cancer testing. The plaintiff seeks certification as the purported class representative and the payment of damages allegedly sustained by plaintiff and the purported class by reason of the allegations set forth in the complaint, plus interest, and legal and other costs and fees. We intend to vigorously defend against this action.

Other than as set forth above, we are not a party to any legal proceedings that we believe will have a material impact on our business, financial position or results of operations.

Item 4. MINE SAFETY DISCLOSURES

None.

Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

Our common stock is traded on The NASDAQ Global Select Market under the symbol "MYGN." The following table sets forth the high and low sales prices for our common stock, as reported by The NASDAQ Global Select Market for the last two fiscal years:

		High	Low
Fiscal Year Ended June 30, 2018			
Fourth Quarter	\$	40.72	\$ 27.27
Third Quarter	\$	41.57	\$ 28.51
Second Quarter	\$	37.30	\$ 27.23
First Quarter	\$	36.49	\$ 23.28
Fiscal Year Ended June 30, 2017			
Fourth Quarter	\$	26.99	\$ 17.50
Third Quarter	\$	19.90	\$ 15.15
Second Quarter	\$	21.53	\$ 15.86
First Quarter	\$	32.97	\$ 19.10

Stockholders

As of August 20, 2018, there were approximately 216 stockholders of record of our common stock and, according to our estimates, approximately 37,426 beneficial owners of our common stock.

Equity Compensation Plan Information

We incorporate information regarding the securities authorized for issuance under our equity compensation plans into this section by reference from the section entitled "Equity Compensation -- Equity Compensation Plan Information" to be included in the proxy statement for our 2018 Annual Meeting of Stockholders.

Unregistered Sales of Securities

None.

Issuer Purchases of Equity Securities

In June 2016, we announced that our board of directors had authorized us to repurchase an additional \$200 million of our outstanding common stock increasing the cumulative share repurchase authorization since we first authorized the program in May 2010 to \$1.4 billion. In connection with our most recent stock repurchase authorization, we have been authorized to complete the repurchase through open market transactions or through an accelerated share repurchase program, in each case to be executed at management's discretion based on market conditions. As of the date of this report, we have not entered into an accelerated share repurchase agreement under our most recent stock repurchase program. The repurchase program may be suspended or discontinued at any time without prior notice. The transactions occurred in open market purchases and pursuant to a trading plan under Rule 10b5-1.

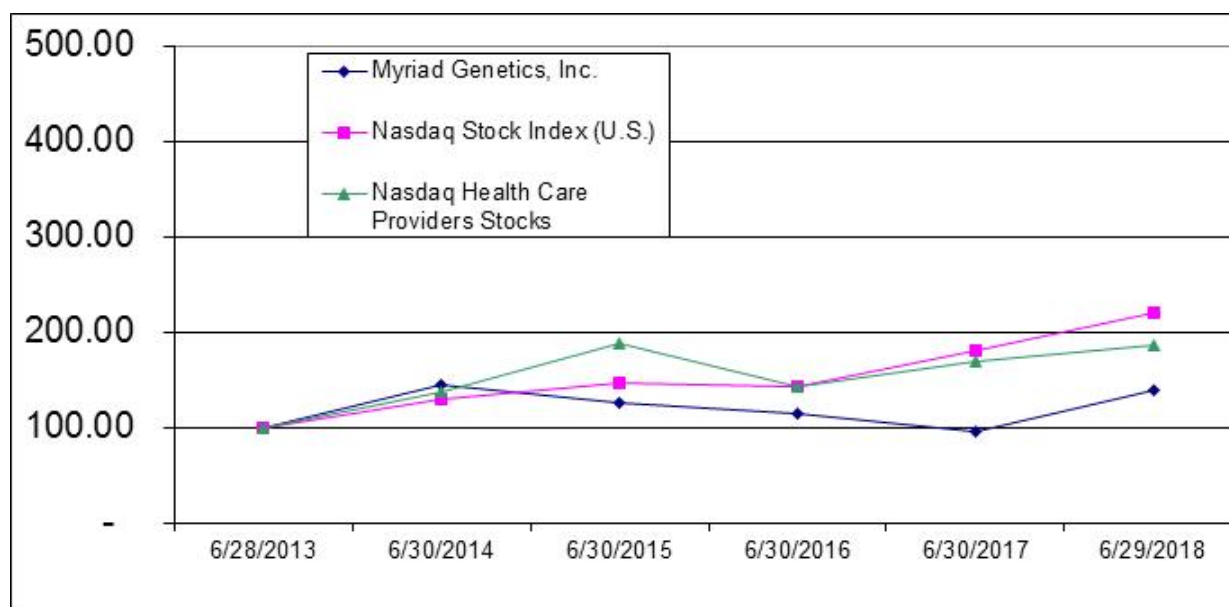
The details of the activity under our stock repurchase programs during the fiscal quarter ended June 30, 2018, were as follows:

Issuer Purchases of Equity Securities
(in millions, except per share data)

Period	(a) Total Number of Shares Purchased	(b) Average Price Paid per Share	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	(d) Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
April 1, 2018 to April 30, 2018	-	\$ -	-	160.7
May 1, 2018 to May 31, 2018	-	\$ -	-	160.7
June 1, 2018 to June 30, 2018	-	\$ -	-	160.7
Total	-		-	\$ 160.7

Stock Performance Graph

The graph set forth below compares the annual percentage change in our cumulative total stockholder return on our common stock during a period commencing on June 28, 2013 and ending on June 29, 2018 (as measured by dividing (A) the difference between our share price at the end and the beginning of the measurement period; by (B) our share price at the beginning of the measurement period) with the cumulative total return of The NASDAQ Stock Market, Inc. and the NASDAQ Health Care Providers Stock Index during such period. We have not paid any cash dividends on our common stock, and we do not include cash dividends in the representation of our performance. The price of a share of common stock is based upon the closing price per share as quoted on The NASDAQ Global Select Market on the last trading day of the year shown. The graph lines merely connect year-end values and do not reflect fluctuations between those dates. The comparison assumes \$100 was invested on June 28, 2013 in our common stock and in each of the foregoing indices. The comparisons shown in the graph below are based upon historical data. We caution that the stock price performance shown in the graph below is not necessarily indicative of, nor is it intended to forecast, the potential future performance of our common stock.



	6/28/2013	6/30/2014	6/30/2015	6/30/2016	6/30/2017	6/30/2018
Myriad Genetics, Inc.	100.00	144.85	126.50	113.80	96.17	139.08
NASDAQ Stock Index (U.S.)	100.00	129.53	146.53	142.30	180.43	168.65
NASDAQ Health Care Providers Stocks	100.00	138.05	187.76	142.65	168.65	186.90

Note: Information used on the graph was obtained from the CRSP Total Return Indexes, a source believed to be reliable, but we are not responsible for any errors or omission in such information.

The performance graph shall not be deemed to be incorporated by reference by means of any general statement incorporating by reference this Form 10-K into any filing under the Securities Act of 1933, as amended or the Securities Exchange Act of 1934, as amended, except to the extent that we specifically incorporate such information by reference, and shall not otherwise be deemed filed under such acts.

Item 6. SELECTED CONSOLIDATED FINANCIAL DATA

The following table sets forth our selected consolidated financial data and has been derived from our audited consolidated financial statements. Consolidated balance sheets as of June 30, 2018 and 2017, as well as consolidated statements of operations for the years ended June 30, 2018, 2017 and 2016 and the reports thereon are included elsewhere in this Annual Report on Form 10-K. The information below should be read in conjunction with our audited consolidated financial statements (and notes thereon) and "Management's Discussion and Analysis of Financial Condition and Results of Operations," included in Item 7. As described in Note 2, "Revisions of Previously-Issued Financial Statements" of the Notes to the Consolidated Financial Statements included in Part II, ITEM 8 of this Report, amounts presented for 2018 and prior periods reflect revisions to correct certain immaterial errors related to sales allowance.

In millions, except per share amounts

Consolidated Statement of Operations Data:

	Years Ended June 30,				
	2018	2017	2016	2015	2014
Molecular diagnostic testing	\$ 719.3	\$ 720.6	\$ 692.4	\$ 694.9	\$ 748.2
Pharmaceutical and clinical services	53.3	49.3	48.1	27.6	30.0
Total Revenue	772.6	769.9	740.5	722.5	778.2
Costs and expenses:					
Cost of molecular diagnostic testing	148.7	145.2	132.8	132.8	96.1
Cost of pharmaceutical and clinical services	28.5	26.0	24.5	14.6	13.1
Research and development expense	70.8	74.4	70.6	75.5	67.5
Change in the fair value of contingent consideration	(61.2)	(0.8)	-	-	-
Selling, general and administrative expense	467.1	476.4	359.2	366.0	327.1
Total costs and expenses	653.9	721.2	587.1	588.9	503.8
Operating income	118.7	48.7	153.4	133.6	274.4
Other income (expense):					
Interest income	1.8	1.2	0.9	0.4	5.4
Interest expense	(3.2)	(6.0)	(0.3)	(0.2)	-
Other	(0.4)	(3.0)	2.0	0.5	(2.0)
Total other income (expense)	(1.8)	(7.8)	2.6	0.7	3.4
Income before income taxes	116.9	40.9	156.0	134.3	277.8
Income tax provision	(14.0)	20.6	38.8	54.5	101.6
Net income	130.9	20.3	117.2	79.8	176.2
Net loss attributable to non-controlling interest	(0.2)	(0.2)	-	-	-
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 131.1	\$ 20.5	\$ 117.2	\$ 79.8	\$ 176.2
Earnings per basic share:					
Basic	\$ 1.89	\$ 0.30	\$ 1.67	\$ 1.12	\$ 2.33
Diluted	\$ 1.82	\$ 0.30	\$ 1.60	\$ 1.07	\$ 2.25
Weighted average shares outstanding:					
Basic	69.4	68.3	70.0	71.3	75.7
Diluted	72.0	68.8	73.4	74.5	78.2

	As of June 30,				
	2018	2017	2016	2015	2014
Cash, cash equivalents and marketable investment securities	\$ 211.3	\$ 199.2	\$ 238.9	\$ 185.4	\$ 270.5
Working capital	224.2	84.2	229.8	214.3	241.8
Total assets	1,174.1	1,208.9	867.2	765.6	823.8
Stockholders' equity	964.9	768.0	739.6	661.7	719.0

The following discussion and analysis should be read in conjunction with Part II, ITEM 6 of this Report and the audited Consolidated Financial Statements and accompanying notes thereto included elsewhere in this Report. In addition, certain prior period amounts have been revised to correct for errors related to those prior periods. Refer to Note 2, Revisions of Previously-Issued Financial Statements, of the Notes to the Consolidated Financial Statements included in Part II, ITEM 8 of this Report. Unless otherwise noted, all of the financial information in this Report is consolidated financial information for the Company.

Overview

Our consolidated revenues consist primarily of sales of molecular diagnostic tests and pharmaceutical and clinical services through our wholly-owned subsidiaries. During the year ended June 30, 2018, we reported total revenues of \$772.6 million, net income attributable to Myriad Genetics, Inc. stockholders of \$131.1 million and diluted earnings per share of \$1.82 that included income tax benefit of \$14.0 million.

See Note 16 "Segment and Related Information" in the notes to our consolidated financial statements for information regarding our operating segments.

Our research and development expenses include costs incurred in formulating, improving, validating and creating alternative or modified processes related to and expanding the use of our current molecular diagnostic test offerings and costs incurred for the discovery, development and validation of our pipeline of molecular diagnostic and companion diagnostic candidates. In general, costs associated with research and development can fluctuate dramatically due to the timing of clinical studies, the staging of products in the pipeline and other factors.

Our selling, general and administrative expenses include costs associated with growing our businesses domestically and internationally. Selling, general and administrative expenses consist primarily of salaries, commissions and related personnel costs for sales, marketing, customer service, billing and collection, legal, finance and accounting, information technology, human resources, and allocated facilities expenses. We expect that our selling, general and administrative expenses may continue to increase and that such increases may be substantial, depending on the number and scope of any new molecular diagnostic test launches, our efforts in support of our existing molecular diagnostic tests and pharmaceutical and clinical services as well as our continued international expansion efforts.

Business Highlights

During fiscal year 2018 the company set a new record for revenue from new products with \$212.4 million in sales from GeneSight, Vectra DA, Prolaris, and EndoPredict. In fiscal year 2018, 70 percent of total test volume performed by Myriad was due to these tests. This compares to fiscal year 2013 where one percent of total test volume and one percent of revenue was associated with new products.

During the year ended June 30, 2018 we announced the second major clinical validation study for riskScore® at the American Society of Clinical Oncology annual meeting. The study evaluated 518 women and found that riskScore is a highly statistically significant predictor of the 5-year and lifetime risk of breast cancer ($p=2.6 \times 10^{-12}$ and $p=2.5 \times 10^{-12}$, respectively). Moreover, riskScore was statistically significantly superior to Tyrer-Cuzick alone for both 5-year and lifetime risk of breast cancer (1.9×10^{-8} and $p=2.4 \times 10^{-8}$, respectively), underscoring the independent contribution of the combined test score.

We also presented the results from the GeneSight GUIDED randomized controlled trial at the American Psychiatric Association annual meeting. The landmark study showed that patients receiving GeneSight had significantly better outcomes with a 50 percent increase in remission rates and a 30 percent increase in response rates relative to those who received standard of care therapy.

We announced that the U.S. Food and Drug Administration (FDA) has accepted our supplementary premarket approval (sPMA) application for BRACAnalysis CDx® to be used as a companion diagnostic with Pfizer's PARP (poly ADP ribose polymerase) inhibitor, talazoparib. The New Drug Application (NDA) for talazoparib has been granted priority review by the FDA and has a Prescription Drug User Fee Act (PDUFA) goal date of December 2018.

During the fourth quarter, we signed a definitive agreement to acquire Counsyl, Inc. a global leader in reproductive genetic testing for total consideration of \$408.6 million through a combination of cash and our stock. The acquisition closed on July 31, 2018. The acquisition of Counsyl provides Myriad with two new products, ForeSight™ and Prelude™, in the expanded carrier screening non-invasive prenatal testing markets, respectively. We estimate that these markets will grow to approximately 3 million tests performed in the United States and \$1.5 billion over the next five years.

Revision of Previously-Issued Financial Statements

During the financial close for fiscal year 2018, we identified accounting irregularities related to the calculation of our sales allowance. As a result, we conducted a thorough review of the sales allowance processes and the Company's internal controls over financial reporting. Errors were identified that related to both fiscal 2018 and prior periods. The effect of the errors identified were immaterial to each of the prior reporting periods affected. However, we concluded that the cumulative effect of correcting the errors in fiscal 2018 would materially misstate our consolidated statements of operations. For the year ended June 30, 2018, net income attributable to Myriad Genetics, Inc. stockholders was reduced by \$6.6 million. Additionally, the financial results for the prior periods have been revised to reflect the impact of these errors on those periods. Reductions to net income attributable to Myriad Genetic, Inc. stockholders have been recorded for prior years 2017, 2016 and 2015 in the amounts of \$1.3 million, \$8.1 million and \$0.4 million, respectively. For additional details on the revised amounts see Note 2, "Revisions of Previously-Issued Financial Statements" in the notes to the Consolidated Financial Statements included in Part II, ITEM 8 of this report.

Results of Operations

Years Ended June 30, 2018, 2017 and 2016

Revenue

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
Revenue	\$ 772.6	\$ 769.9	\$ 740.5	\$ 2.7	\$ 29.4

In 2018, the increase in revenue was primarily driven by an increase of \$46.5 million in Genesight revenue due to increased volumes as well as having a full year of revenue from Assurex, a \$13.5 million increase in VectraDA due to timing of Medicare billing and cash collections, increased volumes and reimbursement, a \$8.8 million increase in Prolaris due to increased volumes and price and a \$1.2 million increase in EndoPredict revenue from increased volumes. This increase was partially offset by a decrease of \$69.0 million in Hereditary Cancer Testing primarily due to reduced reimbursement for our hereditary cancer tests.

In 2017, the increase in revenue was primarily driven by an increase of \$78.4 million in Genesight revenue from the acquisition of Assurex, and a \$3.2 million increase in EndoPredict revenue from increased volumes. This increase was partially offset by a decrease of \$52.1 million in Hereditary Cancer Testing primarily due to reduced volumes and reimbursement for our hereditary cancer tests.

The following table presents additional detail regarding the composition of our total revenue:

(In millions)	Years Ended June 30,			Change		% of Total Revenue		
	2018	2017	2016	2018	2017	2018	2017	2016
Molecular diagnostic revenues:								
Hereditary Cancer Testing	\$ 498.2	\$ 567.2	\$ 619.3	\$ (69.0)	\$ (52.1)	65%	74%	84%
GeneSight	124.9	78.4	-	46.5	78.4	16%	10%	0%
VectraDA	57.2	43.7	47.8	13.5	(4.1)	7%	5%	6%
Prolaris	20.9	12.1	11.1	8.8	1.0	3%	2%	2%
EndoPredict	8.9	7.7	4.5	1.2	3.2	1%	1%	1%
Other	9.2	11.5	9.7	(2.3)	1.8	1%	2%	1%
Total molecular diagnostic revenue	<u>719.3</u>	<u>720.6</u>	<u>692.4</u>	<u>(1.3)</u>	<u>28.2</u>			
Pharmaceutical and clinical service revenue								
	<u>53.3</u>	<u>49.3</u>	<u>48.1</u>	<u>4.0</u>	<u>1.2</u>	7%	6%	6%
Total revenue	<u>\$ 772.6</u>	<u>\$ 769.9</u>	<u>\$ 740.5</u>	<u>\$ 2.7</u>	<u>\$ 29.4</u>	100%	100%	100%

Cost of Sales

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
Cost of Sales	\$ 177.2	\$ 171.2	\$ 157.3	\$ 6.0	\$ 13.9
Cost of sales as a % of Sales	22.9%	22.2%	21.2%		

Cost of sales as a percentage of revenues increased from 22.2% to 22.9% during fiscal 2018 compared to fiscal 2017. The increase was primarily driven by a change in existing product mix, lower fixed-cost absorption from lower hereditary cancer revenues and reduced hereditary cancer reimbursement.

Cost of sales as a percentage of revenues increased from 21.2% to 22.2% during fiscal 2017 compared to fiscal 2016. The increase was primarily driven by a change in existing product mix, lower fixed-cost absorption from lower hereditary cancer revenues and reduced hereditary cancer reimbursement.

Research and Development Expenses

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
R&D expense	\$ 70.8	\$ 74.4	\$ 70.6	\$ (3.6)	\$ 3.8
R&D expense as a % of Sales	9.2%	9.7%	9.5%		

In 2018, R&D expense decreased compared to the same period in the prior year primarily due to \$2.9 million reduction in costs related to product and clinical development and \$0.7 million reduction in share based compensation.

In 2017, R&D expense increased compared to the same period in the prior year primarily due to the inclusion of Assurex spend of \$8.5 million. This increase was partially offset by reductions of \$2.0 million in spend related to internal development of new products, \$1.3 million in share-based compensation expense and \$0.9 million in development of pharmaceutical CDx development.

Change in the Fair Value of Contingent Consideration

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
Change in the fair value of contingent consideration	\$ (61.2)	\$ (0.8)	\$ -	\$ (60.4)	\$ (0.8)
Change in the fair value of contingent consideration as a % of Sales	-7.9%	-0.1%	0.0%		

In 2018, the decrease in the change in fair value of contingent consideration compared to the prior year is primarily due to a \$73.3 million decrease due to the Assurex randomized control trial not meeting its primary endpoint during the quarter ended December 31, 2017, which resulted in us not being required to pay the related milestone as defined in the acquisition agreement. This was partially offset by increases in the fair value of the remaining Assurex and Sividon contingent consideration liabilities.

In 2017, the change in fair value of contingent consideration compared to the prior year is primarily due to decreases in the fair value of the Assurex and Sividon contingent consideration liabilities.

Selling, General and Administrative Expenses

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
SG&A expense	\$ 467.1	\$ 476.4	\$ 359.2	\$ (9.3)	\$ 117.2
SG&A expense as a % of Sales	60.5%	61.9%	48.5%		

In 2018, the decrease in SG&A expense compared to the prior year is primarily due to a \$10.3 million related to integration activities and net savings related to our Elevate 2020 initiative, which is our company-wide efficiency program, a \$6.7 million decrease in sales and marketing expense and a \$5.0 million reduction in bad debt expense. These decreases were partially offset by an \$8.3 million from the inclusion of Assurex for a full year and \$4.0 million increase in amortization expense mainly related to the Assurex acquisition.

In 2017, the increase in SG&A expense compared to the prior year is primarily due to the inclusion of Assurex spend of \$62.2 million, and \$34.6 million in costs related to amortization and acquisition/integration activities for Assurex and Sividon. There were also increases of \$9.5 million in other various administrative costs, \$4.6 million increase in sales and marketing efforts, \$4.3 million increase related to sales force compensation and a \$4.4 million in bad debt expense related to reduced collections. These increases were partially offset by reduction of \$1.9 million in share-based compensation and \$1.1 million reduction in international administrative costs.

Other Income

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
Other Income (expense)	\$ (1.8)	\$ (7.8)	\$ 2.6	\$ 6.0	\$ (10.4)

In 2018, the increase in other income (expense) compared to the prior year was primarily driven by the non-recurrence of the \$2.4 million impairment of our RainDance investment, a one-time \$0.9 million indirect tax expense and \$1.3 million loss on extinguishment of debt which were recognized in the prior year. Other income also increased as a result of a \$2.8 million reduction in interest expense.

In 2017, the decrease in other income (expense) was primarily driven by \$5.7 million in increased interest expense, \$1.3 million loss on extinguishment of debt, \$2.4 million impairment of our investment in RainDance, and a one-time \$0.9 million indirect tax expense.

Income Tax Expense

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
Income tax expense/(benefit)	\$ (14.0)	\$ 20.6	\$ 38.8	\$ (34.6)	\$ (18.2)
Effective tax rate	-12.0%	50.4%	24.9%		

Our tax rate is the product of a blended U.S. federal effective rate of 28% and a blended state income tax rate of approximately 3%. Certain significant or unusual items are separately recognized during the period in which they occur and can be a source of variability in the effective tax rates from period to period.

Income tax expense after excluding the \$32.0 million one-time Tax Act benefit for the year ended June 30, 2018 is \$18.1 million for an effective tax rate of 15.5%. The decrease in the effective rate (after excluding the one-time Tax Act benefit) as compared to the prior year is due to fair value adjustments related to acquisition contingent consideration, state taxes, and ASU 2016-09 which impacts expense based on fluctuations in stock price. Differences related to the recognition of the tax effect of equity compensation expense from the disqualification of incentive stock options also impacted the current and prior year effective tax rate.

Liquidity and Capital Resources

We believe that our existing capital resources and the cash to be generated from future sales will be sufficient to meet our projected operating requirements, including repayment of the outstanding Facility for the foreseeable future. There are no scheduled principal payments of the Facility prior to its maturity date; however, our available capital resources may be consumed more rapidly than currently expected and we may need or want to raise additional financing. We may not be able to secure such financing in a timely manner or on favorable terms, if at all. Without additional funds, we may be forced to delay, scale back or eliminate some of our sales and marketing efforts, research and development activities, or other operations and potentially delay development of our diagnostic tests in an effort to provide sufficient funds to continue our operations. If any of these events occur, our ability to achieve our development and commercialization goals would be adversely affected.

Our capital deployment strategy focuses on use of resources in four key areas: research and development, acquisitions, debt repayment and the repurchase of our common stock. We believe that research and development provides the best return on invested capital. We also allocate capital for acquisitions that support our business strategy and share repurchases based on business and market conditions.

The following table represents the balances of cash, cash equivalents and marketable investment securities:

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
Cash and cash equivalents	\$ 110.9	\$ 102.4	\$ 68.5	\$ 8.5	\$ 33.9
Marketable investment securities	69.7	48.3	90.5	21.4	(42.2)
Long-term marketable investment securities	30.7	48.5	79.9	(17.8)	(31.4)
Cash, cash equivalents and marketable investment securities	\$ 211.3	\$ 199.2	\$ 238.9	\$ 12.1	\$ (39.7)

In 2018, the increase in cash, cash equivalents and marketable investment securities was primarily driven by \$199.5 million in cash provided by operating activities, excluding contingent consideration, \$53.0 million in distributions from our Facility and \$36.9 million in proceeds from issuance of common stock from share based compensation plans. These were partially offset by \$143.0 million in payments towards our Facility, \$65.1 million payout of contingent consideration related to the Assurex acquisition (\$22.7 million of which was classified as operating cash flow and \$42.4 million which was classified as financing cash flow) \$60.9 million in changes in the fair value of contingent consideration and \$9.8 million in cash used in investing activities.

In 2017, the decrease in cash, cash equivalents and marketable investment securities was primarily driven by the \$216.1 million used for the acquisition of Assurex, the \$105.0 million used to pay down the principal on our Facility, the \$31.6 million used on share repurchase and \$6.1 million used to purchase capital equipment. These decreases were partially offset by \$203.0 million in net cash received from the issuance of debt, \$106.2 million in cash flows from operations and \$73.3 million in net proceeds from the maturities and sales of marketable investment securities.

The following table represents the condensed cash flow statement:

(In millions)	Years Ended June 30,			Change	
	2018	2017	2016	2018	2017
Cash flows from operating activities	\$ 115.9	\$ 106.2	\$ 166.3	\$ 9.7	\$ (60.1)
Cash flows from investing activities	(11.6)	(146.3)	(91.4)	134.7	(54.9)
Cash flows from financing activities	(95.0)	71.8	(68.3)	(166.8)	140.1
Effect of foreign exchange rates on cash and cash equivalents	(0.8)	2.2	(2.2)	(3.0)	4.4
Net increase (decrease) in cash and cash equivalents	8.5	33.9	4.4	(25.4)	29.5
Cash and cash equivalents at the beginning of the year	102.4	68.5	64.1	33.9	4.4
Cash and cash equivalents at the end of the year	\$ 110.9	\$ 102.4	\$ 68.5	\$ 8.5	\$ 33.9

Cash Flows from Operating Activities

In 2018, the primary driver of the increase in cash flows from operating activities was the \$110.6 million increase in net income and an \$13.2 million change in assets and liabilities. These were partially offset by a \$91.3 million reduction in non-cash charges and \$22.7 million in contingent consideration payouts.

In 2017, the primary driver of the decrease in cash flows from operating activities was the \$96.7 million decrease in net income partially offset by a \$17.7 million increase due to changes in assets and liabilities associated with operating activities and \$18.9 million increase in non-cash charges.

Cash Flows from Investing Activities

In 2018, the increase in cash flows from investing activities was primarily driven by the \$216.1 million of cash used for the purchase of Assurex in the prior fiscal year. This was partially offset by a \$76.5 million reduction in net proceeds of marketable investment securities.

In 2017, the decrease in cash flows from investing activities was primarily related to the \$179.1 million increase in cash outlays related to acquisition activity partially offset by a \$122.7 million increase in the net proceeds from the liquidation of marketable investment securities.

Cash Flows from Financing Activities

In 2018, the decrease in cash flows from financing activities was driven primarily by a \$151.0 million reduction in net proceeds from the Facility, a \$42.4 million payment of contingent consideration related to the Assurex acquisition and \$38.0 million in additional cash paid for repayment of the Facility. These were partially offset by \$31.6 million reduction in cash used for share repurchase and \$30.9 million increase in proceeds from common stock issued under share-based compensation plans.

In 2017, the increase in cash flows from financing activities was driven primarily by \$203.0 million in net cash received from the issuance of debt and \$131.0 million reduction in cash spent on share repurchase. These were partially offset by \$105.0 million used to pay down the principal on our Facility and \$88.3 million reduction in cash proceeds from common stock issued under share-based compensation plans.

Contractual Obligations

The following table represents our contractual obligations as of June 30, 2018:

<i>(In millions)</i>	Total	Less Than 1 Year	1-3 Years	4-5 Years	More Than 5 Years
Purchase obligations	\$ 18.7	\$ 7.0	\$ 11.7	\$ —	\$ —
Operating Leases	83.9	14.1	26.6	17.9	25.3
Total	102.6	21.1	38.3	17.9	25.3

The expected timing of payment for the obligations listed above is estimated based on current information. Actual payment timing and amounts may differ depending on the timing of goods or services received or other changes. The table above only includes payment obligations that are fixed or determinable. The table excludes royalties to third parties based on future sales of any of our product candidates that are approved for sale, as the amounts, timing, and likelihood of any such payments are based on the level of future sales of tests and are unknown.

Effects of Inflation

We do not believe that inflation has had a material impact on our business, revenues, or operating results during the periods presented.

Off-Balance Sheet Arrangements

None.

Certain Factors That May Affect Future Results of Operations

The Securities and Exchange Commission encourages companies to disclose forward-looking information so that investors can better understand a company's future prospects and make informed investment decisions. This Annual Report on Form 10-K contains such "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995.

Words such as "may," "anticipate," "estimate," "expects," "projects," "intends," "plans," "believes," "seek," "could," "continue," "likely," "will," "strategy," "goal" and words and terms of similar substance used in connection with any discussion of future operating or financial performance, identify forward-looking statements. All forward-looking statements are management's present expectations of future events and are subject to a number of risks and uncertainties that could cause actual results to differ materially and adversely from those described in the forward-looking statements. These risks include, but are not limited to: the risk that sales and profit margins of our existing molecular diagnostic tests and pharmaceutical and clinical services may decline or will not continue to increase at historical rates; risks related to our ability to successfully transition from our existing product portfolio to our new tests; risks related to changes in governmental or private insurers reimbursement levels for our tests or our ability to obtain reimbursement for our new tests at comparable levels to our existing tests; risks related to increased competition and the development of new competing tests and services; the risk that we may be unable to develop or achieve commercial success for additional molecular diagnostic tests and pharmaceutical and clinical services in a timely manner, or at all; the risk that we may not successfully develop new markets for our molecular diagnostic tests and pharmaceutical and clinical services, including our ability to successfully generate revenue outside the United States; the risk that licenses to the technology underlying our molecular diagnostic tests and pharmaceutical and clinical services tests and any future tests are terminated or cannot be maintained on satisfactory terms; risks related to delays or other problems with operating our laboratory testing facilities; risks related to public concern over genetic testing in general or our tests in particular; risks related to regulatory requirements or enforcement in the United States and foreign countries and changes in the structure of the healthcare system or healthcare payment systems; risks related to our ability to obtain new corporate collaborations or licenses and acquire new technologies or businesses on satisfactory terms, if at all; risks related to our ability to successfully integrate and derive benefits from any technologies or businesses that we license or acquire; risks related to our projections about the potential market opportunity for our products; the risk that we or our licensors may be unable to protect or that third parties will infringe the proprietary technologies underlying our tests; the risk of patent-infringement claims or challenges to the validity of our patents; risks related to changes in intellectual property laws covering our molecular diagnostic tests and pharmaceutical and clinical services and patents or enforcement in the United States and foreign countries, such as the Supreme Court decision in the lawsuit brought against us by the Association for Molecular Pathology et al; risks of new, changing and competitive technologies and regulations in the United States and internationally; the risk that we may be unable to comply with financial operating covenants under our credit or lending agreements; the risk that we will be unable to pay, when due, amounts due under our credit or lending agreements; and other factors discussed under the heading "Risk Factors" contained in Item 1A of this Annual Report.

In light of these assumptions, risks and uncertainties, the results and events discussed in the forward-looking statements contained in this Annual Report or in any document incorporated by reference might not occur. Stockholders are cautioned not to place undue reliance on the forward-looking statements, which speak only as of the date of this Annual Report. We are not under any obligation, and we expressly disclaim any obligation, to update or alter any forward-looking statements, whether as a result of new information, future events or otherwise. All subsequent forward-looking statements attributable to us or to any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section.

Market, Industry and Other Data

This Annual Report on Form 10-K contains estimates, projections and other information concerning our industry, our business and relevant molecular diagnostics markets, including data regarding the estimated size of relevant molecular diagnostic markets, patient populations, and the perceptions and preferences of patients and physicians regarding certain therapies, as well as data regarding market research and estimates. Information that is based on estimates, forecasts, projections, market research or similar methodologies is inherently subject to uncertainties and actual events or circumstances may differ materially from events and circumstances that are assumed in this information. Unless otherwise expressly stated, we obtained this industry, business, market and other data from reports, research surveys, studies and similar data prepared by market research firms and other third parties, industry, medical and general publications, government data and similar sources that we believe to be reliable. In some cases, we do not expressly refer to the sources from which this data is derived. In that regard, when we refer to one or more sources of this type of data in any paragraph, you should assume that other data of this type appearing in the same paragraph is derived from the same sources, unless otherwise expressly stated or the context otherwise requires.

Critical Accounting Policies

Critical accounting policies are those policies which are both important to the portrayal of a company's financial condition and results and require management's most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. Our critical accounting policies are as follows:

- revenue recognition;
- allowance for doubtful accounts;
- goodwill; and
- income taxes.

Revenue Recognition. Revenue includes the sale of our molecular diagnostic tests and of our pharmaceutical and clinical services. Revenue is recorded at the invoiced amount net of any discounts or allowances and is recognized when persuasive evidence of an agreement exists, delivery has occurred, the fee is fixed or determinable, and collection is reasonably assured. Revenue is recognized upon completion of the test or service, communication of results, and when collectability is reasonably assured.

Allowance for Doubtful Accounts. The preparation of our financial statements in accordance with U.S. GAAP requires us to make estimates and assumptions that affect the reported amount of assets at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Trade accounts receivable are comprised of amounts due from sales of our molecular diagnostic tests, which are recorded net of any discounts or contractual allowances. We analyze trade accounts receivable and consider historic experience, customer creditworthiness, facts and circumstances specific to outstanding balances, and payment terms when evaluating the adequacy of the allowance for doubtful accounts.

We periodically evaluate and adjust the allowance for doubtful accounts when trends or significant events indicate that a change in estimate is appropriate. Such changes in estimate could materially affect our results of operations or financial position; however, to date these changes have not been material. It is possible that we may need to adjust our estimates in future periods.

After a review of our allowance for doubtful accounts as of June 30, 2018 and 2017, we have determined that a hypothetical ten percent increase in our allowance for doubtful accounts would result in additional bad debt expense and an increase to our allowance for doubtful accounts of \$1.2 million and \$0.8 million, respectively.

Goodwill. We test goodwill for impairment on an annual basis and in the interim by reporting unit if events and circumstances indicate that goodwill may be impaired. The events and circumstances that are considered include business climate and market conditions, legal factors, operating performance indicators and competition. Impairment of goodwill is evaluated on a qualitative basis to determine if using a two-step process is necessary. If the qualitative assessment suggests that impairment is more likely than not, a two-step impairment analysis is performed. The first step involves comparison of the fair value of a reporting unit with its carrying amount. The valuation of a reporting unit requires judgment in estimating future cash flows, discount rates and other factors. In making these judgments, we evaluate the financial health of our business, including such factors as industry performance, market saturation and opportunity, changes in technology and operating cash flows. Changes in our forecasts or decreases in the value of our common stock could cause book value of reporting units to exceed their fair values. If the carrying amount of a reporting unit exceeds its fair value, the second step of the process involves a comparison of the fair value and the carrying amount of the goodwill of that reporting unit. If the carrying amount of the goodwill of the reporting unit exceeds the fair value of that goodwill, an impairment loss would be recognized in an amount equal to the excess of carrying value over fair value. If an event occurs that would cause a revision to the estimates and assumptions used in analyzing the value of the goodwill, the revision could result in a non-cash impairment charge that could have a material impact on the financial results.

We have recorded goodwill of \$318.6 million from the acquisitions of Assurex that was completed on August 31, 2016, Sividon that was completed on May 31, 2016, the Clinic that was completed on February 27, 2015, Crescendo that was completed on February 28, 2014 and Myriad RBM that was completed on May 31, 2011. Of this goodwill, \$252.8 million is related to our molecular diagnostic segment for Crescendo, Sividon and Assurex and \$65.8 million for Myriad RBM and the Clinic related to our other segment (see note 16 for segment descriptions). We qualitatively evaluated the Assurex and Myriad RBM reporting units for impairment noting no indicators of impairment from the date of acquisition.

We measured the fair value of Crescendo utilizing income and market approaches using the discounted cash flow method. The income approach considered management's business plans and projections as the basis for expected cash flows for the next

fifteen years and a 2% residual growth rate. We also used a weighted average discount rate of 20%. Other significant estimates used in the analysis include the profitability of the respective reporting unit and working capital effects of each unit. We noted the fair value of the Crescendo reporting unit exceeded its carrying value by 47% using these assumptions described above.

We measured the fair value of the Clinic utilizing the income and market approach using the discounted cash flow method. This considered management's plans and projections as the basis for expected cash flows for the next fifteen years using a 3% long term growth rate. We also used a weighted discount rate of 6%. Other significant estimates used in the analysis include the profitability of the respective reporting unit and working capital effects of each unit. We noted the fair value of the Clinic reporting unit exceeded its carrying value by 5%. A 0.25% increase in the discount rate and a 0.25% decrease in the long term growth rate would decrease the calculated balance by \$2.4 million which could cause an impairment.

We measured the fair value of Sividon utilizing the income and market approach using the discounted cash flow method. This considered management's plans and projections as the basis for expected cash flows for the next fifteen years using a 3% long term growth rate. We also used a discount rate of 15.5%. Other significant estimates used in the analysis include the profitability of the respective reporting unit and working capital effects of each unit. We noted the fair value of the Sividon reporting unit exceeded its carrying value by 13%. We also measured the fair value of the Sividon IPR&D intangible asset using the multi-period excess earning method using a 16% discount rate. The multi-period excess earning method is a variation of the income approach that estimates the assets value based on present value of the incremental after-tax cash flow attributable only to the intangible assets. We noted that the fair value of the Sividon IPR&D exceeded its carrying value by 4%. A 1% increase to the discount rate would change the calculated balance by \$1.3 million which could cause an impairment.

Income Taxes. Our income tax provision is based on income before taxes and is computed using the liability method in accordance with Accounting Standards Codification ("ASC") 740 – *Income Taxes*. Deferred tax assets and liabilities are determined based on the difference between the financial statement and tax basis of assets and liabilities using tax rates projected to be in effect for the year in which the differences are expected to reverse. Significant estimates are required in determining our provision for income taxes. Some of these estimates are based on interpretations of existing tax laws or regulations, or the expected results from any future tax examinations. Various internal and external factors may have favorable or unfavorable effects on our future provision for income taxes. Those factors include, but are not limited to, changes in tax laws, regulations and/or rates, the results of any future tax examinations, changing interpretations of existing tax laws or regulations, changes in estimates of prior years' items, past levels of research and development spending, acquisitions, changes in our corporate structure, and changes in overall levels of income before taxes all of which may result in periodic revisions to our provision for income taxes.

Developing our provision for income taxes, including our effective tax rate and analysis of potential uncertain tax positions, if any, requires significant judgment and expertise in federal and state income tax laws, regulations and strategies, including the determination of deferred tax assets and liabilities and any estimated valuation allowance we deem necessary to offset deferred tax assets. If we do not maintain taxable income from operations in future periods, we may increase the valuation allowance for our deferred tax assets and record material adjustments to our income tax expense. Our judgment and tax strategies are subject to audit by various taxing authorities. While we believe we have provided adequately for our uncertain income tax positions in our consolidated financial statements, adverse determination by these taxing authorities could have a material adverse effect on our consolidated financial condition, results of operations or cash flows. Interest and penalties on income tax items are included as a component of overall income tax expense.

Recent Accounting Pronouncements

Revenue Recognition

In May 2014, the Financial Accounting Standards Board (FASB) issued the converged standard on revenue recognition with the objective of providing a single, comprehensive model for all contracts with customers to improve comparability in the financial statements of companies reporting using International Financial Reporting Standards and U.S. GAAP. The standard contains principles that an entity must apply to determine the measurement of revenue and timing of when it is recognized. The underlying principle is that an entity must recognize revenue to depict the transfer of goods or services to customers at an amount that the entity expects to be entitled to in exchange for those goods or services. An entity can apply the revenue standard retrospectively to each prior reporting period presented (full retrospective method) or retrospectively with the cumulative effect of initially applying the standard recognized at the date of initial application in retained earnings (modified retrospective method). The standard will be effective for us in the first quarter of fiscal 2019. We plan to adopt the standard July 1, 2018 using the full retrospective method. We continue to assess the impact of this standard on our results of operations, financial position and cash flows. Based on our preliminary assessment, we expect the majority of the amounts that have historically been classified as bad debt expense will be reflected as a reduction of the transaction price and therefore as a reduction in revenue. We anticipate an increase in the level of required financial statement disclosures due to the standard. As a result of this change, we preliminarily estimate the following impact to our consolidated statement of operations for the years ended June 30, 2018 and 2017:

	FY2018			FY2017		
	As Reported	Adjusted for ASC 606	As Adjusted	As Reported	Adjusted for ASC 606	As Adjusted
Total revenue	\$ 772.6	\$ (28.9)	\$ 743.7	\$ 769.9	\$ (41.2)	\$ 728.7
Selling, general, and administrative expense	467.1	(32.1)	435.0	476.4	(36.5)	439.9
Income tax provision	(14.0)	1.0	(13.0)	20.6	(1.6)	19.0
Net income attributable to Myriad Genetics, Inc. stockholders	131.1	2.2	133.3	20.5	(3.1)	17.4
Earnings per share:						
Basic	\$ 1.89	\$ 0.03	\$ 1.92	\$ 0.30	\$ (0.05)	\$ 0.25
Diluted	\$ 1.82	\$ 0.03	\$ 1.85	\$ 0.30	\$ (0.05)	\$ 0.25

Leases

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842) ("ASU 2016-02"), which modified lease accounting for both lessees and lessors to increase transparency and comparability by recognizing lease assets and lease liabilities by lessees for those leases classified as operating leases under previous accounting standards and disclosing key information about leasing arrangements. ASU 2016-02 will be effective for the Company beginning in its first quarter of 2020 and early adoption is permitted. The standard will be effective for us in the first quarter of fiscal 2020. We are currently evaluating the impact of adopting the new lease standard on our consolidated financial statements.

Item 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We maintain an investment portfolio in accordance with our written investment policy. The primary objectives of our investment policy are to preserve principal, maintain proper liquidity to meet operating needs and maximize yields. Our investment policy specifies credit quality standards for our investments and limits the amount of credit exposure to any single issue, issuer or type of investment.

Our investments consist of securities of various types and maturities of five years or less, with a maximum average maturity of three years. These securities are classified as available-for-sale. Available-for-sale securities are recorded on the balance sheet at fair market value with unrealized gains or losses reported as part of accumulated other comprehensive income/loss. Realized gains and losses on investment security transactions are reported on the specific-identification method. Dividend and interest income are recognized when earned. A decline in the market value of any available-for-sale security below cost that is deemed other-than-temporary results in a charge to earnings and establishes a new cost basis for the security.

Although our investment policy guidelines are intended to ensure the preservation of principal, market conditions can result in high levels of uncertainty. Our ability to trade or redeem the marketable investment securities in which we invest, including certain corporate bonds, may become difficult. Valuation and pricing of these securities can also become variable and subject to uncertainty.

As of June 30, 2018 we had \$0.6 million in unrealized losses in our investment portfolio. For the year ended June 30, 2018 we have experienced fluctuations in our portfolio value primarily from our investments in bonds of various municipalities. If interest rates rise, the market value of our investments may decline, which could result in a realized loss if we are forced to sell an investment before its scheduled maturity. A hypothetical increase in interest rates by 25 basis points would have resulted in a decrease in the fair value of our net investment position of approximately \$0.3 million and \$0.3 million as of June 30, 2018 and 2017, respectively. We do not utilize derivative financial instruments to manage our interest rate risks.

MYRIAD GENETICS, INC.

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To the Shareholders and the Board of Directors of Myriad Genetics, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Myriad Genetics, Inc. and subsidiaries (the Company) as of June 30, 2018 and 2017, the related consolidated statements of operations, comprehensive income, stockholders' equity and cash flows for each of the three years in the period ended June 30, 2018, and the related notes and financial statement schedule listed in the Index at Item 15(a) (collectively referred to as the “consolidated financial statements”). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at June 30, 2018 and 2017, and the results of its operations and its cash flows for each of the three years in the period ended June 30, 2018, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of June 30, 2018, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated August 24, 2018 expressed an adverse opinion thereon.

Basis for Opinion

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

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2006.

Salt Lake City, UT
August 24, 2018

**MYRIAD GENETICS, INC.
AND SUBSIDIARIES**
Consolidated Balance Sheets
(In millions)

	Years Ended June 30,	
	2018	2017
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 110.9	\$ 102.4
Marketable investment securities	69.7	48.3
Prepaid expenses	9.4	12.7
Inventory	34.3	42.2
Trade accounts receivable, less allowance for doubtful accounts of \$12.1 in 2018 and \$7.6 in 2017	98.3	90.2
Prepaid taxes	-	0.2
Other receivables	3.8	5.7
Total current assets	326.4	301.7
Property, plant and equipment, net	43.2	51.1
Long-term marketable investment securities	30.7	48.5
Intangibles, net	455.2	491.5
Goodwill	318.6	316.1
Total assets	\$ 1,174.1	\$ 1,208.9
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 26.0	\$ 22.0
Accrued liabilities	68.3	65.6
Short-term contingent consideration	5.3	127.3
Deferred revenue	2.6	2.6
Total current liabilities	102.2	217.5
Unrecognized tax benefits	24.9	25.2
Other long-term liabilities	6.3	7.2
Contingent consideration	9.2	13.2
Long-term debt	9.3	99.1
Long-term deferred taxes	57.3	78.7
Total liabilities	209.2	440.9
Commitments and contingencies		
Stockholders' equity:		
Common stock, 70.6 and 68.4 shares outstanding at June 30, 2018 and 2017 respectively	0.7	0.7
Additional paid-in capital	915.4	851.4
Accumulated other comprehensive loss	(4.1)	(5.5)
Retained earnings (deficit)	52.9	(78.2)
Total Myriad Genetics, Inc. stockholders' equity	964.9	768.4
Non-controlling interest	-	(0.4)
Total stockholders' equity	964.9	768.0
Total liabilities and stockholders' equity	\$ 1,174.1	\$ 1,208.9

See accompanying notes to consolidated financial statements.

**MYRIAD GENETICS, INC.
AND SUBSIDIARIES**
Consolidated Statements of Operations
(In millions, except per share amounts)

	Years Ended June 30,		
	2018	2017	2016
Molecular diagnostic testing	\$ 719.3	\$ 720.6	\$ 692.4
Pharmaceutical and clinical services	53.3	49.3	48.1
Total revenue	772.6	769.9	740.5
Costs and expenses:			
Cost of molecular diagnostic testing	148.7	145.2	132.8
Cost of pharmaceutical and clinical services	28.5	26.0	24.5
Research and development expense	70.8	74.4	70.6
Change in the fair value of contingent consideration	(61.2)	(0.8)	-
Selling, general, and administrative expense	467.1	476.4	359.2
Total costs and expenses	653.9	721.2	587.1
Operating income	118.7	48.7	153.4
Other income (expense):			
Interest income	1.8	1.2	0.9
Interest expense	(3.2)	(6.0)	(0.3)
Other	(0.4)	(3.0)	2.0
Total other income (expense):	(1.8)	(7.8)	2.6
Income before income tax	116.9	40.9	156.0
Income tax provision	(14.0)	20.6	38.8
Net income	130.9	20.3	117.2
Net loss attributable to non-controlling interest	(0.2)	(0.2)	-
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 131.1	\$ 20.5	\$ 117.2
Earnings per share:			
Basic	\$ 1.89	\$ 0.30	\$ 1.67
Diluted	\$ 1.82	\$ 0.30	\$ 1.60
Weighted average shares outstanding:			
Basic	69.4	68.3	70.0
Diluted	72.0	68.8	73.4

See accompanying notes to consolidated financial statements.

MYRIAD GENETICS, INC.
AND SUBSIDIARIES
Consolidated Statements of Comprehensive Income
(In millions)

	Years Ended June 30,		
	2018	2017	2016
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 131.1	\$ 20.5	\$ 117.2
Unrealized gain (loss) on available-for-sale securities, net of tax	(0.4)	(0.6)	0.3
Change in pension liability	0.3	0.2	(0.2)
Change in foreign currency translation adjustment	1.6	4.4	(2.6)
Comprehensive income	<u>\$ 132.6</u>	<u>\$ 24.5</u>	<u>\$ 114.7</u>

See accompanying notes to consolidated financial statements.

MYRIAD GENETICS, INC.
AND SUBSIDIARIES
Consolidated Statements of Stockholders' Equity
(In millions)

	Common stock	Additional paid-in capital	Accumulated other comprehensive loss	Retained earnings (accumulated deficit)	Myriad Genetics, Inc. Stockholders' equity
BALANCES AT JUNE 30, 2015	\$ 0.7	\$ 745.4	\$ (7.0)	\$ (77.4)	\$ 661.7
Issuance of common stock under share-based compensation plans	—	94.3	—	—	94.3
Share-based payment expense	—	31.6	—	—	31.6
Repurchase and retirement of common stock	—	(41.2)	—	(121.5)	(162.7)
Net income	—	—	—	117.2	117.2
Other comprehensive loss, net of tax	—	—	(2.5)	—	(2.5)
BALANCES AT JUNE 30, 2016	\$ 0.7	\$ 830.1	\$ (9.5)	\$ (81.7)	\$ 739.6
Issuance of common stock under share-based compensation plans	—	6.0	—	—	6.0
Share-based payment expense	—	29.9	—	—	29.9
Repurchase and retirement of common stock	—	(14.6)	—	(17.0)	(31.6)
Net income	—	—	—	20.5	20.5
Other comprehensive income, net of tax	—	—	4.0	—	4.0
BALANCES AT JUNE 30, 2017	\$ 0.7	\$ 851.4	\$ (5.5)	\$ (78.2)	\$ 768.4
Issuance of common stock under share-based compensation plans	—	36.9	—	—	36.9
Share-based payment expense	—	27.1	—	—	27.1
Net income	—	—	—	131.1	131.1
Other comprehensive income, net of tax	—	—	1.4	—	1.4
BALANCES AT JUNE 30, 2018	\$ 0.7	\$ 915.4	\$ (4.1)	\$ 52.9	\$ 964.9

See accompanying notes to consolidated financial statements.

**MYRIAD GENETICS, INC.
AND SUBSIDIARIES**
Consolidated Statements of Cash Flows
(In millions)

	Years Ended June 30,		
	2018	2017	2016
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 131.1	\$ 20.5	\$ 117.2
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	54.4	48.3	26.8
Non-cash interest expense	0.2	0.4	—
Gain on disposition of assets	(0.2)	(0.3)	(0.9)
Share-based compensation expense	27.1	29.9	31.6
Impairment of cost basis investment	—	2.4	—
Bad debt expense	32.3	37.3	33.3
Loss on extinguishment of debt	—	1.3	—
Deferred income taxes	(23.5)	0.8	13.2
Unrecognized tax benefits	(0.3)	1.2	(2.4)
Change in fair value of contingent consideration	(60.9)	(0.8)	—
Payment of contingent consideration	(22.7)	—	—
Changes in assets and liabilities:			
Prepaid expenses	3.3	7.8	(7.2)
Trade accounts receivable	(39.2)	(39.9)	(25.9)
Other receivables	1.1	(4.0)	(0.9)
Inventory	7.9	(1.2)	(14.6)
Prepaid taxes	—	3.4	(3.7)
Accounts payable	4.0	(3.0)	-
Accrued liabilities	1.4	1.2	-
Deferred revenue	(0.1)	0.9	(0.2)
Net cash provided by operating activities	115.9	106.2	166.3
CASH FLOWS FROM INVESTING ACTIVITIES			
Capital expenditures	(8.4)	(6.1)	(5.0)
Acquisitions, net of cash acquired	—	(216.1)	(37.0)
Sale of cost basis investment	—	2.6	-
Purchases of marketable investment securities	(80.9)	(87.5)	(164.5)
Proceeds from maturities and sales of marketable investment securities	77.7	160.8	115.1
Net cash used in investing activities	(11.6)	(146.3)	(91.4)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Net proceeds from common stock issued under share-based compensation plans	36.9	6.0	94.3
Net proceeds from revolving credit facility	53.0	204.0	—
Repayment of revolving credit facility	(143)	(105.0)	—
Net proceeds from term loan	—	199.0	—
Repayment of term loan	—	(200.0)	—
Payment of contingent consideration recognized at acquisition	(42.4)	—	—
Fees paid for extinguishment of debt	—	(0.6)	—
Repurchase and retirement of common stock	—	(31.6)	(162.6)
Proceeds from non-controlling interest	0.5	—	—
Net cash provided by (used in) financing activities	(95.0)	71.8	(68.3)
Effect of foreign exchange rates on cash and cash equivalents	(0.8)	2.2	(2.2)
Net increase in cash and cash equivalents	8.5	33.9	4.4
Cash and cash equivalents at beginning of year	102.4	68.5	64.1
Cash and cash equivalents at end of year	\$ 110.9	\$ 102.4	\$ 68.5

See accompanying notes to consolidated financial statements.

1. ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Financial Statement Presentation

Myriad Genetics, Inc. and subsidiaries (collectively, the Company) is a leading molecular diagnostic company focused on developing and marketing novel predictive medicine, personalized medicine and prognostic medicine tests. The Company employs a number of proprietary technologies, including DNA, RNA and protein analysis, that help it to understand the genetic basis of human disease and the role that genes and their related proteins may play in the onset and progression of disease. The Company uses this information to guide the development of new molecular diagnostic and companion diagnostic tests that are designed to assess an individual's risk for developing disease later in life (predictive medicine), identify a patient's likelihood of responding to drug therapy and guide a patient's dosing to ensure optimal treatment (personalized medicine), or assess a patient's risk of disease progression and disease recurrence (prognostic medicine). The Company generates revenue by performing molecular diagnostic tests as well as by providing pharmaceutical and clinical services to the pharmaceutical and biotechnology industries and medical research institutions utilizing its multiplexed immunoassay technology. The Company's corporate headquarters are located in Salt Lake City, Utah.

The accompanying consolidated financial statements have been prepared by Myriad Genetics, Inc. (the "Company" or "Myriad") in accordance with U.S. generally accepted accounting principles ("GAAP") for financial information and pursuant to the applicable rules and regulations of the Securities and Exchange Commission ("SEC"). The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation. In the opinion of management, the accompanying financial statements contain all adjustments (consisting of normal and recurring accruals) necessary to present fairly all financial statements in accordance with U.S. GAAP.

Reclassification in the Consolidated Statements of Operations

In connection with the preparation of the financial statements, the Company determined that the amounts for the change in the fair value of contingent consideration were improperly reported as a component of other income (expense) and should have been reported as a component of operating income on the consolidated statements of operations at June 30, 2017. As a result, for the year ended June 30, 2017 total costs and expenses were overstated, causing operating income and total other income (expense) to be understated by \$0.8. There was no impact to net income or earnings per share. The Company concluded that the error was not material to the consolidated statements of operations, but has elected to correct the error in the accompanying financial statements for consistent presentation. The classification error had no effect on the previously reported consolidated balance sheets, statements of comprehensive income or cash flows for the year ended June 30, 2017.

Marketable Investment Securities

The Company has classified its marketable investment securities as available-for-sale. Available-for-sale investment securities with remaining maturities of greater than one year are classified as long-term. Available-for-sale investment securities with remaining maturities of one year or less are classified as short-term. Available-for-sale investment securities with remaining maturities of less than three months at the time of purchase are classified as cash equivalents. Marketable securities are carried at estimated fair value with unrealized holding gains and losses, net of the related tax effect, included in accumulated other comprehensive loss in stockholders' equity until realized. Gains and losses on investment security transactions are reported using the specific-identification method. Dividend and interest income are recognized when earned.

A decline in the market value of any available-for-sale security below cost that is deemed other than temporary results in a charge to earnings and establishes a new cost basis for the security. Losses are charged against "Other income" when a decline in fair value is determined to be other than temporary. The Company reviews several factors to determine whether a loss is other than temporary. These factors include but are not limited to: (i) the extent to which the fair value is less than cost and the cause for the fair value decline, (ii) the financial condition and near term prospects of the issuer, (iii) the length of time a security is in an unrealized loss position and (iv) the Company's ability to hold the security for a period of time sufficient to allow for any anticipated recovery in fair value. There were no other-than-temporary impairments recognized during the fiscal years ended June 30, 2018, 2017 and 2016.

Inventory

Inventories consist of reagents, plates and testing kits. Inventories are stated at the lower of cost or market on a first-in, first-out basis. In order to assess the ultimate realization of inventories, the Company is required to make judgments as to future demand requirements compared to current or committed inventory levels.

The Company evaluates its inventories for excess quantities and obsolescence. Inventories that are considered obsolete are expensed. The valuation of inventories requires the use of estimates as to the amounts of current inventories that will be sold. These estimates are dependent on management's assessment of current and expected orders from the Company's customers.

Trade Accounts Receivable and Allowance for Doubtful Accounts

Trade accounts receivable are comprised of amounts due from sales of the Company's molecular diagnostic tests and pharmaceutical and clinical services and are recorded at the invoiced amount, net of discounts and contractual allowances. The allowance for doubtful accounts is based on the Company's best estimate of the amount of probable losses in the Company's existing accounts receivable, which is based on historical write-off experience, customer creditworthiness, facts and circumstances specific to outstanding balances, and payment terms. Account balances are charged against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. The Company does not have any off-balance-sheet credit exposure related to its customers and does not require collateral.

Property, Plant and Equipment

Equipment and leasehold improvements are stated at cost less accumulated depreciation. Depreciation and amortization are computed using the straight-line method based on the lesser of estimated useful lives of the related assets or lease terms. Equipment items have depreciable lives of five to seven years. Leasehold improvements are depreciated over the shorter of the estimated useful lives or the associated lease terms, which range from three to ten years. Repairs and maintenance costs are charged to expense as incurred.

Intangible Assets and Other Long-Lived Assets

Intangible and other long-lived assets are comprised of acquired licenses, technology and intellectual property and purchased in-process research and development. Acquired intangible assets are recorded at fair value and amortized over the shorter of the contractual life or the estimated useful life. The estimated useful life of acquired in-process research and development was also evaluated in conjunction with the annual impairment analysis of intangible assets. The classification of the acquired in-process research and development as an indefinite lived asset was deemed appropriate as the related research and development was not yet complete nor had it been abandoned.

The Company continually reviews and monitors long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future undiscounted cash flows, an impairment charge is recognized in the amount by which the carrying amount of the asset exceeds the fair value of the asset. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell.

Goodwill

Goodwill is tested for impairment on an annual basis as of April 1 and in the interim by reporting unit if events and circumstances indicate that goodwill may be impaired. The events and circumstances that are considered include business climate and market conditions, legal factors, operating performance indicators and competition. Impairment of goodwill was first assessed using a qualitative approach. If the qualitative assessment suggests that impairment is more likely than not, a two-step impairment analysis is performed. The first step involves a comparison of the fair value of the reporting unit with its carrying amount. If the carrying amount of the reporting unit exceeds its fair value, the second step of the process involves a comparison of the fair value and the carrying amount of the goodwill of that reporting unit. If the carrying amount of the goodwill of the reporting unit exceeds the fair value of that goodwill, an impairment loss would be recognized in an amount equal to the excess of carrying value over fair value. If an event occurs that would cause a revision to the estimates and assumptions used in analyzing the value of the goodwill, the revision could result in a non-cash impairment charge that could have a material impact on the financial results.

Revenue Recognition

Molecular diagnostic testing revenue is recognized when persuasive evidence of an agreement exists, results have been communicated to the patient, the fee is fixed or determinable, and collection is reasonably assured. A sales allowance is determined each period based on historical payment patterns with patients and payors. Revenue from the sale of molecular diagnostic tests and related marketing agreements is recorded at the invoiced amount net of any discounts, sales allowances or contractual allowances.

Pharmaceutical and clinical service revenue is recognized when persuasive evidence of an agreement exists, the fee is fixed and or determinable, when the service has been completed and the results of the tests/service are provided to the customer, and collectability is reasonably assured. In addition, the Company's wholly owned subsidiary, Myriad RBM, has received national, state, foreign government and private foundation grants and contracts. Revenue associated with these grants and contracts is recognized in the period in which qualifying costs for the services by the grants and contracts are incurred and the related grant or contract fee is earned.

Income Taxes

The Company recognizes income taxes under the asset and liability method. This approach requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the carrying amounts and the tax bases of assets and liabilities.

The provision for income taxes, including the effective tax rate and analysis of potential tax exposure items, if any, requires significant judgment and expertise in federal and state income tax laws, regulations and strategies, including the determination of deferred tax assets and liabilities and any estimated valuation allowances deemed necessary to recognize deferred tax assets at an amount that is more likely than not to be realized. The Company's filings, including the positions taken therein, are subject to audit by various taxing authorities. While the Company believes it has provided adequately for its income tax liabilities in the consolidated financial statements, adverse determinations by these taxing authorities could have a material adverse effect on the consolidated financial condition, results of operations or cash flows.

Earnings Per Share

Basic earnings per share is computed based on the weighted-average number of shares of common stock outstanding. Diluted earnings per share is computed based on the weighted-average number of shares of common stock, including the dilutive effect of common stock equivalents, outstanding.

The following is a reconciliation of the denominators of the basic and diluted earnings per share computations:

	Years Ended June 30,		
	2018	2017	2016
Denominator:			
Weighted-average shares outstanding used to compute basic EPS	69.4	68.3	70.0
Effect of dilutive stock options	2.6	0.5	3.4
Weighted-average shares outstanding and dilutive securities used to compute diluted EPS	72.0	68.8	73.4

Certain outstanding options and RSUs were excluded from the computation of diluted earnings per share because the effect would have been anti-dilutive. These potential dilutive common shares, which may be dilutive to future diluted earnings per share, are as follows:

	Years Ended June 30,		
	2018	2017	2016
Anti-dilutive options and RSUs excluded from EPS computation	—	7.0	—

Foreign Currency

The functional currency of the Company's international subsidiaries is the local currency. For those subsidiaries, expenses denominated in the functional currency are translated into U.S. dollars using average exchange rates in effect during the period and assets and liabilities are translated using period-end exchange rates. The foreign currency translation adjustments are included in accumulated other comprehensive loss as a separate component of stockholders' equity/(deficit).

The following table shows the cumulative translation adjustments included in accumulated other comprehensive income/(loss):

Ending balance June 30, 2017	\$	(5.7)
Period translation adjustments		1.6
Ending balance June 30, 2018		(4.1)

Use of Estimates

The preparation of the consolidated financial statements in accordance with U.S. GAAP requires Company management to make estimates and assumptions relating to the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the period. Significant items subject to such estimates and assumptions include the carrying amount of fixed assets, valuation allowances for receivables and deferred income tax assets, certain accrued liabilities, share-based compensation and impairment analysis of goodwill and intangible assets. Actual results could differ from those estimates.

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board (FASB) issued the converged standard on revenue recognition with the objective of providing a single, comprehensive model for all contracts with customers to improve comparability in the financial statements of companies reporting using International Financial Reporting Standards and U.S. GAAP. The standard contains principles that an entity must apply to determine the measurement of revenue and timing of when it is recognized. The underlying principle is that an entity must recognize revenue to depict the transfer of goods or services to customers at an amount that the entity expects to be entitled to in exchange for those goods or services. An entity can apply the revenue standard retrospectively to each prior reporting period presented (full retrospective method) or retrospectively with the cumulative effect of initially applying the standard recognized at the date of initial application in retained earnings (modified retrospective method). The standard will be effective for the Company beginning in the first quarter of fiscal 2019. The Company plans to adopt the standard July 1, 2018 using the full retrospective method. The Company continues to assess the impact of this standard on its results of operations, financial position and cash flows. Based on its preliminary assessment, the Company expects the majority of the amounts that have historically been classified as bad debt expense will be reflected as a reduction of the transaction price and therefore as a reduction in revenue. The Company anticipates an increase in the level of required financial statement disclosures due to the standard. As a result of this change, the Company preliminarily estimates the following impact to its consolidated statement of operations for the years ended June 30, 2018 and 2017:

	FY2018			FY2017		
	As Reported	Adjusted for ASC 606	As Adjusted	As Reported	Adjusted for ASC 606	As Adjusted
Total revenue	\$ 772.6	\$ (28.9)	\$ 743.7	\$ 769.9	\$ (41.2)	\$ 728.7
Selling, general, and administrative expense	467.1	\$ (32.1)	435.0	476.4	\$ (36.5)	439.9
Income tax provision	(14.0)	\$ 1.0	(13.0)	20.6	\$ (1.6)	19.0
Net income attributable to Myriad Genetics, Inc. stockholders	131.1	\$ 2.2	133.3	20.5	\$ (3.1)	17.4
Earnings per share:						
Basic	\$ 1.89	\$ 0.03	\$ 1.92	\$ 0.30	\$ (0.05)	\$ 0.25
Diluted	\$ 1.82	\$ 0.03	\$ 1.85	\$ 0.30	\$ (0.05)	\$ 0.25

In February 2016, the FASB issued ASU No. 2016-02, Leases (Topic 842) (“ASU 2016-02”), which modified lease accounting for both lessees and lessors to increase transparency and comparability by recognizing lease assets and lease liabilities by lessees for those leases classified as operating leases under previous accounting standards and disclosing key information about leasing arrangements. ASU 2016-02 will be effective for, and planned to be adopted by, the Company beginning in its first quarter of 2020 and early adoption is permitted. The Company is currently evaluating the impact of adopting the new lease standard on its consolidated financial statements.

2. REVISIONS OF PREVIOUSLY-ISSUED FINANCIAL STATEMENTS

During the financial close for fiscal year 2018 the Company determined that it had not fully and timely taken into account changes in the business environment and experience with ultimate collection from third-party payors in estimating the amount of revenue that could be judged fixed or determinable at the date of performance of tests during 2018 and in previous annual and quarterly periods, and consequently, certain immaterial errors existed in previously reported amounts of revenue. However, the Company concluded that the cumulative effect of correcting the errors in 2018 would materially misstate the Company’s Consolidated Financial Statements for the year ended June 30, 2018. Accordingly, the accompanying prior period results have been revised to reflect the correction of these immaterial errors in each period.

The following tables presents the revised results for each previously reported period, the adjustments made to each period and the previously reported amounts to summarize the effect of the corrections on the previously reported consolidated financial statements for the periods presented.

	Year ended June 30,		
	(As Reported)	2017 (Adjustment)	(Restated)
ASSETS			
Current assets:			
Cash and cash equivalents	\$ 102.4	\$ -	\$ 102.4
Marketable investment securities	48.3	-	48.3
Prepaid expenses	12.7	-	12.7
Inventory	42.2	-	42.2
Trade accounts receivable, less allowance for doubtful accounts of \$7.6 in 2017	105.6	(15.4)	90.2
Prepaid taxes	0.2	-	0.2
Other receivables	5.7	-	5.7
Total current assets	317.1	(15.4)	301.7
Property, plant and equipment, net	51.1	-	51.1
Long-term marketable investment securities	48.5	-	48.5
Intangibles, net	491.6	(0.1)	491.5
Goodwill	316.1	-	316.1
Total assets	<u>\$ 1,224.4</u>	<u>\$ (15.5)</u>	<u>\$ 1,208.9</u>
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current liabilities:			
Accounts payable	\$ 22.0	\$ -	\$ 22.0
Accrued liabilities	65.6	-	65.6
Short-term contingent consideration	127.3	-	127.3
Deferred revenue	2.6	-	2.6
Total current liabilities	217.5	-	217.5
Unrecognized tax benefits	25.2	-	25.2
Other long-term liabilities	7.2	-	7.2
Contingent consideration	13.2	-	13.2
Long-term debt	99.1	-	99.1
Long-term deferred taxes	84.4	(5.7)	78.7
Total liabilities	446.6	(5.7)	440.9
Commitments and contingencies			
Stockholders' equity:			
Common stock, 68.4 shares outstanding at June 30, 2017	0.7	-	0.7
Additional paid-in capital	851.4	-	851.4
Accumulated other comprehensive loss	(5.5)	-	(5.5)
Accumulated deficit	(68.4)	(9.8)	(78.2)
Total Myriad Genetics, Inc. stockholders' equity	778.2	(9.8)	768.4
Non-controlling interest	(0.4)	-	(0.4)
Total stockholders' equity	777.8	(9.8)	768.0
Total liabilities and stockholders' equity	<u>\$ 1,224.4</u>	<u>\$ (15.5)</u>	<u>\$ 1,208.9</u>

In millions, except per share amounts

	Year Ended June 30,		
	(As Reported)	2017 (Adjustment)	(Restated)
Molecular diagnostic testing	\$ 722.1	\$ (1.5)	\$ 720.6
Pharmaceutical and clinical services	49.3	-	49.3
Total revenue	771.4	(1.5)	769.9
Costs and expenses:			
Cost of molecular diagnostic testing	145.2	-	145.2
Cost of pharmaceutical and clinical services	26.0	-	26.0
Research and development expense	74.4	-	74.4
Change in the fair value of contingent consideration	(0.8)	-	(0.8)
Selling, general, and administrative expense	476.4	-	476.4
Total costs and expenses	721.2	-	721.2
Operating income	50.2	(1.5)	48.7
Other income (expense):			
Interest income	1.2	-	1.2
Interest expense	(6.0)	-	(6.0)
Other	(2.5)	(0.5)	(3.0)
Total other income (expense):	(7.3)	(0.5)	(7.8)
Income before income tax	42.9	(2.0)	40.9
Income tax provision	21.3	(0.7)	20.6
Net income	21.6	(1.3)	20.3
Net loss attributable to non-controlling interest	(0.2)	-	(0.2)
Net income attributable to Myriad Genetics, Inc. stockholders	<u>\$ 21.8</u>	<u>\$ (1.3)</u>	<u>\$ 20.5</u>
Earnings per share:			
Basic	\$ 0.32	\$ (0.02)	\$ 0.30
Diluted	\$ 0.32	\$ (0.02)	\$ 0.30
Weighted average shares outstanding:			
Basic	68.3	68.3	68.3
Diluted	68.8	68.8	68.8

In millions, except per share amounts

	Year Ended June 30,		
	(As Reported)	2016 (Adjustment)	(Restated)
Molecular diagnostic testing	\$ 705.7	\$ (13.3)	\$ 692.4
Pharmaceutical and clinical services	48.1	-	48.1
Total revenue	753.8	(13.3)	740.5
Costs and expenses:			
Cost of molecular diagnostic testing	132.8	-	132.8
Cost of pharmaceutical and clinical services	24.5	-	24.5
Research and development expense	70.6	-	70.6
Change in the fair value of contingent consideration	-	-	-
Selling, general, and administrative expense	359.1	0.1	359.2
Total costs and expenses	587.0	0.1	587.1
Operating income	166.8	(13.4)	153.4
Other income (expense):			
Interest income	0.9	-	0.9
Interest expense	(0.3)	-	(0.3)
Other	1.5	0.5	2.0
Total other income (expense):	2.1	0.5	2.6
Income before income tax	168.9	(12.9)	156.0
Income tax provision	43.6	(4.8)	38.8
Net income	125.3	(8.1)	117.2
Net loss attributable to non-controlling interest	-	-	-
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 125.3	\$ (8.1)	\$ 117.2
Earnings per share:			
Basic	\$ 1.79	\$ (0.12)	\$ 1.67
Diluted	\$ 1.71	\$ (0.11)	\$ 1.60
Weighted average shares outstanding:			
Basic	70.0	70.0	70.0
Diluted	73.4	73.4	73.4

In millions, except per share amounts

	Year Ended June 30,		
	(As Reported)	2015 (Adjustment)	(Restated)
Molecular diagnostic testing	\$ 695.5	\$ (0.6)	\$ 694.9
Pharmaceutical and clinical services	27.6	-	27.6
Total revenue	723.1	(0.6)	722.5
Costs and expenses:			
Cost of molecular diagnostic testing	132.8	-	132.8
Cost of pharmaceutical and clinical services	14.6	-	14.6
Research and development expense	75.5	-	75.5
Change in the fair value of contingent consideration	-	-	-
Selling, general, and administrative expense	366.0	-	366.0
Total costs and expenses	588.9	-	588.9
Operating income	134.2	(0.6)	133.6
Other income (expense):			
Interest income	0.4	-	0.4
Interest expense	(0.2)	-	(0.2)
Other	0.5	-	0.5
Total other income (expense):	0.7	-	0.7
Income before income tax	134.9	(0.6)	134.3
Income tax provision	54.7	(0.2)	54.5
Net income	80.2	(0.4)	79.8
Net loss attributable to non-controlling interest	-	-	-
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 80.2	\$ (0.4)	\$ 79.8
Earnings per share:			
Basic	\$ 1.12	\$ (0.01)	\$ 1.12
Diluted	\$ 1.08	\$ (0.01)	\$ 1.07
Weighted average shares outstanding:			
Basic	71.3	71.3	71.3
Diluted	74.5	74.5	74.5

In millions, except per share amounts

Unaudited

	Quarters Ended		
	Mar 31, 2018 (Restated)	Dec 31, 2017 (Restated)	Sep 30, 2017 (Restated)
Consolidated Statement of Operations Data:			
Molecular diagnostic testing	\$ 177.3	\$ 177.9	\$ 176.5
Pharmaceutical and clinical services	13.8	14.8	11.4
Total Revenue	191.1	192.7	187.9
Costs and expenses:			
Cost of molecular diagnostic testing	36.8	37.7	36.2
Cost of pharmaceutical and clinical services	7.3	6.7	6.8
Research and development expense	18.5	16.8	17.8
Change in the fair value of contingent consideration	(1.2)	13.0	(73.2)
Selling, general and administrative expense	115.1	115.4	115.2
Total costs and expenses	176.5	189.6	102.8
Operating income	14.6	3.1	85.1
Other income (expense):			
Interest income	0.5	0.4	0.4
Interest expense	(0.5)	(0.7)	(0.9)
Other	(0.5)	(0.4)	(0.3)
Total other income (expense)	(0.5)	(0.7)	(0.8)
Income before income taxes	14.1	2.4	84.3
Income tax provision	4.5	(26.3)	4.8
Net income	9.6	28.7	79.5
Net loss attributable to non-controlling interest	(0.1)	-	(0.1)
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 9.7	\$ 28.7	\$ 79.6
Earnings per share:			
Basic	\$ 0.14	\$ 0.41	\$ 1.16
Diluted	\$ 0.13	\$ 0.40	\$ 1.13
Weighted average shares outstanding:			
Basic	69.8	69.3	68.6
Diluted	72.4	71.9	70.4

In millions, except per share amounts

Unaudited

	Quarters Ended		
	Mar 31, 2018 (adjustments)	Dec 31, 2017 (adjustments)	Sep 30, 2017 (adjustments)
Consolidated Statement of Operations Data:			
Molecular diagnostic testing	\$ (2.4)	\$ (1.3)	\$ (2.3)
Pharmaceutical and clinical services	-	-	-
Total Revenue	(2.4)	(1.3)	(2.3)
Costs and expenses:			
Cost of molecular diagnostic testing	-	-	-
Cost of pharmaceutical and clinical services	-	-	-
Research and development expense	-	-	-
Change in the fair value of contingent consideration	-	-	-
Selling, general and administrative expense	-	-	-
Total costs and expenses	-	-	-
Operating income	(2.4)	(1.3)	(2.3)
Other income (expense):			
Interest income	-	-	-
Interest expense	-	-	-
Other	-	-	-
Total other income (expense)	-	-	-
Income before income taxes	(2.4)	(1.3)	(2.3)
Income tax provision	(0.7)	2.1	(0.8)
Net income	(1.7)	(3.4)	(1.5)
Net loss attributable to non-controlling interest	-	-	-
Net income attributable to Myriad Genetics, Inc. stockholders	<u>\$ (1.7)</u>	<u>\$ (3.4)</u>	<u>\$ (1.5)</u>
Earnings per share:			
Basic	\$ (0.02)	\$ (0.05)	\$ (0.02)
Diluted	\$ (0.02)	\$ (0.05)	\$ (0.02)
Weighted average shares outstanding:			
Basic	69.8	69.3	68.6
Diluted	72.4	71.9	70.4

In millions, except per share amounts

Unaudited

	Quarters Ended		
	Mar 31, 2018 (As Reported)	Dec 31, 2017 (As Reported)	Sep 30, 2017 (As Reported)
Consolidated Statement of Operations Data:			
Molecular diagnostic testing	\$ 179.7	\$ 179.2	\$ 178.8
Pharmaceutical and clinical services	13.8	14.8	11.4
Total Revenue	193.5	194.0	190.2
Costs and expenses:			
Cost of molecular diagnostic testing	36.8	37.7	36.2
Cost of pharmaceutical and clinical services	7.3	6.7	6.8
Research and development expense	18.5	16.8	17.8
Change in the fair value of contingent consideration	(1.2)	13.0	(73.2)
Selling, general and administrative expense	115.1	115.4	115.2
Total costs and expenses	176.5	189.6	102.8
Operating income	17.0	4.4	87.4
Other income (expense):			
Interest income	0.5	0.4	0.4
Interest expense	(0.5)	(0.7)	(0.9)
Other	(0.5)	(0.4)	(0.3)
Total other income (expense)	(0.5)	(0.7)	(0.8)
Income before income taxes	16.5	3.7	86.6
Income tax provision	5.2	(28.4)	5.6
Net income	11.3	32.1	81.0
Net loss attributable to non-controlling interest	(0.1)	-	(0.1)
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 11.4	\$ 32.1	\$ 81.1
Earnings per share:			
Basic	\$ 0.16	\$ 0.46	\$ 1.18
Diluted	\$ 0.16	\$ 0.45	\$ 1.15
Weighted average shares outstanding:			
Basic	69.8	69.3	68.6
Diluted	72.4	71.9	70.4

In millions, except per share amounts

Unaudited

	Quarters Ended			
	Jun 30, 2017 (Restated)	Mar 31, 2017 (Restated)	Dec 31, 2016 (Restated)	Sep 30, 2016 (Restated)
Consolidated Statement of Operations Data:				
Molecular diagnostic testing	\$ 187.0	\$ 183.0	\$ 184.1	\$ 166.5
Pharmaceutical and clinical services	12.6	11.7	12.6	12.4
Total Revenue	199.6	194.7	196.7	178.9
Costs and expenses:				
Cost of molecular diagnostic testing	35.6	37.9	37.4	34.3
Cost of pharmaceutical and clinical services	6.9	6.4	7.0	5.7
Research and development expense	18.8	17.6	18.6	19.4
Change in the fair value of contingent consideration	(2.7)	5.2	(3.8)	0.5
Selling, general and administrative expense	122.1	122.1	120.3	111.9
Total costs and expenses	180.7	189.2	179.5	171.8
Operating income	18.9	5.5	17.2	7.1
Other income (expense):				
Interest income	0.3	0.3	0.3	0.3
Interest expense	(1.2)	(1.5)	(2.6)	(0.7)
Other	(0.1)	1.5	(2.6)	(1.8)
Total other income (expense)	(1.0)	0.3	(4.9)	(2.2)
Income before income taxes	17.9	5.8	12.3	4.9
Income tax provision	5.8	3.0	6.2	5.6
Net income	12.1	2.8	6.1	(0.7)
Net loss attributable to non-controlling interest	(0.2)	-	-	-
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 12.3	\$ 2.8	\$ 6.1	\$ (0.7)
Earnings per share:				
Basic	\$ 0.18	\$ 0.04	\$ 0.09	\$ (0.01)
Diluted	\$ 0.18	\$ 0.04	\$ 0.09	\$ (0.01)
Weighted average shares outstanding:				
Basic	68.2	68.1	68.2	68.8
Diluted	68.9	68.3	68.3	68.8

In millions, except per share amounts
Unaudited

	Quarters Ended			
	Jun 30, 2017 (adjustments)	Mar 31, 2017 (adjustments)	Dec 31, 2016 (adjustments)	Sep 30, 2016 (adjustments)
Consolidated Statement of Operations Data:				
Molecular diagnostic testing	\$ (0.9)	\$ (2.2)	\$ 0.2	\$ 1.4
Pharmaceutical and clinical services	-	-	-	-
Total Revenue	(0.9)	(2.2)	0.2	1.4
Costs and expenses:				
Cost of molecular diagnostic testing	-	-	-	-
Cost of pharmaceutical and clinical services	-	-	-	-
Research and development expense	-	-	-	-
Change in the fair value of contingent consideration	-	-	-	-
Selling, general and administrative expense	-	-	-	-
Total costs and expenses	-	-	-	-
Operating income	(0.9)	(2.2)	0.2	1.4
Other income (expense):				
Interest income	-	-	-	-
Interest expense	-	-	-	-
Other	-	-	-	(0.5)
Total other income (expense)	-	-	-	(0.5)
Income before income taxes	(0.9)	(2.2)	0.2	0.9
Income tax provision	(0.3)	(0.8)	-	0.4
Net income	(0.6)	(1.4)	0.2	0.5
Net loss attributable to non-controlling interest	-	-	-	-
Net income attributable to Myriad Genetics, Inc. stockholders	\$ (0.6)	\$ (1.4)	\$ 0.2	\$ 0.5
Earnings per share:				
Basic	\$ (0.01)	\$ (0.02)	\$ 0.00	\$ 0.01
Diluted	\$ (0.01)	\$ (0.02)	\$ 0.00	\$ 0.01
Weighted average shares outstanding:				
Basic	68.2	68.1	68.2	68.8
Diluted	68.9	68.3	68.3	68.8

In millions, except per share amounts

Unaudited

	Quarters Ended			
	Jun 30, 2017 (As Reported)	Mar 31, 2017 (As Reported)	Dec 31, 2016 (As Reported)	Sep 30, 2016 (As Reported)
Consolidated Statement of Operations Data:				
Molecular diagnostic testing	\$ 187.9	\$ 185.2	\$ 183.9	\$ 165.1
Pharmaceutical and clinical services	12.6	11.7	12.6	12.4
Total Revenue	200.5	196.9	196.5	177.5
Costs and expenses:				
Cost of molecular diagnostic testing	35.6	37.9	37.4	34.3
Cost of pharmaceutical and clinical services	6.9	6.4	7.0	5.7
Research and development expense	18.8	17.6	18.6	19.4
Change in the fair value of contingent consideration	(2.7)	5.2	(3.8)	0.5
Selling, general and administrative expense	122.1	122.1	120.3	111.9
Total costs and expenses	180.7	189.2	179.5	171.8
Operating income	19.8	7.7	17.0	5.7
Other income (expense):				
Interest income	0.3	0.3	0.3	0.3
Interest expense	(1.2)	(1.5)	(2.6)	(0.7)
Other	(0.1)	1.5	(2.6)	(1.3)
Total other income (expense)	(1.0)	0.3	(4.9)	(1.7)
Income before income taxes	18.8	8.0	12.1	4.0
Income tax provision	6.1	3.8	6.2	5.2
Net income	12.7	4.2	5.9	(1.2)
Net loss attributable to non-controlling interest	(0.2)	-	-	-
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 12.9	\$ 4.2	\$ 5.9	\$ (1.2)
Earnings per share:				
Basic	\$ 0.19	\$ 0.06	\$ 0.09	\$ (0.02)
Diluted	\$ 0.19	\$ 0.06	\$ 0.09	\$ (0.02)
Weighted average shares outstanding:				
Basic	68.2	68.1	68.2	68.8
Diluted	68.9	68.3	68.3	68.8

3. BUSINESS ACQUISITIONS

Assurex

On August 31, 2016, the Company completed the acquisition of Assurex, pursuant to the Agreement and Plan of Merger (as amended, the “Merger Agreement”), dated August 3, 2016. Pursuant to the terms of the Merger Agreement, Myriad Merger Sub, Inc., a wholly owned subsidiary of the Company was merged with and into Assurex, with Assurex continuing as the surviving corporation, and wholly owned subsidiary of Myriad. The Company acquired Assurex for total consideration of \$351.6, net of cash acquired of \$5.5, including a cash payment of \$216.1, and two potential performance-based milestones totaling \$185.0 with a fair value of \$130.0. The fair value of the performance-based milestones was determined by using the Monte Carlo method.

Of the cash consideration, \$19.1 was deposited into an escrow account to fund (i) any post-closing adjustments payable to Myriad based upon differences between the estimated working capital and the actual working capital of Assurex at closing, and (ii) any indemnification claims made by Myriad against Assurex within 18 months following closing.

Total consideration transferred was allocated to tangible assets acquired and liabilities assumed based on their fair values as of the acquisition date including current adjustments as set forth below. The Company believes the acquisition establishes the foundation for our neuroscience business and leverages our existing preventative care business unit with the addition of a product, GeneSight, which has growth potential. These factors contributed to consideration transferred in excess of the fair value of Assurex’s net tangible and intangible assets acquired, resulting in the Company recording \$121.1 in goodwill in connection with the transaction. During the year ended June 30, 2018 there was a fair value increase as of the date of the acquisition to equipment totaling \$0.1 and \$0.2 change in the non-controlling interest at the date of acquisition, which resulted in a net increase to goodwill of \$0.1 due to updated 3rd party valuations. Also during

that period there was a \$1.8 increase in the deferred tax liability due to differences in U.S. GAAP and tax purchase accounting as of the date of acquisition which increased goodwill by the same amount.

Management estimated the fair value of tangible and intangible assets and liabilities in accordance with the applicable accounting guidance for business combinations and utilized the services of third-party valuation consultants. The final purchase price allocation is as follows:

	Estimated Fair Value
Current assets	\$ 18.2
Intangible assets	295.6
Equipment	1.9
Goodwill	121.1
Current liabilities	(18.9)
Deferred tax liability	(66.3)
Total fair value purchase price	\$ 351.6
Less: Contingent consideration	(130.0)
Less: Cash acquired	(5.5)
Total cash consideration transferred	\$ 216.1

Identifiable Intangible Assets

The Company acquired intangible assets that consisted of developed technology which had an estimated fair value of \$256.5 and a database with an estimated fair value of \$39.1. The fair value of the developed technology was determined using a probability-weighted income approach that discounts expected future cash flows to present value. The fair value of the database was determined using a combination of the lost profits and replacement cost methods. The estimated net cash flows were discounted using a discount rate of 16% which is based on the estimated internal rate of return for the acquisition and represents the rate that market participants might use to value the intangible assets. The projected cash flows were based on key assumptions such as: estimates of revenues and operating profits; the time and resources needed to recreate databases and product and commercial development and approval; the life of the commercialized product; and associated risks related to viability and product alternatives. The Company will amortize the intangible assets on a straight-line basis over their estimated useful lives of 17 years for the developed technology and 5 years for the database. This amortization is not deductible for income tax purposes. During the year the internally developed software was written off as it was already included in the fair value of the developed technology.

Goodwill

The \$121.1 of goodwill represents the excess of consideration transferred over the fair value of assets acquired and liabilities assumed and is attributable to the benefits expected from combining the Company's research and commercial operations with Assurex's. This goodwill is not deductible for income tax purposes. As discussed above, the change in goodwill from the date of acquisition is shown below:

	Carrying amount
Balance July 1, 2017	\$ 119.2
Fair value adjustment to equipment and intangibles	(0.1)
Working capital adjustment	0.2
Change in deferred tax liability	1.8
Ending balance June 30, 2018	\$ 121.1

Pro Forma Information

The unaudited pro-forma results presented below include the effects of the Assurex acquisition as if it had been consummated as of July 1, 2015, with adjustments to give effect to pro forma events that are directly attributable to the acquisition which includes adjustments related to the amortization of acquired intangible assets, interest income and expense, and depreciation. The unaudited pro forma results do not reflect any operating efficiency or potential cost savings which may result from the consolidation of Assurex. Accordingly, these unaudited pro forma results are

presented for informational purposes only and are not necessarily indicative of what the actual results of operation of the combined company would have been if the acquisition had occurred at the beginning of the period presented nor are they indicative of future results of operations and are not necessarily indicative of results that might have been achieved had the acquisition been consummated as of July 1, 2015.

	Years Ended June 30,	
	2017	2016
Revenue	\$ 781.3	\$ 806.4
Income from operations	41.2	88.8
Net income	1.2	63.7
Net income per share, basic	\$ 0.02	\$ 0.91
Net income per share, diluted	\$ 0.02	\$ 0.87

To complete the purchase transaction, the Company incurred approximately \$5.0 of acquisition costs, which were recorded as selling, general and administrative expenses. For the year ended June 30, 2018, Assurex contributed revenue of approximately \$124.9. For year ended June 30, 2018 operating expenses related to Assurex were approximately \$120.6.

4. MARKETABLE INVESTMENT SECURITIES

The amortized cost, gross unrealized holding gains, gross unrealized holding losses, and fair value for available-for-sale securities by major security type and class of security at June 30, 2018 and 2017 were as follows:

	Amortized cost	Gross unrealized holding gains	Gross unrealized holding losses	Estimated fair value
At June 30, 2018:				
Cash and cash equivalents:				
Cash	\$ 95.6	\$ —	\$ —	\$ 95.6
Cash equivalents	15.3	—	—	15.3
Total cash and cash equivalents	110.9	—	—	110.9
Available-for-sale:				
Corporate bonds and notes	50.8	—	(0.3)	50.5
Municipal bonds	29.3	—	(0.1)	29.2
Federal agency issues	12.6	—	(0.1)	12.5
US government securities	8.3	—	(0.1)	8.2
Total	\$ 211.9	\$ -	\$ (0.6)	\$ 211.3
	Amortized cost	Gross unrealized holding gains	Gross unrealized holding losses	Estimated fair value
At June 30, 2017:				
Cash and cash equivalents:				
Cash	\$ 83.5	\$ —	\$ —	\$ 83.5
Cash equivalents	18.9	—	—	18.9
Total cash and cash equivalents	102.4	—	—	102.4
Available-for-sale:				
Corporate bonds and notes	45.4	0.1	(0.1)	45.4
Municipal bonds	32.7	—	—	32.7
Federal agency issues	11.6	—	(0.1)	11.5
US government securities	7.2	—	—	7.2
Total	\$ 199.3	\$ 0.1	\$ (0.2)	\$ 199.2

Cash, cash equivalents, and maturities of debt securities classified as available-for-sale are as follows at June 30, 2018:

	Amortized cost	Estimated fair value
Cash	95.6	95.6
Cash equivalents	15.3	15.3
Available-for-sale:		
Due within one year	70.0	69.7
Due after one year through five years	31.0	30.7
Due after five years	—	—
Total	<u>\$ 211.9</u>	<u>\$ 211.3</u>

Debt securities in an unrealized loss position as of June 30, 2018 were not impaired at acquisition and the declines in fair value are not attributed to declines in credit quality. Management believes that it is more likely than not that the securities will be held until a recovery of par value. All securities in an unrealized loss position as of June 30, 2018 and 2017 are debt securities. Debt securities available-for-sale in a gross unrealized loss position as of June 30, 2018 and 2017 are summarized as follows:

	Less than 12 months		More than 12 months		Total	
	Fair value	Unrealized losses	Fair value	Unrealized losses	Fair value	Unrealized losses
At June 30, 2018:						
Debt securities:						
Corporate bonds and notes	35.6	0.2	9.8	0.1	45.4	0.3
Municipal bonds	24.6	0.1	0.5	—	25.1	0.1
Federal agency issues	3.0	0	9.5	0.1	12.5	0.2
US government securities	6.3	—	2.0	—	8.3	—
	<u>\$ 69.5</u>	<u>\$ 0.4</u>	<u>\$ 21.8</u>	<u>\$ 0.2</u>	<u>\$ 91.3</u>	<u>\$ 0.6</u>

	Less than 12 months		More than 12 months		Total	
	Fair value	Unrealized losses	Fair value	Unrealized losses	Fair value	Unrealized losses
At June 30, 2017:						
Debt securities:						
Corporate bonds and notes	29.9	0.1	—	—	29.9	0.1
Municipal bonds	13.3	—	0.7	—	14.0	—
Federal agency issues	11.5	0.1	—	—	11.5	0.1
US government securities	5.3	—	—	—	5.3	—
	<u>\$ 60.0</u>	<u>\$ 0.2</u>	<u>\$ 0.7</u>	<u>\$ —</u>	<u>\$ 60.7</u>	<u>\$ 0.2</u>

Additional information relating to fair value of marketable investment securities can be found in Note 12.

5. PROPERTY, PLANT AND EQUIPMENT, NET

	Years Ended June 30,	
	2018	2017
Land	\$ 2.4	\$ 2.3
Buildings and improvements	19.3	17.1
Leasehold improvements	23.0	22.1
Equipment	112.4	106.9
	<u>157.1</u>	<u>148.4</u>
Less accumulated depreciation	(113.9)	(97.3)
Property, plant and equipment, net	<u>\$ 43.2</u>	<u>\$ 51.1</u>

	Years Ended June 30,		
	2018	2017	2016
Depreciation expense	\$ 17.1	\$ 15.0	\$ 14.1

6. GOODWILL AND INTANGIBLE ASSETS

Goodwill

The Company has recorded goodwill of \$318.6 from the acquisitions of Assurex Health, Inc. that was completed on August 31, 2016, Sividon Diagnostics that was completed on May 31, 2016, GmbH, Privatlinik Dr. Robert Schindlbeck GmbH & Co. KG that was completed on February 27, 2015, Crescendo Bioscience, Inc. that was completed on February 28, 2014 and Rules-Based Medicine, Inc. that was completed on May 31, 2011. Of this goodwill, \$252.8 relates to the Company's diagnostic segment and \$65.8 related to the other segment. The Company assessed goodwill for impairment in accordance with the appropriate guidance (see Note 1) and recorded no impairment of goodwill for the period ended June 30, 2018, 2017 and 2016.

The following summarizes changes to the goodwill balance for the years ended June 30, 2018 and 2017:

	Years Ended June 30,	
	2018	2017
Beginning balance	\$ 316.1	\$ 195.3
Acquisitions (see note 3)	-	116.3
Adjustments to acquisitions (see note 3)	1.9	3.6
Translation adjustments	0.6	0.9
Ending balance	<u>\$ 318.6</u>	<u>\$ 316.1</u>

Intangible Assets

Intangible assets primarily consist of amortizable assets of purchased licenses and technologies, developed technology, a laboratory database, trademarks, and customer relationships as well as non-amortizable intangible assets of in-process technologies, research and development. Certain of these intangible assets were recorded as part of the Company's purchase of Assurex on August 31, 2016, Sividon on March 31, 2016, Crescendo on February 28, 2014 and Myriad RBM on May 31, 2011. The Company's developed technology and database acquired have estimated remaining useful lives between 3 and 15 years, trademarks acquired have an estimated remaining useful life of approximately 10 years and customer relationships have an estimated remaining useful life of approximately 3 years. The estimated useful life of acquired in-process research and development was also evaluated in conjunction with the annual impairment analysis of intangible assets. The classification of the acquired in-process research and development as an indefinite lived asset was deemed appropriate as the related research and development was not yet complete nor had it been abandoned. The Company concluded there was no impairment of long-lived assets for the years ended June 30, 2018, 2017 and 2016.

The following summarizes the amounts reported as intangible assets:

At June 30, 2018:	Gross Carrying	Accumulated	Net
	Amount	Amortization	
Purchased licenses and technologies	\$ 526.4	\$ (98.0)	\$ 428.4
Customer relationships	4.6	(3.3)	1.3
Trademarks	3.0	(1.0)	2.0
Total amortizable intangible assets	534.0	(102.3)	431.7
In-process research and development	23.5	—	23.5
Total unamortized intangible assets	23.5	—	23.5
Total intangible assets	<u>\$ 557.5</u>	<u>\$ (102.3)</u>	<u>\$ 455.2</u>

At June 30, 2017:	Gross Carrying Amount	Accumulated Amortization	Net
Purchased licenses and technologies	\$ 525.7	\$ (61.3)	\$ 464.4
Customer relationships	4.6	(2.8)	1.8
Trademarks	3.0	(0.8)	2.2
Total amortizable intangible assets	533.3	(64.9)	468.4
In-process research and development	23.1	—	23.1
Total unamortized intangible assets	23.1	—	23.1
Total intangible assets	\$ 556.4	\$ (64.9)	\$ 491.5

As of June 30, 2018 the weighted average remaining amortization period for purchased licenses and technologies, trademarks, and customer relationships is approximately 14 years.

The Company recorded amortization during the respective periods for these intangible assets as follows:

	Years Ended June 30,		
	2018	2017	2016
Amortization of intangible assets	\$ 37.3	\$ 33.3	\$ 12.7

Amortization expense of intangible assets is estimated to be \$37.2 in 2019, \$36.9 in 2020, \$36.9 in 2021, \$30.0 in 2022 and \$28.6 in 2023 and \$262.1 thereafter.

7. ACCRUED LIABILITIES

	Years Ended June 30,	
	2018	2017
Employee compensation and benefits	\$ 49.5	\$ 44.4
Accrued taxes payable	4.3	7.1
Other	14.5	14.1
Total accrued liabilities	\$ 68.3	\$ 65.6

8. LONG-TERM DEBT

On December 23, 2016, the Company entered into the Facility by and among Myriad, as borrower, the lenders from time to time party thereto, providing for the Facility in an aggregate principal amount of up to \$300.0, which amount shall include \$10.0 sublimits, in each case, for swingline loans and letters of credit. Pursuant to the Facility, Myriad borrowed revolving loans in an aggregate principal amount of \$205.0 with \$0.7 upfront fees and \$0.3 debt issuance costs recorded as a debt discount to be amortized over the term of the Facility resulting in current net long-term debt of \$204.0. The Facility matures on December 23, 2021. There are no scheduled principal payments of the Facility prior to its maturity date.

The proceeds of the Facility were used (i) to refinance in full the obligations under the Term Loan, (ii) to pay any fees and expenses related thereto, and (iii) for working capital and general corporate purposes.

The Facility contains customary loan terms, interest rates, representations and warranties, affirmative and negative covenants, in each case, subject to customary limitations, exceptions and exclusions. The Facility also contains certain customary events of default.

Covenants in the Facility, which went into effect during the quarter ending March 31, 2017, impose operating and financial restrictions on the Company. These restrictions may prohibit or place limitations on, among other things, the Company's ability to incur additional indebtedness, create certain types of liens, mergers or consolidations, and/or change in control transactions. The Facility may also prohibit or place limitations on the Company's ability to sell assets, pay dividends or provide other distributions to shareholders. The Company must maintain specified leverage and interest ratios measured as of the end of each quarter as a financial covenant in the Facility. The Company was in compliance with all financial covenants at June 30, 2018.

During the years ended June 30, 2018 and 2017 the Company made \$143.0 and \$105.0 in principal repayments respectively.

The Facility is secured by a first-lien security interest in substantially all of the assets of Myriad and certain of its domestic subsidiaries and each such domestic subsidiary of Myriad has guaranteed the repayment of the Facility. Amounts outstanding under the Facility were as follows:

	Years Ended June 30,	
	2018	2017
Long-term debt	\$ 10.0	\$ 100.0
Long-term debt discount	(0.7)	(0.9)
Net long-term debt	\$ 9.3	\$ 99.1

9. OTHER LONG TERM LIABILITIES

	Years Ended June 30,	
	2018	2017
Pension obligation	\$ 6.0	\$ 5.9
Other	0.3	1.3
Total other long term liabilities	\$ 6.3	\$ 7.2

The Company has two non-contributory defined benefit pension plans for its current and former Clinic employees. The Company has closed participation in the plans to exclude those employees hired after 2002. As of June 30, 2018 the fair value of the plan assets were approximately \$0.1 resulting in a net pension liability of \$6.0.

10. PREFERRED AND COMMON STOCKHOLDER'S EQUITY

The Company is authorized to issue up to 5.0 shares of preferred stock, par value \$0.01 per share. There were no preferred shares outstanding at June 30, 2018, 2017 and 2016.

The Company is authorized to issue up to 150.0 shares of common stock, par value \$0.01 per share. There were 70.6, 68.4, and 69.1 shares issued and outstanding at June 30, 2018, 2017 and 2016 respectively.

Common shares issued and outstanding

	Years Ended June 30,		
	2018	2017	2016
Common stock issued and outstanding at July 1	68.4	69.1	68.9
Common stock issued upon exercise of options and employee stock plans	2.2	0.9	4.7
Repurchase and retirement of common stock	—	(1.6)	(4.5)
Common stock issued and outstanding at June 30	70.6	68.4	69.1

Stock Repurchase Program

In June 2016, the Company's Board of Directors authorized an eighth share repurchase program of \$200.0 of the Company's outstanding common stock. The Company plans to repurchase its common stock from time to time or on an accelerated basis through open market transactions or privately negotiated transactions as determined by the Company's management. The amount and timing of stock repurchases under the program will depend on business and market conditions, stock price, trading restrictions, acquisition activity and other factors. As of June 30, 2018, the Company has \$160.7 remaining on its current share repurchase authorization.

The Company uses the par value method of accounting for its stock repurchases. As a result of the stock repurchases, the Company reduced common stock and additional paid-in capital and recorded charges to retained earnings/accumulated deficit. The shares retired, aggregate common stock and additional paid-in capital reductions, and related charges to retained earnings/accumulated deficit for the repurchases for periods ended June 30, 2018, 2017 and 2016 were as follows:

	Year ended June 30,		
	2018	2017	2016
Shares purchased and retired	-	1.6	4.5
Common stock and additional paid-in-capital reductions	\$ -	\$ 14.6	\$ 41.2
Charges to retained earnings	\$ -	\$ 17.0	\$ 121.4

11. INCOME TAXES

Income tax expense(benefit) consists of the following:

	Year ended June 30,		
	2018	2017	2016
Current:			
Federal	\$ 6.7	\$ 17.1	\$ 22.4
State	2.2	2.4	3.4
Total Current	8.9	19.5	25.8
Deferred:			
Federal	(22.7)	1.5	10.7
State	0.7	(1.7)	(3.4)
Foreign	(1.4)	(1.7)	3.5
Change in valuation allowance	0.5	3.0	2.2
Total Deferred	(22.9)	1.1	13.0
Total income tax expense	\$ (14.0)	\$ 20.6	\$ 38.8

Income (loss) before income taxes consists of the following:

	Year ended June 30,		
	2018	2017	2016
United States	\$ 119.1	\$ 43.9	\$ 156.6
Foreign	(2.2)	(3.0)	(0.6)
Total	\$ 116.9	\$ 40.9	\$ 156.0

The differences between income taxes at the statutory federal income tax rate and income taxes reported in the consolidated statements of operations were as follows:

	Year ended June 30,		
	2018	2017	2016
Federal income tax expense at the statutory rate	28.1%	35.0%	35.0%
State income taxes, net of federal benefit	2.5	1.7	2.2
Research and development credits, net of the federal tax on state credits	(1.8)	(7.6)	(1.4)
Uncertain tax positions, net of federal benefit	2.0	3.0	0.6
Uncertain tax benefits statute expired, net of federal benefit	-	-	(4.8)
Incentive stock option and employee stock purchase plan expense	(1.1)	2.0	(0.3)
Foreign rate differential	(0.8)	(1.3)	-
Change in valuation allowance	0.5	7.4	1.4
Tax Cut and Jobs Act Impact	(27.3)	-	-
Fair value adjustments related to acquisition contingent consideration	(14.7)	-	-
Early adoption of ASU 2016-09	(0.3)	7.7	(8.3)
Acquisition related transaction costs	-	1.9	-
Other, net	0.9	0.6	0.5
	<u>(12.0)%</u>	<u>50.4%</u>	<u>24.9%</u>

The significant components of the Company's deferred tax assets and liabilities were comprised of the following:

	Year ended June 30,	
	2018	2017
Deferred tax assets:		
Net operating loss carryforwards	\$ 44.6	\$ 75.5
Property, plant and equipment	1.1	2.1
Accrued vacation	1.4	3.0
AR allowance	10.7	15.4
Stock compensation expense	17.0	29.9
Research and development credits	13.0	9.9
Uncertain state tax positions	1.3	1.4
Other, net	0.9	2.3
Total gross deferred tax assets	90.0	139.5
Less valuation allowance	(37.8)	(40.5)
Total deferred tax assets	52.2	99.0
Deferred tax liabilities:		
Intangible assets	109.5	177.7
Total deferred tax liabilities	109.5	177.7
Net deferred tax liability	<u>(57.3)</u>	<u>(78.7)</u>

On December 22, 2017, the Tax Cuts and Jobs Act (the "Tax Act") was enacted. The Tax Act makes broad and complex changes to the U.S. tax code that are affecting our fiscal year ending June 30, 2018, including, but not limited to (1) reducing the U.S. federal corporate tax rate from 35 percent to 21 percent; (2) requiring companies to pay a one-time transition tax on certain unrepatriated earnings of foreign subsidiaries; (3) generally eliminating U.S. federal income taxes on dividends from foreign subsidiaries; (4) requiring a current inclusion in U.S. federal taxable income of certain earnings of controlled foreign corporations; (5) creating the base erosion anti-abuse tax (BEAT), a new minimum tax; (6) creating a new limitation on deductible interest expense; (7) revising the rules that limit the deductibility of compensation to certain highly compensated executives, and (8) changing rules related to uses and limitations of net operating loss carryforwards created in tax years beginning after December 31, 2017.

The SEC staff issued SAB 118, which provides guidance on accounting for the tax effects of the Tax Act. SAB 118 provides a measurement period that should not extend beyond one year from the Tax Act enactment date for companies to complete the accounting under ASC 740. In accordance with SAB 118, a company must reflect the income tax effects of those aspects of the Act for which the accounting under ASC 740 is complete. To the extent that a company's accounting for certain income tax effects of the Tax Act is incomplete but it is able to determine a reasonable estimate, it must record a provisional estimate in the financial statements. If a company cannot determine a provisional estimate to be included in the financial statements, it should continue to apply ASC 740 on the basis of the provisions of the tax laws that were in effect immediately before the enactment of the Tax Act.

In connection with the Company's initial analysis of the impact of the Tax Act and consistent with the requirement to record a provisional estimate when applicable, the Company recorded net income tax benefit during the year ended June 30, 2018 of approximately \$32.0 million. This provisional estimate primarily consists of a net benefit for the corporate rate reduction due to the revaluing of its net deferred tax liabilities as a result of the reduction in the federal corporate tax rates. The Company's net deferred tax liabilities represent temporary differences between the book bases of assets which are greater than their tax bases. Upon the reversal of those temporary differences, the future tax impact will be based on the lower federal corporate tax rate enacted by the Tax Act. The Company is continuing to gather information and to analyze aspects of the Tax Act, which could potentially affect the estimated impact on the deferred tax balances. For various reasons that are discussed more fully below, the Company has not completed its accounting for the income tax effects of certain elements of the Tax Act. To the extent the Company was not yet able to make reasonable estimates of the impact of certain elements, it has not recorded any adjustments related to those elements and have continued accounting for them in accordance with ASC 740 on the basis of the tax laws in effect before the Tax Act.

The Company records liabilities for unrecognized tax benefits resulting from uncertainties of tax positions. See further explanations below regarding the Company's overall liability for uncertain tax positions. The \$32.0 benefit that was recorded during the year as a provisional estimate of the impact of the Tax Act during the fiscal year includes \$3.3 income tax benefit due to revaluing its liability for uncertain tax positions. The Company's deferred tax balance includes a deferred tax asset for a net operating loss, upon which a liability for unrecognized tax benefit has been recorded. Due to the estimated timing of the reversal of the net operating loss and the reduction of the deferred tax asset resulting from the lower tax rates of the Tax Act, a corresponding reduction in the liability for unrecognized tax benefit was also recorded.

In addition to the benefit recorded during year ended June 30, 2018 for the provisional estimated impact on the Company's net deferred tax liabilities, the lower federal corporate tax rate reduced the Company's estimated annual effective tax rate which was applied to year to date operating results in accordance with the interim accounting guidelines. The Company estimates that the reduction in the federal corporate rate will have an ongoing effect to reduce the Company's income tax expense from continuing operations.

As a result of changes made by the Tax Act, Section 162(m) will limit the deduction of compensation, including performance-based compensation, in excess of \$1.0 million paid to anyone who, for tax years beginning after January 1, 2018, serves as the Chief Executive Officer or Chief Financial Officer, or who is among the three most highly compensated executive officers for any fiscal year. The only exception to this rule is for compensation that is paid pursuant to a binding written contract in effect on November 2, 2017 that would have otherwise been deductible under the prior Section 162(m) rules. Accordingly, any compensation paid in the future pursuant to new compensation arrangements entered into after November 2, 2017, even if performance-based, will count towards the \$1 million fiscal year deduction limit if paid to a covered executive. No material estimate was recorded by the Company during the fiscal year, as the law is effective for tax years beginning after January 1, 2018. The Company has evaluated its binding contracts entered into prior to November 2, 2017, and believes there will be no material impact for adjustments related to deferred equity compensation currently carried as a deferred tax asset on the Company's balance sheet. The Company is still analyzing certain aspects of the Act and refining calculations, which could potentially affect the impact of this provision.

The Tax Act also implements certain changes on the taxation of the Company's foreign operations. The Company's accounting for the following elements of the Tax Act is incomplete, and we were not yet able to make reasonable estimates of the effects. Therefore, no provisional adjustments were recorded.

The Deemed Repatriation Transition Tax (Transition Tax) is a tax on previously untaxed accumulated and current earnings and profits (E&P) of certain of the Company's foreign subsidiaries. To determine the amount of the Transition Tax, the Company must determine, in addition to other factors, the amount of post-1986 E&P of the relevant subsidiaries, as well as the amount of non-U.S. income taxes paid on such earnings. While the Company estimates that there will not be a material impact in the current fiscal year due to the Transition Tax, the Company is not able to make a reasonable

estimate of the Transition Tax and have not recorded a provisional amount. The Company is continuing to gather additional information needed to finalize the amount of post-1986 E&P to more precisely compute the amount of the Transition Tax.

The Tax Act creates a new requirement that certain income (i.e., GILTI) earned by controlled foreign corporations (CFCs) must be included currently in the gross income of the CFCs' U.S. shareholder. GILTI is the excess of the shareholder's "net CFC tested income" over the net deemed tangible income return, which is currently defined as the excess of (1) 10 percent of the aggregate of the U.S. shareholder's pro rata share of the qualified business asset investment of each CFC with respect to which it is a U.S. shareholder over (2) the amount of certain interest expense taken into account in the determination of net CFC-tested income. Because of the complexity of the new GILTI tax rules, the Company is continuing to evaluate this provision of the Tax Act and the application of ASC 740. Under U.S. GAAP, the Company is allowed to make an accounting policy choice of either (1) treating taxes due on future U.S. inclusions in taxable income related to GILTI as a current-period expense when incurred (the "period cost method") or (2) factoring such amounts into a company's measurement of its deferred taxes (the "deferred method"). The Company is not making a policy election at this time. The Company's calculation of the deferred balance with respect to the new GILTI tax rules will depend, in part, on analyzing our global income to determine whether the Company expects to have future U.S. inclusions in taxable income related to GILTI and, if so, what the impact is expected to be. Because whether the Company expects to have future U.S. inclusions in taxable income related to GILTI depends on not only the Company's current structure and estimated future results of global operations but also the Company's intent and ability to modify our structure and/or our business, the Company is not yet able to reasonably estimate the effect of this provision of the Tax Act. Therefore, the Company has not made any adjustments related to potential GILTI tax in our financial statements.

Other revisions to the taxation of foreign earnings will not be effective until the Company's fiscal year ending on June 30, 2019. The Company is in the process of evaluating the additional provisions of the Tax Act that will become effective in their fiscal year ending June 30, 2019.

The impact of the Tax Act may differ from this estimate, possibly materially, due to, among other things, changes in interpretations and assumptions the Company has made, guidance that may be issued and actions the Company may take as a result of the Tax Act. The Company will continue to update the provisional estimates as information is obtained, such as state impacts regarding decoupling from the Tax Act provisions, realization of deferred amounts in the fiscal year, and accounting method elections that may be made by the Company.

Due to sustained positive operating performance and the availability of expected future taxable income, the Company concluded that it is more likely than not that the benefits of the majority of its deferred income tax assets will be realized. However, for certain deferred tax assets, a valuation allowance has been established. For the years ended June 30, 2018 and 2017, the Company's valuation allowance decreased by \$2.7 and increased \$4.9, respectively. The net decrease of the valuation allowance in the year ended June 30, 2018 is primarily due to a corresponding decrease in the deferred tax asset for net operating loss carryforwards that decreased as a result of the Tax Act.

The Company acquired Assurex Health, Inc. on August 31, 2016 (see Note 2). As part of the purchase accounting for the acquisition, a net deferred tax liability of approximately \$66.3 was recorded, consisting primarily of intangible assets for which the book basis exceeds the tax basis.

At June 30, 2018, the Company had the following net operating loss and research credit carryforwards, with their respective expiration periods. Certain carryforwards are subject to the limitations of Section 382 and 383 of the Internal Revenue Code as indicated.

Carryforwards	Amount	Subject to sections 382, 383	Expires beginning in year	Through
Federal net operating loss	\$ 112.2	Yes	2027	2033
Utah net operating loss	209.5	No	2016	2024
Oklahoma net operating loss	14.1	Yes	2023	2033
Foreign net operating losses (various jurisdictions)	34.7	No	Various	Various
Federal research credit	4.7	Yes	2025	2032
Utah research credit	10.6	No	2021	2031

All of the Utah net operating loss carryforwards are ‘excess tax benefits’ as defined by ASC guidance and, if realized in future years, will be recognized as a credit to tax benefit, pursuant to the guidance of ASU 2016-09. The Company’s deferred tax asset for the Utah net operating loss ‘excess tax benefits’ is approximately \$8.3 and is offset by a \$8.3 valuation allowance at June 30, 2018.

Notwithstanding the Deemed Repatriation Tax mentioned above, and consistent with the indefinite reversal criteria of ASC 740-30-25-17, the Company intends to continue to invest undistributed earnings of its foreign subsidiaries indefinitely. Due to the cumulative losses that have been incurred to date in its foreign operations, the amount of unrecorded deferred liability resulting from the indefinite reversal criteria at June 30, 2018 is \$0.

In July 2006, the FASB issued ASC Topic 740 Subtopic 10 Section 05, which clarifies the accounting for uncertainty in tax positions. Accounting guidance requires that the impact of a tax position be recognized in the financial statements if that position is more likely than not of being sustained on audit, based on the technical merits of the position. The Company adopted the guidance on July 1, 2007 and recorded \$0 cumulative effect. A reconciliation of the beginning and ending amount of unrecognized tax benefits is as follows:

	Year ended June 30,		
	2018	2017	2016
Unrecognized tax benefits at the beginning of year	\$ 25.2	\$ 24.2	\$ 26.3
Gross increases - current year tax positions	0.6	0.7	0.6
Gross increases - prior year tax positions	2.4	0.7	5.4
Gross increases - acquisitions	—	—	—
Gross decreases - prior year tax positions	(3.3)	(0.4)	(8.1)
Unrecognized tax benefits at end of year	\$ 24.9	\$ 25.2	\$ 24.2
Interest and penalties in year-end balance	\$ 1.5	\$ (0.9)	\$ 0.5

Interest and penalties related to uncertain tax positions are included as a component of income tax expense and all other interest and penalties are included as a component of other income (expense).

The Company files U.S., foreign and state income tax returns in jurisdictions with various statutes of limitations. The Company is currently under audit by the IRS for the fiscal years ended June 30, 2014 and June 30, 2015; the State of New Jersey for the fiscal years June 30, 2013 through 2017; the state of Wisconsin for the fiscal years June 30, 2014 through 2016; Germany for the fiscal years June 30, 2013 through 2015; and Canada for the fiscal years June 30, 2014 through 2015. Annual tax provisions include amounts considered necessary to pay assessments that may result from examination of prior year tax returns; however, the amount ultimately paid upon resolution of issues may differ materially from the amount accrued.

12. SHARE-BASED COMPENSATION

On November 30, 2017, the Company’s shareholders approved the adoptions of the 2017 Employee, Director and Consultant Equity Incentive Plan (the “2017 Plan”). The 2017 Plan allows the Company, under the direction of the Compensation Committee of the Board of Directors, to make grants of restricted and unrestricted stock awards to employees, consultants and directors. The 2017 Plan allows for issuance of up to 1.4 shares of common stock. In addition, as of June 30, 2018, the Company may grant additional shares of common stock under the 2017 Plan with up to 1.3 options outstanding under its 2003 Plan and 6.5 options and restricted stock units outstanding under its 2010 Plan, that expire or are cancelled without delivery of shares of common stock.

The number of shares, terms, and vesting periods are determined by the Company’s Board of Directors or a committee thereof on an option-by-option basis. Options generally vest ratably over service periods of four years. Options granted after December 5, 2012 expire eight years from the date of grant, and options granted prior to that date generally expire ten years from the date of grant. In September 2014, the Company began issuing restricted stock units (“RSUs”) in lieu of stock options. RSUs granted to employees generally vest ratably over four years on the anniversary date of the last day of the month in which the RSUs are granted. The number of RSUs awarded to certain executive officers may be reduced if certain additional performance metrics are not met. Options and RSUs granted to the Company’s non-employee directors vest in full upon completion of one year of service on the Board following the date of the grant.

Stock Options

A summary of option activity is as follows for the fiscal years ended June 30:

	2018		2017		2016	
	Number of shares	Weighted average exercise price	Number of shares	Weighted average exercise price	Number of shares	Weighted average exercise price
Options outstanding at beginning of year	8.0	\$ -	8.2	\$ 24.52	12.5	\$ 23.49
Options granted	—	\$ —	—	\$ —	—	\$ —
Less:						
Options exercised	(1.6)	\$ 25.34	(0.1)	\$ 14.81	(4.3)	\$ 21.51
Options canceled or expired	(0.1)	\$ 26.00	(0.1)	\$ 26.55	—	\$ —
Options outstanding at end of year	6.3	\$ 24.50	8.0	\$ 24.67	8.2	\$ 24.52
Options exercisable at end of year	6.3	\$ 24.50	7.5	\$ 24.55	6.7	\$ 24.04
Options vested and expected to vest	6.3	\$ 24.50	8.0	\$ 24.67	8.2	\$ 24.52
Weighted average fair value of options granted during the year	—	\$ —	—	\$ —	—	\$ —

The following table summarizes information about stock options outstanding at June 30, 2018:

	Options outstanding			Options exercisable	
Range of exercise prices	Number outstanding at June 30, 2018	Weighted average remaining contractual life (years)	Weighted average exercise price	Number exercisable at June 30, 2018	Weighted average exercise price
14.88 - 19.47	1.6	2.87	\$ 18.50	1.6	\$ 18.50
21.29 - 26.02	1.0	2.59	23.55	1.0	23.55
26.49 - 26.49	1.6	3.22	26.49	1.6	26.49
27.07 - 37.73	2.1	3.40	27.94	2.1	27.94
	6.3	3.09	\$ 24.50	6.3	\$ 24.50

As of June 30, 2018 there was no unrecognized share-based compensation expense related to stock options.

Restricted Stock Units

A summary of RSU activity is as follows:

	2018		2017	
	Number of shares	Weighted average grant date fair value	Number of shares	Weighted average grant date fair value
RSUs outstanding at the beginning of year	2.0	\$ 33.02	1.4	\$ 38.76
RSUs granted	1.1	32.67	1.1	21.47
Less:				
RSUs released	(0.7)	30.33	(0.4)	22.20
RSUs canceled	(0.2)	28.46	(0.1)	33.00
RSUs outstanding at end of year	2.2	\$ 31.16	2.0	\$ 33.02

As of June 30, 2018, there was \$34.5 of total unrecognized share-based compensation expense related to RSUs that will be recognized over a weighted-average period of 2.0 years.

Share-based compensation expense recognized and included in the consolidated statements of operations for the fiscal years ended June 30, 2018, 2017 and 2016 were as follows:

	Years Ended June 30,		
	2018	2017	2016
Cost of molecular diagnostic testing	\$ 0.7	\$ 0.9	\$ 0.9
Cost of pharmaceutical and clinical services	0.2	0.3	0.4
Research and development expense	4.3	5.8	5.4
Selling, general, and administrative expense	21.9	22.9	24.9
Total share-based compensation expense	\$ 27.1	\$ 29.9	\$ 31.6

The Company has unrecognized share-based compensation cost related to share-based compensation granted under its current plans. The estimated unrecognized share-based compensation cost and related weighted average recognition period, aggregate intrinsic value of options outstanding, aggregate intrinsic value of options that are fully vested and aggregate intrinsic value of RSUs vested and expected to vest is as follows:

	As of June 30, 2018
Unrecognized share-based compensation cost	\$ 34.5
Aggregate intrinsic value of options outstanding	\$ 81.6
Aggregate intrinsic value of options fully vested	\$ 81.6
Aggregate intrinsic value of RSUs outstanding	\$ 83.0

The total intrinsic value of options exercised during 2018, 2017 and 2016 was as follows:

	Years Ended June 30,		
	2018	2017	2016
Total intrinsic value of options exercised	\$ 17.0	\$ 0.9	\$ 86.1

Employee Stock Purchase Plan

On December 5, 2012, following shareholder approval, the Company adopted the 2012 Employee Stock Purchase Plan (the “2012 Purchase Plan”), under which 2.0 shares of common stock have been authorized. Shares are issued under the 2012 Purchase Plan twice yearly at the end of each offering period. At June 30, 2018, a total of 0.7 shares of common stock had been purchased under the 2012 Plan. Shares purchased under and compensation expense associated with the 2012 Plan for the years reported are as follows:

	Years Ended June 30,		
	2018	2017	2016
Shares purchased under the plans	0.1	0.5	0.2
Plan compensation expense	\$ 0.1	\$ 2.3	\$ 1.9

From June 1, 2017 through May 31, 2018 there was an amendment to the 2012 Purchase Plan implemented such that the plan was non-compensatory. As of June 30, 2018, there is \$0.3 unrecognized share-based compensation expense related to the 2012 Purchase Plan.

The fair value of shares issued under the Plan that was in effect for each period reported was calculated using the Black-Scholes option-pricing model using the following weighted-average assumptions:

	2018	2017	2016
Risk-free interest rate	2.1%	0.6%	0.4%
Expected dividend yield	0%	0%	0%
Expected life (in years)	0.5	0.5	0.5
Expected volatility	45%	72%	31%

13. FAIR VALUE MEASUREMENTS

The fair value of the Company's financial instruments reflects the amounts that the Company estimates to receive in connection with the sale of an asset or paid in connection with the transfer of a liability in an orderly transaction between market participants at the measurement date (exit price). The fair value of contingent consideration related to the Sividon and Assurex acquisitions as well as the long-term debt were categorized as a level 3 liability, as the measurement amount is based primarily on significant inputs not observable in the market. For more information about the Sividon and Assurex acquisitions, see Note 2 "Acquisitions". The fair value hierarchy prioritizes the use of inputs used in valuation techniques into the following three levels:

Level 1—quoted prices in active markets for identical assets and liabilities.

Level 2— observable inputs other than quoted prices in active markets for identical assets and liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities. Some of the Company's marketable securities primarily utilize broker quotes in a non-active market for valuation of these securities.

Level 3—unobservable inputs.

All of the Company's financial instruments are valued using quoted prices in active markets or based on other observable inputs. For Level 2 securities, the Company uses a third party pricing service which provides documentation on an ongoing basis that includes, among other things, pricing information with respect to reference data, methodology, inputs summarized by asset class, pricing application and corroborative information. For Level 3 contingent consideration, the Company reassesses the fair value of expected contingent consideration and the corresponding liability each reporting period using the Monte Carlo Method, which is consistent with the initial measurement of the expected earn out liability. This fair value measurement is considered a Level 3 measurement because the Company estimates projections during the earn out period utilizing various potential pay-out scenarios. Probabilities were applied to each potential scenario and the resulting values were discounted using a rate that considers weighted average cost of capital as well as a specific risk premium associated with the riskiness of the earn out itself, the related projections, and the overall business. The contingent earn out liabilities are classified as a component of long-term and short-term contingent consideration in the Company's consolidated balance sheets. Changes to the earn out liabilities are reflected in change in the fair value of contingent consideration in our consolidated statements of operations. Changes to the unobservable inputs could have a material impact on the Company's financial statements.

The fair value of our long-term debt, which we consider a Level 3 measurement, is estimated using discounted cash flow analyses, based on the Company's current estimated incremental borrowing rates for similar borrowing arrangements. The fair value of long-term debt is estimated to be \$8.5 at June 30, 2018 and \$87.3 at June 30, 2017.

The following tables set forth the fair value of the Company's financial assets(liabilities) that are re-measured on a regular basis:

	Level 1	Level 2	Level 3	Total
June 30, 2018				
Money market funds (a)	\$ 12.5	\$ —	\$ —	\$ 12.5
Corporate bonds and notes	2.8	50.5	—	53.3
Municipal bonds	—	29.2	—	29.2
Federal agency issues	—	12.4	—	12.4
US government securities	—	8.3	—	8.3
Contingent consideration	—	—	(14.5)	(14.5)
Total	<u>\$ 15.3</u>	<u>\$ 100.4</u>	<u>\$ (14.5)</u>	<u>\$ 101.2</u>

- (a) Money market funds are primarily comprised of exchange traded funds and accrued interest

	Level 1	Level 2	Level 3	Total
June 30, 2017				
Money market funds (a)	\$ 7.4	\$ —	\$ —	\$ 7.4
Corporate bonds and notes	—	50.4	—	50.4
Municipal bonds	—	36.9	—	36.9
Federal agency issues	—	13.8	—	13.8
US government securities	—	7.2	—	7.2
Contingent consideration	—	—	(140.5)	(140.5)
Total	<u>\$ 7.4</u>	<u>\$ 108.3</u>	<u>\$ (140.5)</u>	<u>\$ (24.8)</u>

- (a) Money market funds are primarily comprised of exchange traded funds and accrued interest

The following table reconciles the change in the fair value of the contingent consideration during the periods presented:

	Carrying Amount
Balance June 30, 2017	\$ 140.5
Payment of contingent consideration	(65.1)
Change in fair value recognized in the statement of operations	(61.2)
Translation adjustments recognized in other comprehensive income	0.3
Balance June 30, 2018	<u>\$ 14.5</u>

14. COMMITMENT AND CONTINGENCIES

In February 2018, we received a Subpoena from the Department of Health and Human Services, Office of Inspector General, in connection with an investigation into possible false or otherwise improper claims submitted for payment under Medicare and Medicaid. The Subpoena requested that we produce documents relating primarily to our billing to government-funded healthcare programs for our hereditary cancer testing. The time period covered by the Subpoena is January 1, 2014 through the date of issuance of the Subpoena. We are cooperating with the Government's request and are in the process of responding to the Subpoena. We are unable to predict what action, if any, might be taken in the future by the Government or any other regulatory authority as a result of the matters related to this investigation. No claims have been made against us.

In addition, the Company is subject to various claims and legal proceedings covering matters that arise in the ordinary course of its business activities. As of June 30, 2018, management of the Company believes any liability that may ultimately result from the resolution of these matters will not have a material adverse effect on the Company's consolidated financial position, operating results, or cash flows.

The Company leases office and laboratory space under five non-cancelable operating leases, with terms that expire between 2022 and 2027 in Salt Lake City, Utah, one cancelable lease for office and laboratory space with a term that expires in 2019 in Munich, Germany, a non-cancelable operating lease for Myriad RBM for office and laboratory space that expires in 2020 in Austin, Texas, and a non-cancelable lease for office and laboratory space that expires in 2018 in Cologne, Germany. The Company also leases office and laboratory space under one non-cancellable operating lease that expires in 2021 in South San Francisco, California for Crescendo. The Company also leases office and laboratory space under three non-cancelable leases that expire between 2018 and 2024 in Mason, Ohio and Toronto, Canada for Assurex. In addition, the Company maintains lease agreements that expire between 2018 and 2024 for administrative offices in Zurich, Switzerland; Paris, France; Madrid, Spain; Milan, Italy; London, UK and Munich, Germany. Furthermore, the Company leases information technology equipment under three non-cancelable leases, with terms that expire in 2018 and 2021.

The following is a summary of the Company's rental expense for the fiscal years reported:

	Years Ended June 30,		
	2018	2017	2016
Rental expense	\$ 15.5	\$ 15.2	\$ 14.3

Future minimum lease payments under the Company's current leases as of June 30, 2018 are as follows:

Fiscal year ending:		
2019	\$	14.1
2020		14.3
2021		12.3
2022		9.6
2023		8.3
Thereafter		25.3
	\$	<u>83.9</u>

15. EMPLOYEE DEFERRED SAVINGS PLAN

The Company has a deferred savings plan which qualifies under Section 401(k) of the Internal Revenue Code. Substantially all of the Company's U.S. employees are covered by the plan. The Company makes matching contributions of 50% of each employee's contribution with the employer's contribution not to exceed 4% of the employee's compensation.

The Company's recorded contributions to the plan as follows:

	Years Ended June 30,		
	2018	2017	2016
Deferred savings plan Company contributions	\$ 7.2	\$ 6.6	\$ 5.5

16. SEGMENT AND RELATED INFORMATION

The Company's business units have been aggregated into two reportable segments: (i) diagnostics and (ii) other. The diagnostics segment primarily provides testing and collaborative development of testing that is designed to assess an individual's risk for developing disease later in life, identify a patient's likelihood of responding to drug therapy and guide a patient's dosing to ensure optimal treatment, or assess a patient's risk of disease progression and disease recurrence. The other segment provides testing products and services to the pharmaceutical, biotechnology and medical research industries, research and development, and clinical services for patients, and includes corporate services such as finance, human resources, legal and information technology. Prior periods presented have been recast to conform to the current presentation.

The accounting policies of the segments are the same as those described in the summary of significant accounting policies (Note 1). The Company evaluates segment performance based on income (loss) before interest income and other income and expense.

	Diagnostics		Other		Total
Year ended June 30, 2018:					
Revenues	\$	719.3	\$	53.3	\$ 772.6
Depreciation and amortization		49.2		5.2	54.4
Segment operating income (loss)		139.4		(20.7)	118.7
Year ended June 30, 2017:					
Revenues	\$	720.6	\$	49.3	\$ 769.9
Depreciation and amortization		42.8		5.5	48.3
Segment operating income (loss)		129.4		(80.7)	48.7
Year ended June 30, 2016:					
Revenues	\$	692.4	\$	48.1	\$ 740.5
Depreciation and amortization		21.6		5.2	26.8
Segment operating income (loss)		225.9		(72.5)	153.4

	Years Ended June 30,		
	2018	2017	2016
Total operating income for reportable segments	\$ 118.7	\$ 48.7	\$ 153.4
Unallocated amounts:			
Interest income	1.8	1.2	0.9
Interest Expense	(3.2)	(6.0)	(0.3)
Other	(0.4)	(3.0)	2.0
Income from operations before income taxes	116.9	40.9	156.0
Income tax provision	(14.0)	20.6	38.8
Net income	130.9	20.3	117.2
Net loss attributable to non-controlling interest	(0.2)	(0.2)	—
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 131.1	\$ 20.5	\$ 117.2

The following table sets forth a comparison of balance sheet assets by operating segment:

	June 30,	
	2018	2017
<i>Net equipment, leasehold improvements and property:</i>		
Diagnostics	12.2	20.2
Other	31.0	30.9
Total	\$ 43.2	\$ 51.1
<i>Total Assets:</i>		
Diagnostics	840.3	885.4
Other	122.5	124.3
Total	\$ 962.8	\$ 1,009.7

The following table reconciles assets by geographical region:

	June 30,	
	2018	2017
<i>Net equipment, leasehold improvements and property:</i>		
United States	20.0	27.6
Rest of world	23.2	23.5
Total	\$ 43.2	\$ 51.1
<i>Total Assets:</i>		
United States	852.3	897.3
Rest of world	110.5	112.4
Total	\$ 962.8	\$ 1,009.7

The following table reconciles assets by operating segment and geographic region to total assets:

	June 30,	
	2018	2017
Total assets by segment and geographical region	\$ 962.8	\$ 1,009.7
Cash, cash equivalents, and marketable investment securities (1)	211.3	199.2
Total	\$ 1,174.1	\$ 1,208.9

- (1) The Company manages cash, cash equivalents, and marketable investment securities at the consolidated level for all segments

The majority of the Company's revenues were derived from the sale of diagnostic tests in the United States. There were no customers that accounted for greater than 10% of revenue in the years ended June 30, 2018, 2017 and 2016.

17. SUPPLEMENTAL CASH FLOW INFORMATION

	Years Ended June 30,		
	2018	2017	2016
Cash paid during the year for income taxes	\$ 11.7	\$ 12.3	\$ 32.0
Cash paid for interest	3.0	5.6	0.3
Non-cash investing and financing activities:			
Fair value adjustment on marketable investment securities recorded to stockholders' equity	(0.4)	(0.6)	0.3

18. SUPPLEMENTARY QUARTERLY FINANCIAL DATA (UNAUDITED)

As described in Note 2, "Revisions of Previously-Issued Financial Statements", amounts presented below reflect revisions to correct certain immaterial errors related to sales allowance.

In millions, except per share amounts

	Quarters Ended			
	Jun 30, 2018	Mar 31, 2018	Dec 31, 2017	Sep 30, 2017
Consolidated Statement of Operations Data:				
Molecular diagnostic testing	\$ 187.6	\$ 177.3	\$ 177.9	\$ 176.5
Pharmaceutical and clinical services	13.3	13.8	14.8	11.4
Total Revenue	200.9	191.1	192.7	187.9
Costs and expenses:				
Cost of molecular diagnostic testing	38.0	36.8	37.7	36.2
Cost of pharmaceutical and clinical services	7.7	7.3	6.7	6.8
Research and development expense	17.7	18.5	16.8	17.8
Change in the fair value of contingent consideration	0.2	(1.2)	13.0	(73.2)
Selling, general and administrative expense	121.4	115.1	115.4	115.2
Total costs and expenses	185.0	176.5	189.6	102.8
Operating income	15.9	14.6	3.1	85.1
Other income (expense):				
Interest income	0.5	0.5	0.4	0.4
Interest expense	(1.1)	(0.5)	(0.7)	(0.9)
Other	0.8	(0.5)	(0.4)	(0.3)
Total other income (expense)	0.2	(0.5)	(0.7)	(0.8)
Income before income taxes	16.1	14.1	2.4	84.3
Income tax provision	3.0	4.5	(26.3)	4.8
Net income	13.1	9.6	28.7	79.5
Net loss attributable to non-controlling interest	-	(0.1)	-	(0.1)
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 13.1	\$ 9.7	\$ 28.7	\$ 79.6
Earnings per share:				
Basic	\$ 0.19	\$ 0.14	\$ 0.41	\$ 1.16
Diluted	\$ 0.18	\$ 0.13	\$ 0.40	\$ 1.13
Weighted average shares outstanding:				
Basic	70.1	69.8	69.3	68.6
Diluted	72.9	72.4	71.9	70.4

In millions, except per share amounts

	Quarters Ended			
	Jun 30, 2017	Mar 31, 2017	Dec 31, 2016	Sep 30, 2016
Consolidated Statement of Operations Data:				
Molecular diagnostic testing	\$ 187.0	\$ 183.0	\$ 184.1	\$ 166.5
Pharmaceutical and clinical services	12.6	11.7	12.6	12.4
Total Revenue	199.6	194.7	196.7	178.9
Costs and expenses:				
Cost of molecular diagnostic testing	35.6	37.9	37.4	34.3
Cost of pharmaceutical and clinical services	6.9	6.4	7.0	5.7
Research and development expense	18.8	17.6	18.6	19.4
Change in contingent consideration	(2.7)	5.2	(3.8)	0.5
Selling, general and administrative expense	122.1	122.1	120.3	111.9
Total costs and expenses	180.7	189.2	179.5	171.8
Operating income	18.9	5.5	17.2	7.1
Other income (expense):				
Interest income	0.3	0.3	0.3	0.3
Interest Expense	(1.2)	(1.5)	(2.6)	(0.7)
Other	(0.1)	1.5	(2.6)	(1.8)
Total other income (expense)	(1.0)	0.3	(4.9)	(2.2)
Income before income taxes	17.9	5.8	12.3	4.9
Income tax provision	5.8	3.0	6.2	5.6
Net income	\$ 12.1	\$ 2.8	\$ 6.1	\$ (0.7)
Net loss attributable to non-controlling interest	(0.2)	-	-	-
Net income attributable to Myriad Genetics, Inc. stockholders	\$ 12.3	\$ 2.8	\$ 6.1	\$ (0.7)
Earnings per share:				
Basic	\$ 0.18	\$ 0.04	\$ 0.09	\$ (0.01)
Diluted	\$ 0.18	\$ 0.04	\$ 0.09	\$ (0.01)
Weighted average shares outstanding:				
Basic	68.2	68.1	68.2	68.8
Diluted	68.9	68.3	68.3	68.8

19. SUBSEQUENT EVENT

Acquisition of Counsyl, Inc.

On July 31, 2018, Company completed the acquisition of Counsyl, Inc. (“Counsyl”), a leading provider of genetic testing and DNA analysis services, pursuant to the Agreement and Plan of Merger (the “Merger Agreement”), dated May 25, 2018. Pursuant to the terms of the Merger Agreement, Myriad Merger Sub, Inc., a newly-created wholly-owned subsidiary of the Company, was merged with and into Counsyl, with Counsyl continuing as the surviving corporation and a wholly-owned subsidiary of Myriad. The Company believes the acquisition allows for greater entry into the high-growth reproductive testing market, with the ability to become a leader in women’s health genetic testing. The transaction will be accounted for as a business combination.

The Company acquired Counsyl for preliminary consideration of \$407.8, consisting of \$280.4 in cash, financed in part by the Amended Facility (see below) and 2,994,251 shares of common stock issued, valued at \$127.3. The purchase price is subject to revision through certain working capital adjustments, which are expected to be finalized by the end of the Company’s first quarter of fiscal 2019.

Given the timing of the closing of this transaction, we are currently in the process of valuing the assets acquired and liabilities assumed in the business combination. As a result, we are not yet able to provide the amounts to be recognized as of the acquisition date for the major classes of assets acquired and liabilities assumed and other related disclosures. We will disclose this and other related information in our Form 10-Q for the quarter ended September 30, 2018.

Amendment to Credit Agreement

In connection with the acquisition of Counsyl, the Company entered into Amendment No. 1 (the “Amendment”), by and among Myriad, as borrower, the lenders party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent (the “Agent”), amending the Credit Agreement, dated as of December 23, 2016 (the “Credit Agreement”). The Amendment effects an “amend and extend” transaction with respect to the Company’s existing senior secured revolving credit facility (the “Facility”) by which the maturity date thereof was extended to July 31, 2023 and the maximum aggregate principal commitment was increased from \$300.0 to \$350.0. Other than the extended maturity date and increase in commitment amount, the agreement did not impact or amend the Facility's previously disclosed terms, including its covenants, events of default, or terms of payment.

The proceeds of the Facility were used to (i) finance the acquisition of Counsyl, (ii) pay fees, commissions, transactions costs and expenses incurred in connection with the foregoing, and (iii) for working capital and other general corporate purposes.

Not applicable.

Item 9A. CONTROLS AND PROCEDURES**1. Disclosure Controls and Procedures**

We maintain disclosure controls and procedures (Disclosure Controls) within the meaning of Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended, or the Exchange Act. Our Disclosure Controls are designed to ensure that information required to be disclosed by us in the reports we file or submit under the Exchange Act, such as this Annual Report on Form 10-K, is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. Our Disclosure Controls are also designed to ensure that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating our Disclosure Controls, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily applied its judgment in evaluating and implementing possible controls and procedures.

As of the end of the period covered by this Annual Report on Form 10-K, we evaluated the effectiveness of the design and operation of our Disclosure Controls, which was done under the supervision and with the participation of our management, including our Chief Executive Officer and our Chief Financial Officer. Based on the evaluation of our Disclosure Controls, our Chief Executive Officer and Chief Financial Officer have concluded that, as of June 30, 2018, our Disclosure Controls were not effective due to a material weakness in the Company's internal control over financial reporting as disclosed below.

2. Management's Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting is defined in Rules 13a-15(f) and 15d-15(f) promulgated under the Exchange Act as a process designed by, or under the supervision of, a company's principal executive and principal financial officers and effected by the company's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles. In making this assessment, management used the criteria established in Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO").

Based on our assessment, management has concluded that our internal control over financial reporting was not effective as of June 30, 2018, due to a material weakness related to insufficient controls to fully and timely take into account changes in the business environment and experience with ultimate collection from third-party payors in the determination of sales allowance amounts. A "material weakness" is a deficiency, or a combination of deficiencies, in Internal Control over Financial Reporting ("ICFR"), such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements, or prevent or detect all error and fraud. Any control system, no matter how well designed and operated, is based upon certain assumptions and can provide only reasonable, not absolute, assurance that its objectives will be met. Further, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

The effectiveness of our internal control over financial reporting as of June 30, 2018, has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in their report included elsewhere herein.

3. Plan to Remediate Material Weakness

Management is developing and implementing a plan to remediate the material weakness discussed above and will continue to evaluate and take actions to improve our internal control over financial reporting.

4. Change in Internal Control over Financial Reporting

Except as described above, there were no changes in our internal control over financial reporting that occurred during the quarter or year ended June 30, 2018, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

5. Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Myriad Genetics, Inc. and subsidiaries

Opinion on Internal Control over Financial Reporting

We have audited Myriad Genetics, Inc. and subsidiaries' internal control over financial reporting as of June 30, 2018, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, because of the effect of the material weakness described below on the achievement of the objectives of the control criteria, Myriad Genetics, Inc. and subsidiaries (the Company) has not maintained effective internal control over financial reporting as of June 30, 2018, based on the COSO criteria.

A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis. The following material weakness has been identified and included in management's assessment. Management has identified a material weakness related to insufficient controls to fully and timely take into account changes in the business environment and experience with ultimate collection from third-party payors in the determination of sales allowance amounts.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of Myriad Genetics, Inc. and subsidiaries as of June 30, 2018 and 2017, and the related consolidated statements of operations, comprehensive income, stockholders' equity and cash flows for each of the three years in the period ended June 30, 2018, and the related notes and schedule. This material weakness was considered in determining the nature, timing and extent of audit tests applied in our audit of the 2018 consolidated financial statements, and this report does not affect our report dated August 24, 2018, which expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit

preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

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

/s/ Ernst & Young LLP

Salt Lake City, UT
August 24, 2018

Item 9B. OTHER INFORMATION

None.

Item 10. DIRECTORS AND EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The response to this item is incorporated by reference from the discussion responsive thereto under the captions “Management and Corporate Governance,” “Section 16(a) Beneficial Ownership Reporting Compliance” and “Corporate Code of Conduct and Ethics” in our Proxy Statement for the 2018 Annual Meeting of Stockholders to be held on November 29, 2018.

Item 11. EXECUTIVE COMPENSATION

The response to this item is incorporated by reference from the discussion responsive thereto under the captions “Executive Compensation,” “Management and Corporate Governance – Committees of the Board of Directors and Meetings – Compensation Committee Interlocks and Insider Participation,” “Compensation Committee Report” and “Management and Corporate Governance – Board’s Role in the Oversight of Risk Management” in our Proxy Statement for the 2018 Annual Meeting of Stockholders to be held on November 29, 2018.

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

The response to this item is incorporated by reference from the discussion responsive thereto under the captions “Security Ownership of Certain Beneficial Owners and Management” and “Executive Compensation - Equity Compensation Plan Information” in our Proxy Statement for the 2018 Annual Meeting of Stockholders to be held on November 29, 2018.

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

The response to this item is incorporated by reference from the discussion responsive thereto under the caption “Certain Relationships and Related Person Transactions” and “Management and Corporate Governance – Director Independence” in our Proxy Statement for the 2018 Annual Meeting of Stockholders to be held on November 29, 2018.

Item 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The response to this item is incorporated by reference from the discussion responsive thereto in the proposal entitled “Independent Public Accountants” in our Proxy Statement for the 2018 Annual Meeting of the Stockholders to be held on November 29, 2018.

Item 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) The following documents are included as part of this Annual Report on Form 10-K.

1. Financial Statements

See "Index to Consolidated Financial Statements" at Item 8 to this Annual Report on Form 10-K.

2. Financial Statement Schedule

The following schedule is filed as part of this Annual Report on Form 10-K:

Schedule II - Schedule of Valuation and Qualifying Accounts for the Years Ended June 30, 2018, 2017 and 2016.

Other financial statement schedules have not been included because they are not applicable or the information is included in the financial statements or notes thereto.

3. Exhibits

Exhibit Number	Exhibit Description	Filed with this Report	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File/Registration Number
3.1	Restated Certificate of Incorporation, as amended		10-K (Exhibit 3.1)	08/15/11	000-26642
3.2	Restated By-Laws		8-K (Exhibit 3.1)	09/24/14	000-26642
4.1	Specimen common stock certificate		10-K (Exhibit 4.1)	08/15/11	000-26642

Lease Agreements

10.1	.1	Lease Agreement, dated October 12, 1995, between the Registrant and Boyer Research Park Associates V, by its general partner, the Boyer Company.	10-Q (Exhibit 10.2)	11/08/96	000-26642
	.2	Amendment to Phase I Lease Agreement, dated February 3, 2016, between the Registrant and HCPI/UTAHII, LLC.	10-Q (Exhibit 10.1)	05/04/16	000-26642
10.2	.1	Lease Agreement-Research Park Building Phase II, dated March 6, 1998, between the Registrant and Research Park Associated VI, by its general partner, the Boyer Company, L.C.	10-K (Exhibit 10.44)	09/24/98	000-26642
	.2	Amendment to Phase II Lease Agreement, dated February 3, 2016, between Myriad Genetics, Inc. and HCPI/UTAH II, LLC.	10-Q (Exhibit 10.2)	05/04/16	000-26642
10.3	.1	Lease Agreement, dated March 31, 2001, between the Registrant and Boyer Research Park Associates VI, by its general partner, The Boyer Company, L.C.	10-Q (Exhibit 10.1)	05/15/01	000-26642
	.2	Amendment to Phase III Lease Agreement, dated February 3, 2016, between Myriad Genetics, Inc. and HCPI/UTAH II, LLC.	10-Q (Exhibit 10.3)	05/04/16	000-26642

Exhibit Number	Exhibit Description	Filed with this Report	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File/Registration Number
10.4	.1 Lease Agreement, effective as of May 31, 2005, dated June 29, 2005, between the Registrant and Boyer Research Park Associates VIII, by its general partner, The Boyer Company, L.C.		8-K (Exhibit 99.1)	07/05/05	000-26642
	.2 Letter of Understanding regarding Lease, dated June 29, 2005, between the Registrant and Boyer Research Park Associates VIII, by its general partner, The Boyer Company, L.C.		8-K (Exhibit 99.2)	07/05/05	000-26642
	.3 Amendment to Phase IV Lease Agreement, dated February 16, 2007, between Myriad Genetics, Inc. and Boyer Research Park Associates VIII, L.C.		10-Q (Exhibit 10.4)	05/04/16	000-26642
10.5	.1 Lease Agreement, dated March 11, 2008, between the Registrant and Boyer Research Park Associates IX, by its general partner, The Boyer Company, L.C.		10-K (Exhibit 10.32)	08/28/08	000-26642
	.2 Amendment to Lease Agreement, dated February 12, 2010 between the Registrant and Boyer Research Park Associates IX, L.C.		10-Q (Exhibit 10.4)	05/05/10	000-26642

Agreements with Executive Officers and Directors

10.6	Executive Retention Agreement, dated September 29, 2015, between the Registrant and Richard M. Marsh+		8-K (Exhibit 10.1)	10/02/15	000-26642
10.7	Executive Retention Agreement, dated September 29, 2015, between the Registrant and Jerry S. Lanchbury, Ph.D.+		8-K (Exhibit 10.1)	10/02/15	000-26642
10.8	.1 Form of Executive Retention Agreement+@.		10-Q (Exhibit 10.1)	05/05/10	000-26642
	.2 Form of Amendment to Form of Executive Retention Agreement+@.		10-Q (Exhibit 10.2)	05/05/10	000-26642
	.3 Form of Executive Retention Agreement, as amended+@.		10-Q (Exhibit 10.1)	11/04/15	000-26642
10.9	Executive Retention Agreement, dated September 29, 2015, between the Registrant and Mark. C. Capone+		8-K (Exhibit 10.1)	10/02/15	000-26642
10.10	Executive Retention Agreement between Myriad Genetics Inc. and R. Bryan Riggsbee dated September 29, 2015+		8-K (Exhibit 10.1)	10/02/15	000-26642
10.11	Non-Employee Director Compensation Policy+		10-K (Exhibit 10.15)	08/10/17	000-26642
10.12	Form of director and executive officer indemnification agreement+		10-K (Exhibit 10.34)	08/25/09	000-26642

Equity Compensation Plans

Exhibit Number	Exhibit Description	Filed with this Report	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File/Registration Number
10.13	2017 Employee, Director and Consultant Equity Incentive Plan ⁺		8-K (Exhibit 10.1)	12/01/17	000-26642
10.14	2012 Employee Stock Purchase Plan ⁺		8-K (Exhibit 10.2)	12/07/12	000-26642
10.15	2013 Executive Incentive Plan, as amended ⁺		8-K (Exhibit 10.2)	12/01/17	000-26642
Credit Agreement					
10.16	Credit Agreement, dated December 23, 2016, among the Registrant and the lenders from time to time party thereto, and as amended July 31, 2018.	X			
Merger Agreements					
10.17	Agreement and Plan of Merger among the Registrant, Myriad Merger Sub, Inc., Assurex Health, Inc. and Fortis Advisors LLC, dated as of August 3, 2016.		10-Q (Exhibit 10.1)	11/02/16	000-26642
10.18	Agreement and Plan of Merger among the Registrant, Cinnamon Merger Sub, Inc., a wholly owned subsidiary of Myriad, Inc., Counsyl, Inc. and Fortis Advisors, dated as of May 25, 2018.	X			
Other					
21.1	List of Subsidiaries of the Registrant	X			
23.1	Consent of Independent Registered Public Accounting Firm (Ernst & Young LLP)	X			
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	X			
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	X			
32	Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	X			
101	The following materials from Myriad Genetics, Inc.'s Annual Report on Form 10-K for the fiscal year ended June 30, 2017, formatted in XBRL (Xtensible Business Reporting Language): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Comprehensive Income, (iii) Consolidated Statements of Stockholders' Equity, (iv) Consolidated Statements of Cash Flows, and (v) Notes to Consolidated Financial Statements.	X			

(+) Management contract or compensatory plan arrangement.

(@) The agreements with all executives are identical except for the executive who is a party to the agreement and the date of execution, which are listed at the end of the exhibit

Schedule II

MYRIAD GENETICS, INC.

Schedule of Valuation and Qualifying Accounts

Years Ended June 30, 2018, 2017 and 2016
(In millions)

	Balance at Beginning of Period	Addition Charged to Cost and Expenses	Net Deductions and Other (1)	Balance at End of Period
Allowance for doubtful accounts:				
Year ended June 30, 2018	\$ 8.2	\$ 32.3	\$ (28.4)	\$ 12.1
Year ended June 30, 2017	\$ 6.8	\$ 37.3	\$ (35.9)	\$ 8.2
Year ended June 30, 2016	\$ 7.6	\$ 33.3	\$ (34.1)	\$ 6.8

(1) Primarily represents the write-off of accounts receivables net of recoveries.

See report of independent registered public accounting firm.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on August 24, 2018.

MYRIAD GENETICS, INC.

By: /s/ Mark C. Capone
Mark C. Capone
President and Chief Executive Officer

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

Signatures	Title	Date
By: <u>/s/ Mark C. Capone</u> Mark C. Capone	President, Chief Executive Officer and Director (principal executive officer)	August 24, 2018
By: <u>/s/ R. Bryan Riggsbee</u> R. Bryan Riggsbee	Chief Financial Officer (principal financial and accounting officer)	August 24, 2018
By: <u>/s/ John T. Henderson</u> John T. Henderson, M.D.	Chairman of the Board	August 24, 2018
By: <u>/s/ Walter Gilbert</u> Walter Gilbert, Ph.D.	Vice Chairman of the Board	August 24, 2018
By: <u>/s/ Lawrence C. Best</u> Lawrence C. Best	Director	August 24, 2018
By: <u>/s/ Heiner Dreismann</u> Heiner Dreismann, Ph.D.	Director	August 24, 2018
By: <u>/s/ Dennis Langer</u> Dennis Langer, M.D., J.D.	Director	August 24, 2018
By: <u>/s/ S. Louise Phanstiel</u> S. Louise Phanstiel	Director	August 24, 2018



CREDIT AGREEMENT

dated as of

December 23, 2016,
and as amended as of July 31, 2018

among

MYRIAD GENETICS, INC.

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.
as Administrative Agent and Collateral Agent

WELLS FARGO BANK, NATIONAL ASSOCIATION
as Syndication Agent

and

U.S. BANK NATIONAL ASSOCIATION, PNC BANK, NATIONAL ASSOCIATION,
FIFTH THIRD BANK, ZIONS FIRST NATIONAL BANK, a division of ZB, N.A.,
and SILICON VALLEY BANK
as Co-Documentation Agents as of the Amendment No. 1 Effective Date

JPMORGAN CHASE BANK, N.A. and WELLS FARGO SECURITIES, LLC
as Joint Bookrunners and Joint Lead Arrangers

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CREDIT AGREEMENT (this “Agreement”) dated as of December 23, 2016 among MYRIAD GENETICS, INC., a Delaware corporation, the LENDERS from time to time party hereto, JPMORGAN CHASE BANK, N.A., as Administrative Agent and as Collateral Agent, WELLS FARGO BANK, NATIONAL ASSOCIATION, as Syndication Agent, and U.S. BANK NATIONAL ASSOCIATION, PNC BANK, NATIONAL ASSOCIATION, FIFTH THIRD BANK, ZIONS FIRST NATIONAL BANK, a division of ZB, N.A., and SILICON VALLEY BANK, as Co-Documentation Agents.

The parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01.

Defined Terms

. As used in this Agreement, the following terms have the meanings specified below:

“ABR” when used in reference to any Loan or Borrowing, refers to such Loan, or the Loans comprising such Borrowing, bearing interest at a rate determined by reference to the Alternate Base Rate.

“Acquisition Holiday” has the meaning assigned to such term in the Section 6.10(a).

“Adjusted LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Administrative Agent” means JPMorgan Chase Bank, N.A. (including its branches and affiliates), in its capacity as administrative agent for the Lenders hereunder.

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. For purposes hereof, all Unrestricted Subsidiaries shall be considered Affiliates of the Borrower and the Restricted Subsidiaries.

“Agents” means the Administrative Agent and the Collateral Agent.

“Agreed Currencies” means (i) Dollars, (ii) euro, (iii) Pounds Sterling, (iv) Swiss Francs, (v) Canadian Dollars, (vi) Australian Dollars and (vii) any additional currencies determined after the Amendment No. 1 Effective Date by mutual agreement of the Borrower, the Lenders, the Issuing Bank and the Administrative Agent; provided that each such currency is a lawful currency that is readily available, freely transferable and not restricted, able to be converted into Dollars and available in the London interbank deposit market.

“Aggregate Revolving Commitment” means the aggregate of the Revolving Commitments of all of the Revolving Lenders, as reduced or increased from time to time pursuant to the terms and conditions hereof. As of the Amendment No. 1 Effective Date, the Aggregate Revolving Commitment is \$350,000,000.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period in Dollars on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that for the purpose of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBO Screen Rate (or if the LIBO Screen Rate is not available for such one month Interest Period, the Interpolated Rate) at approximately 11:00 a.m. London time on such day, subject to the interest rate floors set forth therein. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.14 hereof, then the Alternate Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Alternate Base Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Amendment No. 1” means that certain Amendment No. 1 to Credit Agreement, dated as of the Amendment No. 1 Effective Date, by and among the Borrower, the lenders party thereto and Administrative Agent.

“Amendment No. 1 Effective Date” means July 31, 2018.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or its Subsidiaries from time to time concerning or relating to bribery or corruption.

“Applicable Percentage” means, with respect to any Revolving Lender, the percentage of the Aggregate Revolving Commitment represented by such Lender’s Revolving Commitment (if the Revolving Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Revolving Commitments most recently in effect, giving effect to any assignments); provided that in the case of Section 2.23 when a Defaulting Lender shall exist, any such Defaulting Lender’s Revolving Commitment shall be disregarded in the calculation.

“Applicable Pledge Percentage” means (a) 100% in the case of a pledge by the Borrower or any Subsidiary Guarantor of its Equity Interests in a Domestic Subsidiary that is a Restricted Subsidiary (other than a (i) Disregarded Domestic Subsidiary or (ii) a Domestic Subsidiary that is a direct or indirect subsidiary of a Foreign Subsidiary that is a CFC) and (b) 65% in the case of a pledge by the Borrower or any Subsidiary Guarantor of its Equity Interests in a Restricted Subsidiary that is (i) a Disregarded Domestic Subsidiary or (ii) a Foreign Subsidiary that is a CFC.

“Applicable Rate” means, for any day, with respect to any Eurodollar Loan or any ABR Loan or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption “Eurodollar Spread”, “ABR Spread” or “Commitment Fee Rate”, as the case may be, based upon the Leverage Ratio applicable on such date:

	<u>Leverage Ratio:</u>	<u>Eurodollar Spread</u>	<u>ABR Spread</u>	<u>Commitment Fee Rate</u>
<u>Category 1:</u>	< 0.50 to 1.00	1.50%	0.50%	0.25%
<u>Category 2:</u>	≥ 0.50 to 1.00 but < 1.00 to 1.00	1.75%	0.75%	0.30%

Category 3:	≥ 1.00 to 1.00 but < 2.00 to 1.00	2.00%	1.00%	0.35%
Category 4:	≥ 2.00 to 1.00 but < 3.00 to 1.00	2.25%	1.25%	0.40%
Category 5:	≥ 3.00 to 1.00	2.50%	1.50%	0.45%

For purposes of the foregoing,

- (i) if at any time the Borrower fails to deliver the Financials on or before the date the Financials are due pursuant to Section 5.01, Category 5 shall be deemed applicable for the period commencing three (3) Business Days after the required date of delivery and ending on the date which is three (3) Business Days after the Financials are actually delivered, after which the Category shall be determined in accordance with the table above as applicable;
- (ii) adjustments, if any, to the Category then in effect shall be effective three (3) Business Days after the Administrative Agent has received the applicable Financials (it being understood and agreed that each change in Category shall apply during the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change); and
- (iii) notwithstanding the foregoing, Category 3 shall be deemed to be applicable until the Administrative Agent's receipt of the applicable Financials for the Borrower's first fiscal quarter ending after the Amendment No. 1 Effective Date (unless such Financials demonstrate that Category 3, 4 or 5 should have been applicable during such period, in which case such other Category shall be deemed to be applicable during such period) and adjustments to the Category then in effect shall thereafter be effected in accordance with the preceding paragraphs.

"Approved Electronic Platform" has the meaning assigned to it in Section 9.01(d)(i).

"Approved Fund" has the meaning assigned to such term in Section 9.04(b).

"Assignment and Assumption" means an assignment and assumption agreement entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent and consented to by the Borrower (if required pursuant to the terms hereof), in the form of Exhibit A or any other form (including electronic records generated by the use of an electronic platform) approved by the Administrative Agent.

"Assurex" means Assurex Health, Inc., a Delaware corporation.

"Assurex Acquisition" means the acquisition by the Borrower of Assurex pursuant to the terms of the Assurex Merger Agreement.

"Assurex Merger Agreement" means the Agreement and Plan of Merger dated August 3, 2016 among the Borrower, Myriad Merger Sub, Inc., Assurex and certain other parties thereto, including all exhibits, schedules and annexes thereto, in each case as amended pursuant to the terms hereof.

"Australian Dollars" means the lawful currency of Australia.

“Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Revolving Commitments in accordance with the terms hereof.

“Available Revolving Commitment” means, at any time with respect to any Lender, the Revolving Commitment of such Lender then in effect minus the Revolving Credit Exposure of such Lender at such time; it being understood and agreed that any Lender’s Swingline Exposure shall not be deemed to be a component of the Revolving Credit Exposure for purposes of calculating the commitment fee under Section 2.12(a).

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

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Banking Services” means each and any of the following bank services provided to the Borrower or any Restricted Subsidiary by any Lender or any of its Affiliates: (a) credit cards for commercial customers (including, without limitation, commercial credit cards and purchasing cards), (b) stored value cards, (c) merchant processing services and (d) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, any direct debit scheme or arrangement, overdrafts and interstate depository network services).

“Banking Services Agreement” means any agreement entered into by the Borrower or any Restricted Subsidiary in connection with Banking Services.

“Banking Services Obligations” means any and all obligations of the Borrower or any Restricted Subsidiary, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

“Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as now or hereafter in effect, or any successor thereto, as hereafter amended.

“Bankruptcy Event” means, with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permits such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

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

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

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

“Borrower” means Myriad Genetics, Inc., a Delaware corporation.

“Borrower Audited Financial Statements” has the meaning assigned to such term in Section 4.01(h)(i).

“Borrower Unaudited Financial Statements” has the meaning assigned to such term in Section 4.01(h)(ii).

“Borrowing” means (a) Loans (other than Swingline Loans) of the same Type and Class, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect or (b) a Swingline Loan.

“Borrowing Request” means a request by the Borrower for a Borrowing in accordance with Section 2.03 in the form attached hereto as Exhibit D-1.

“Burdensome Restrictions” means any consensual encumbrance or restriction of the type described in clause (a) or (b) of Section 6.08.

“BRAC Analysis Testing Agreement” means any written agreement by and among the Borrower and its Restricted Subsidiaries and the payors party thereto which agreement provides for the payment or reimbursement of the service fees charged by the Borrower and its Restricted Subsidiaries for the clinical laboratory diagnostic testing services to determine the status of an individual’s BRCA1 and BRCA2 genes for the purpose of determining hereditary cancer risk.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, New York are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in Dollars in the London interbank market; provided further that, when used in connection with a Letter of Credit or an LC Disbursement, the term “Business Day” shall also exclude any day on which banks are not open for dealings in the relevant Agreed Currency in the London interbank market or the principal financial center of such Agreed Currency (and, if the LC Disbursements which are the subject of a drawing, payment, reimbursement or rate selection are denominated in euro, the term “Business Day” shall also exclude any day on which the TARGET2 payment system is not open for the settlement of payments in euro).

“Canadian Dollars” means the lawful currency of Canada.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as

capital lease obligations on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“CFC” means a controlled foreign corporation as defined in Section 957 of the Code.

“Change in Control” means (a) any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower entitled to vote for members of the board of directors or equivalent governing body of the Borrower; (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by Persons who were neither (i) nominated by the board of directors of the Borrower nor (ii) appointed by directors so nominated; or (c) the occurrence of a change in control, or other similar provision, as defined in any agreement or instrument evidencing any Material Indebtedness (triggering a default or mandatory prepayment, which default or mandatory prepayment has not been waived in writing, in each case, after giving effect to any applicable grace or cure periods).

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

“Class” means, (a) when used in respect of any Loan or Borrowing, whether such Loan or the Loans comprising such Borrowing are initial Revolving Loans, Incremental Revolving Loans, Extended Revolving Loans, Replacement Revolving Loans, Incremental Term Loans, Other Incremental Term Loans, Extended Term Loans, Refinancing Term Loans or Swingline Loans and (b) when used in respect of any Commitment, whether such Commitment is an initial Revolving Commitment, an Incremental Revolving Commitment, an Extended Revolving Commitment, a Replacement Revolving Commitment, an Incremental Term Loan Commitment or a commitment to make Refinancing Term Loans. Term Loans or Other Revolving Loans that have different terms and conditions (together with the Revolving Commitments in respect thereof) from the initial Revolving Loans or the initial Incremental Term Loans (if any), respectively, or from other Other Term Loans or other Other Revolving Loans, as applicable, shall be construed to be in separate and distinct Classes.

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

“Co-Documentation Agent” means each of U.S. Bank National Association, PNC Bank, National Association, Fifth Third Bank, Zions First National Bank, a division of ZB, N.A., and Silicon Valley Bank in its capacity as co-documentation agent for the credit facility evidenced by this Agreement.

“Collateral” means any and all property owned, leased or operated by a Person covered by the Collateral Documents and any and all other property of any Loan Party, now existing or hereafter acquired, that may at any time be or become subject to a security interest or Lien in favor of Administrative Agent, on behalf of itself and the Secured Parties, to secure the Secured Obligations; provided that, notwithstanding anything to the contrary, (a) the Collateral shall exclude (including exclusion from any applicable Collateral Documents) the following: (i) any (a) fee-owned real property and leasehold interests (with no requirement to obtain mortgages, landlord waivers, estoppels, or collateral access letters), (ii) motor vehicles and other assets subject to certificates of title, (iii) all commercial tort claims, (iv) any governmental licenses or state or local franchises, charters and authorizations to the extent security interest is prohibited thereby, (v) pledges and security interests prohibited or restricted by applicable law (including any requirement to obtain the consent or any governmental authority or third party), (vi) any lease, license or agreement or any property subject to a purchase money security interest or similar arrangement to the extent that a grant of a security interest therein would violate or invalidate such lease, license or agreement or purchase money agreement or create a right of termination in favor of any other party thereto after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable law, other than proceeds or receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code or other applicable law notwithstanding such prohibition, (vii) any assets to the extent a security interest in such assets would result in adverse tax consequences as reasonably determined by the Borrower, (viii) letter of credit rights, except to the extent constituting a support obligation for other Collateral as to which perfection of the security interest in such other Collateral is accomplished solely by the filing of a UCC financing statement (it being understood that no actions shall be required to perfect a security interest in letter of credit rights, other than the filing of a Uniform Commercial Code financing statement), (ix) cash and cash equivalents (other than the proceeds of Collateral as to which perfection of the security interest in such proceeds is accomplished solely by the filing of a UCC financing statement), deposit, securities and commodities accounts (including securities entitlements and related assets), (x) any intent-to-use applicable trademark application prior to the filing of a “Statement of Use” or “Amendment to Allege Use” with respect thereto, to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable federal law and (xi) any immaterial intellectual property and rights therein (the foregoing described in clauses (i) through (xi) are, collectively, the “Excluded Assets”), (b) assets will be excluded from the Collateral in circumstances where the cost of obtaining a security interest in such assets exceeds the practical benefit to the Lenders afforded thereby as reasonably determined by the Administrative Agent (in consultation with the Borrower), and (c) the Borrower and Subsidiary Guarantors shall not be required, nor shall the Administrative Agent be authorized, to take any action in any non-U.S. jurisdiction in order to create any security interests in assets located or titled outside the U.S. or to perfect any security interests in such assets, including, without limitation, any intellectual property registered in any non-U.S. jurisdiction or any equity interests of any subsidiaries organized in any non-U.S. jurisdiction (it being understood that there shall be no security agreements or pledge agreements governed under the laws of any non-U.S. jurisdiction).

“Collateral Agent” means JPMorgan Chase Bank, N.A. (including its branches and affiliates) in its capacity as Collateral Agent for the Secured Parties.

“Collateral Documents” means, collectively, the Security Agreement and all other agreements, instruments and documents executed in connection with this Agreement that are intended to create, perfect or evidence Liens to secure the Secured Obligations, including, without limitation, all other security agreements, pledge agreements, subordination agreements, pledges, powers of attorney, and assignments and all other written matter whether heretofore, now, or hereafter executed by the Borrower or any of its Restricted Subsidiaries and delivered to the Collateral Agent.

“Commitments” means, with respect to any Lender, such Lender’s Revolving Commitment, Incremental Revolving Commitment, Extended Revolving Commitment, Replacement Revolving Commitment, Incremental Term Loan Commitment and commitment to make Refinancing Term Loans, in each case, of any Type.

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

“Communications” has the meaning assigned to such term in Section 9.01(d)(iii).

“Computation Date” shall have the meaning assigned to such term in Section 2.04.

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

“Consolidated EBITDA” means, with reference to any period, (a) Consolidated Net Income *plus*, (b) without duplication and (other than with respect to subsections (b)(xi) and (b)(xii) below, which will be added to Consolidated Net Income even though they are not deducted therefrom) to the extent deducted in determining Consolidated Net Income, the sum of (i) Consolidated Interest Expense, (ii) expense for income taxes paid or accrued, (iii) depreciation, (iv) amortization, (v) extraordinary, unusual or non-recurring (A) non-cash charges, fees, expenses or losses incurred and (B) cash charges, fees, expenses or losses incurred, including, in each case, without limitation, any fees and expenses incurred in connection with Permitted Acquisitions, offering or issuance of Equity Interests, dispositions, Restricted Payments, recapitalization, restructurings, integration of acquisitions, incurrence of Indebtedness (including pursuant to the Loan Documents and any amendments, waivers or any refinancings of any Indebtedness), other investments and litigation, in each case, to the extent not prohibited by this Agreement and whether or not such transactions are consummated; provided that such charges, expenses or losses added back pursuant to the foregoing clause (v)(B) may not exceed 15% of Consolidated EBITDA (calculated without giving effect to cost savings addbacks under such clause (v)(B) during any rolling four-quarter period), (vi) non-cash expenses (including stock based compensation), (vii) fees and expenses paid to the Credit Parties under the Loan Documents; (viii) losses from currency exchange transactions, (ix) fees and expenses incurred in connection with the Assurex Acquisition, (x) fees and expenses incurred in connection with the Transactions prior to or within thirty (30) days after the Effective Date, (xi) the amount of net cost savings, operating expense reductions and synergies projected by the Loan Parties in good faith to result from the Counsyl Acquisition within twelve (12) months after the Amendment No. 1 Effective Date (which net cost savings, operating expense reductions and synergies shall be (A) reasonably identifiable, factually supportable and subject to certification by a Financial Officer of a Loan Party, (B) attributable to the Counsyl Acquisition and (C) calculated on a pro forma basis), net of the amount of actual benefits realized during such period with respect to any such net cost savings, operating expense reductions and synergies from the Counsyl Acquisition, and (xii) the amount of net cost savings, operating expense reductions and synergies projected by the Loan Parties in good faith to result from Permitted Acquisitions within twelve (12) months after the consummation of the applicable Permitted Acquisition (which net cost savings, operating expense reductions and synergies shall be (A) reasonably identifiable, factually supportable and subject to certification by a Financial Officer of a Loan Party, (B) attributable to such Permitted Acquisition and (C) calculated on a pro forma basis), net of the amount of actual benefits realized during such period with respect to any such net cost savings, operating expense reductions and synergies from the applicable Permitted Acquisitions; provided that the aggregate amount of such cost savings, operating expense reductions and synergies included in the calculation of Consolidated EBITDA pursuant to this clause (xii) may not exceed 10% of Consolidated EBITDA (calculated without giving effect to additions to Consolidated EBITDA under this clause (xii)) during any such period, *minus*, (c) to the extent included in determining Consolidated Net Income, the sum of (1) interest income, (2) income tax credits

and refunds (to the extent not netted from tax expense), (3) any cash payments made during such period in respect of items described in clauses (v)(A) or (vi) above subsequent to the fiscal quarter in which the relevant non-cash expenses or losses were incurred, (4) extraordinary, unusual or non-recurring income or gains realized other than in the ordinary course of business and (5) gains from currency exchange transactions, all calculated for the Borrower and its Restricted Subsidiaries (except as otherwise expressly set forth herein) in accordance with GAAP on a consolidated basis. For the purposes of calculating Consolidated EBITDA (other than in connection with any calculation of the Interest Coverage Ratio) for any period of four consecutive fiscal quarters (each such period, a “Reference Period”), (i) if at any time during such Reference Period the Borrower or any Restricted Subsidiary shall have made any Material Disposition, Consolidated EBITDA for such Reference Period shall be calculated after giving effect thereto on a pro forma basis as if such Material Disposition occurred on the first day of such Reference Period, and (ii) if during such Reference Period the Borrower or any Restricted Subsidiary shall have made a Material Acquisition, Consolidated EBITDA for such Reference Period shall be calculated after giving effect thereto on a pro forma basis as if such Material Acquisition occurred on the first day of such Reference Period.

“Consolidated Interest Expense” means, with reference to any period, without duplication, the interest expense (including without limitation interest expense under Capital Lease Obligations that is treated as interest in accordance with GAAP) of the Borrower and its Restricted Subsidiaries calculated on a consolidated basis for such period in accordance with GAAP (including, without limitation, all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers acceptance financing and net costs under interest rate Swap Agreements to the extent such net costs are allocable to such period in accordance with GAAP). In the event that the Borrower or any Restricted Subsidiary shall have completed a Material Acquisition or a Material Disposition since the beginning of the relevant period, Consolidated Interest Expense (other than in connection with any calculation of the Interest Coverage Ratio) shall be determined for such period on a pro forma basis as if such acquisition or disposition, and any related incurrence or repayment of Indebtedness, had occurred at the beginning of such period.

“Consolidated Net Income” means, with reference to any period, the net income (or loss) of the Borrower and its Restricted Subsidiaries calculated in accordance with GAAP on a consolidated basis (without duplication) for such period; provided that there shall be excluded any income (or loss) of any Person other than the Borrower or a Restricted Subsidiary, but any such income so excluded may be included in such period or any later period to the extent of any cash dividends or distributions actually paid in the relevant period to the Borrower or any wholly owned Restricted Subsidiary of the Borrower.

“Consolidated Total Assets” means, as of the date of any determination thereof, total assets of the Borrower and its Restricted Subsidiaries calculated in accordance with GAAP on a consolidated basis as of such date.

“Consolidated Total Indebtedness” means at any date the sum, without duplication, of (a) the aggregate Indebtedness of the Borrower and its Restricted Subsidiaries calculated on a consolidated basis as of such date in accordance with GAAP, (b) the aggregate amount of Indebtedness of the Borrower and its Restricted Subsidiaries relating to the maximum drawing amount of all letters of credit and bankers acceptances outstanding and (c) the aggregate amount of Indebtedness of the type referred to in clauses (a) or (b) hereof of another Person guaranteed by the Borrower or any of its Restricted Subsidiaries.

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

“Counsyl” means Counsyl, Inc., a Delaware corporation.

“Counsyl Acquisition” means the acquisition by the Borrower of Counsyl pursuant to the terms of the Counsyl Merger Agreement.

“Counsyl Merger Agreement” means the Agreement and Plan of Merger dated May 25, 2018 among the Borrower, Cinnamon Merger Sub, Inc., a Delaware corporation, Counsyl and Fortis Advisors LLC, including all exhibits, schedules and annexes thereto, in each case as amended pursuant to the terms hereof.

“Credit Event” means a Borrowing, the issuance, renewal or extension of a Letter of Credit, an LC Disbursement or any of the foregoing.

“Credit Party” means the Administrative Agent, each Issuing Bank, the Swingline Lender or any other Lender.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” means any Lender that (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swingline Loans or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a Loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by a Credit Party or the Borrower, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon the receipt by such Credit Party or the Borrower, as applicable, of such certification in form and substance satisfactory to the Administrative Agent, or (d) has become, or has a Lender Parent that has become, the subject of (A) a Bankruptcy Event or (B) a Bail-In Action.

“Disregarded Domestic Subsidiary” means a Domestic Subsidiary that is either disregarded as an entity separate from its owner under § 301.7701-3 of the United States Treasury Regulations or is treated as a partnership for U.S. federal income tax purposes, in each case, if substantially all of the assets of such Domestic Subsidiary consist of Equity Interests or Indebtedness of one or more CFCs (directly or indirectly through another entity disregarded as an entity separate from its owner under § 301.7701-3 of the United States Treasury Regulations) and any other assets incidental thereto.

“Dollar Amount” of any currency at any date means (i) the amount of such currency if such currency is Dollars or (ii) the equivalent amount thereof in Dollars if such currency is a Foreign Currency, calculated on the basis of the Exchange Rate for such currency, on or as of the most recent Computation Date provided for in Section 2.04.

“Dollars” or “\$” refers to lawful money of the United States of America.

“Domestic Subsidiary.” means a Subsidiary organized under the laws of a jurisdiction located in the United States of America.

“ECP” means an “eligible contract participant” as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

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

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

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

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters.

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

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing from such Person.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any rules or regulations promulgated thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 1414(b) or (c) of the Code or, solely for

purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the failure to satisfy the “minimum funding standard” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any of its ERISA Affiliates from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition upon the Borrower or any of its ERISA Affiliates of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

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

“euro” and/or “€” means the single currency of the Participating Member States.

“Eurodollar” when used in reference to any Loan or Borrowing, means that such Loan, or the Loans comprising such Borrowing, bears interest at a rate determined by reference to the Adjusted LIBO Rate.

“Eurodollar Payment Office” of the Administrative Agent means, for each Foreign Currency, the office, branch, affiliate or correspondent bank of the Administrative Agent for such currency as specified from time to time by the Administrative Agent to the Borrower and each Lender.

“Event of Default” has the meaning assigned to such term in Article VII.

“Exchange Rate” means, on any day, (a) with respect to any Foreign Currency, the rate of exchange for the purchase of dollars with such Foreign Currency in the London foreign exchange market at or about 11:00 a.m. London time (or New York time, as applicable) on a particular day as displayed by ICE Data Services as the “ask price”, or as displayed on such other information service which publishes that rate of exchange from time to time in place of ICE Data Services (or if such service ceases to be available, the equivalent of such amount in dollars as determined by the Administrative Agent using any method of determination it deems appropriate in its reasonable discretion) and (b) if such amount is denominated in any other currency (other than Dollars), the equivalent of such amount in Dollars as determined by the Administrative Agent using any method of determination it deems appropriate in its reasonable discretion.

“Excluded Domestic Subsidiary” means (a) any Disregarded Domestic Subsidiary and (b) any Domestic Subsidiary that is a direct or indirect subsidiary of a Foreign Subsidiary that is a CFC.

“Excluded Swap Obligation” means, with respect to any Loan Party, any Specified Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Specified Swap Obligation (or any Guarantee thereof)

is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party's failure for any reason to constitute an ECP at the time the Guarantee of such Loan Party or the grant of such security interest becomes effective with respect to such Specified Swap Obligation. If a Specified Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Specified Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

"Excluded Subsidiary" means any Subsidiary that constitutes or more of the following: (i) an Excluded Domestic Subsidiary; (ii) a captive insurance Subsidiary; (iii) a not-for-profit Subsidiary; (iv) a special purposes entity formed to participate in a securitization, structured finance transaction or limited recourse financing; (v) a Subsidiary where a guaranty therefrom is prohibited or restricted by applicable law whether on the Effective Date or thereafter or by contract existing on the Effective Date or, with respect to any Subsidiary acquired after the Effective Date, by contract existing when such Subsidiary was acquired (including any requirement to obtain consent from a third party (including any applicable Governmental Authority)), or would result in adverse tax consequences as reasonably determined by Borrower; (vi) an Unrestricted Subsidiary or (vii) a Subsidiary where the Borrower and the Administrative Agent reasonably agree that the cost of providing such guaranty is excessive in relation to the value afforded thereby.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. Federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan, Letter of Credit or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan, Letter of Credit or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.19(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.17, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in a Loan, Letter of Credit or Commitment or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 2.17(f) and (d) any U.S. Federal withholding Taxes imposed under FATCA.

"Existing Credit Agreement" means that certain Credit Agreement, dated as of August 31, 2016, by and among the Borrower, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (as amended or otherwise modified and in effect as of the Effective Date).

"Extended Revolving Commitment" shall have the meaning assigned to such term in Section 2.21(a).

"Extended Revolving Loan" shall have the meaning assigned to such term in Section 2.21(a).

"Extended Term Loan" shall have the meaning assigned to such term in Section 2.21(a).

"Extending Lender" shall have the meaning assigned to such term in Section 2.21(a).

"Extension" shall have the meaning assigned to such term in Section 2.21(a).

“Extension Amendment” shall have the meaning assigned to that term in Section 2.21(b).

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b)(1) of the Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as the federal funds effective rate. For the avoidance of doubt, if the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

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

“Financial Officer” means the chief financial officer, principal accounting officer, treasurer or controller of the Borrower.

“Financials” means the annual or quarterly financial statements, and accompanying certificates, of the Borrower and its Subsidiaries required to be delivered pursuant to Section 5.01(a) or 5.01(b).

“First Tier Foreign Subsidiary” means each Foreign Subsidiary with respect to which the Borrower and the Subsidiary Guarantors directly owns or Controls more than 50% of such Foreign Subsidiary’s issued and outstanding Equity Interests.

“Foreign Currencies” means Agreed Currencies other than Dollars.

“Foreign Currency LC Exposure” means, at any time, the sum of (a) the Dollar Amount of the aggregate undrawn and unexpired amount of all outstanding Foreign Currency Letters of Credit at such time plus (b) the aggregate principal Dollar Amount of all LC Disbursements in respect of Foreign Currency Letters of Credit that have not yet been reimbursed at such time.

“Foreign Currency Letter of Credit” means a Letter of Credit denominated in a Foreign Currency.

“Foreign Lender” means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

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

“GAAP” means generally accepted accounting principles in the United States of America.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority,

instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term “Guarantee” shall not include endorsements for collection or deposit in the ordinary course of business.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

“Hostile Acquisition” means (a) the acquisition of the Equity Interests of a Person through a tender offer or similar solicitation of the owners of such Equity Interests which has not been approved (prior to such acquisition) by the board of directors (or any other applicable governing body) of such Person or by similar action if such Person is not a corporation and (b) any such acquisition as to which such approval has been withdrawn.

“Impacted Interest Period” has the meaning assigned to such term in the definition of “LIBO Rate”.

“Incremental Amount” means, at any time, an amount equal to the excess (if any) of (a) \$150,000,000 over (b) the aggregate amount of all Incremental Term Loan Commitments and Incremental Revolving Commitments, in each case, established prior to such time pursuant to Section 2.20, but subsequent to the Amendment No. 1 Effective Date. As of the Amendment No. 1 Effective Date, the Incremental Amount is \$150,000,000.

“Incremental Assumption Agreement” means an Incremental Assumption Agreement in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the Administrative Agent and, if applicable, one or more Incremental Term Lenders and/or Incremental Revolving Lenders.

“Incremental Commitment” means an Incremental Term Loan Commitment or an Incremental Revolving Commitment.

“Incremental Facility” means the Incremental Commitments and the Incremental Loans made thereunder.

“Incremental Loan” means an Incremental Term Loan or an Incremental Revolving Loan.

“Incremental Revolving Commitment” means the commitment of any Lender, established pursuant to Section 2.20, to make Incremental Revolving Loans to the Borrower.

“Incremental Revolving Lender” means a Lender with an Incremental Revolving Commitment or an outstanding Incremental Revolving Loan.

“Incremental Revolving Loan” means Revolving Loans made by one or more Lenders to the Borrower pursuant to an Incremental Revolving Commitment.

“Incremental Term Lender” means a Lender with an Incremental Term Loan Commitment or an outstanding Incremental Term Loan or Other Incremental Term Loan.

“Incremental Term Loan Commitment” means the commitment of any Lender, established pursuant to Section 2.20, to make Incremental Term Loans or Other Incremental Term Loans to the Borrower.

“Incremental Term Loans” means term loans (other than Other Incremental Term Loans) made by one or more Lenders to the Borrower pursuant to Section 2.20 and provided for in the relevant Incremental Assumption Agreement.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations (or portion thereof) of such Person in respect of the deferred purchase price of property or services (excluding trade payables and current accounts payable incurred in the ordinary course of business), to the extent such obligation (or portion thereof) is fully and finally determined in accordance with the terms of the agreement applicable thereto, (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty and (j) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

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

“Ineligible Institution” has the meaning assigned to such term in Section 9.04(b).

“Information Memorandum” means the Confidential Information Memorandum dated December 2016 relating to the Borrower and the Transactions.

“Intercreditor Agreement” shall have the meaning assigned to such term in Article VIII.

“Interest Coverage Ratio” means, at any date, the ratio of (a) Consolidated EBITDA to (b) Consolidated Interest Expense paid in cash, in each case, for the period of four (4) consecutive fiscal quarters ended on such date (or, if such date is not the last day of a fiscal quarter, ended on the last day of the fiscal quarter most recently ended prior to such date for which financial statements have been delivered

pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable, all calculated for the Borrower and its Restricted Subsidiaries on a consolidated basis.

“Interest Election Request” means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08 in the form attached hereto as Exhibit D-2.

“Interest Payment Date” means (a) with respect to any ABR Loan (other than a Swingline Loan), the last day of each March, June, September and December and the Maturity Date, (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at intervals of three months’ duration after the first day of such Interest Period and the Maturity Date and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid and the Maturity Date.

“Interest Period” means, with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter, as the Borrower may elect; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period pertaining to a Eurodollar Borrowing that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Interpolated Rate” means, at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate for the longest period (for which the LIBO Screen Rate is available for the applicable currency) that is shorter than the Impacted Interest Period and (b) the LIBO Screen Rate for the shortest period (for which the LIBO Screen Rate is available for the applicable currency) that exceeds the Impacted Interest Period, in each case, at such time. If any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“IRS” means the United States Internal Revenue Service.

“Issuing Bank” means each of (i) JPMorgan Chase Bank, N.A. and (ii) each other Revolving Lender designated by the Borrower as an “Issuing Bank” hereunder that has agreed to such designation (and is reasonably acceptable to the Administrative Agent), each in its capacity as an issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.06(i). Any Issuing Bank may, in consultation with the Borrower, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

“Junior Liens” means Liens on the Collateral that are junior to the Liens thereon securing the Secured Obligations pursuant to a Permitted Junior Intercreditor Agreement (it being understood that (i) Junior Liens are not required to rank equally and ratably with other Junior Liens, and that Indebtedness secured by Junior Liens may be secured by Liens that are senior in priority to, or rank equally and ratably

with, or junior in priority to, other Liens constituting Junior Liens and (ii) Junior Liens on the Collateral shall not be perfected by control or possession unless the Administrative Agent has so agreed in its sole discretion (including, without limitation, “control” as defined in Article 8 or Article 9 of the UCC)), which Permitted Junior Intercreditor Agreement (together with such amendments to the Collateral Documents and any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Collateral Agent) to give effect to such Liens) shall be entered into in connection with a permitted incurrence of any such Liens (unless a Permitted Junior Intercreditor Agreement and/or Security Documents (as applicable) covering such Liens are already in effect).

“LC Collateral Account” has the meaning assigned to such term in Section 2.06(j).

“LC Disbursement” means a payment made by an Issuing Bank pursuant to a Letter of Credit.

“LC Exposure” means, at any time, the sum of (a) the aggregate undrawn Dollar Amount of all outstanding Letters of Credit at such time plus (b) the aggregate Dollar Amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Revolving Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“Lead Arrangers” means each of JPMorgan Chase Bank, N.A. and Wells Fargo Securities, LLC in its capacity as a joint lead arranger and joint bookrunner for the credit facility evidenced by this Agreement.

“Lender Parent” means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a Lender hereunder pursuant to Section 2.20, Section 2.21, Section 2.22 or pursuant to an Assignment and Assumption or other documentation contemplated hereby, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption or other documentation contemplated hereby. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lender and the Issuing Banks.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement.

“Letter of Credit Commitment” means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder. The initial amount of each Issuing Bank’s Letter of Credit Commitment is set forth on Schedule 2.02, or if an Issuing Bank has entered into an Assignment and Assumption, the amount set forth for such Issuing Bank as its Letter of Credit Commitment in the Register maintained by the Administrative Agent. Notwithstanding the foregoing, each Issuing Bank’s Letter of Credit Commitment may be decreased or increased from time to time with only the written consent of the Borrower and such Issuing Bank (provided that any decrease in the Letter of Credit Commitment to an amount less than any Issuing Bank’s initial Letter of Credit Commitment as of the Effective Date or date of the applicable Assignment and Assumption, as the case may be, shall also require the consent of the Administrative Agent).

“Leverage Ratio” means, at any date, the ratio of (a) Consolidated Total Indebtedness as of such date *minus* Unrestricted Cash as of such date in an aggregate amount not to exceed \$75,000,000 to (b) Consolidated EBITDA for the period of four (4) consecutive fiscal quarters ended on such date (or, if such date is not the last day of a fiscal quarter, ended on the last day of the fiscal quarter most recently

ended prior to such date for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable, all calculated for the Borrower and its Restricted Subsidiaries on a consolidated basis.

“LIBO Rate” means, with respect to any Eurodollar Borrowing and for any applicable Interest Period, the LIBO Screen Rate at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; provided that, if the LIBO Screen Rate shall not be available at such time for such Interest Period (the “Impacted Interest Period”), then the LIBO Rate for such Interest Period shall be the Interpolated Rate. It is understood and agreed that all of the terms and conditions of this definition of “LIBO Rate” shall be subject to Section 2.14.

“LIBO Screen Rate” means, for any day and time, with respect to any Eurodollar Borrowing and for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for Dollars for a period equal in length to such Interest Period as displayed on such day and time on page LIBOR01 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion); provided that if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Loan Documents” means this Agreement, any promissory notes issued pursuant to Section 2.10(e), any Letter of Credit applications, the Collateral Documents, the Subsidiary Guaranty, each Incremental Assumption Agreement, each Extension Amendment, each Refinancing Amendment, any Intercreditor Agreement, and all other agreements, instruments, documents and certificates identified in Section 4.01 executed and delivered to, or in favor of, the Administrative Agent or any Lenders and including all other pledges, powers of attorney, consents, assignments, contracts, letter of credit agreements, UCC filings, letter of credit applications and agreements between the Borrower and an Issuing Bank regarding such Issuing Bank’s Letter of Credit Commitment or the respective rights and obligations between the Borrower and such Issuing Bank in connection with the issuance of Letters of Credit, and any other documents prepared in connection with the other Loan Documents, if any and all other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Administrative Agent or any Lender in connection with this Agreement and the Loans. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

“Loan Parties” means, collectively, the Borrower and the Subsidiary Guarantors.

“Loans” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“Local Time” means (i) New York City time in the case of a Loan, Borrowing or LC Disbursement denominated in Dollars and (ii) local time in the case of an LC Disbursement denominated in a Foreign Currency (it being understood that such local time shall mean London, England time unless otherwise notified by the Administrative Agent).

“Material Acquisition” means any acquisition of property or series of related acquisitions of property that (a) constitutes (i) assets comprising all or substantially all or any significant portion of a business or operating unit of a business, or (ii) all or substantially all of the common stock or other Equity Interests of a Person, and (b) involves the payment of consideration by the Borrower and its Restricted Subsidiaries in excess of \$25,000,000.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, operations or financial condition of the Loan Parties, taken as a whole, (b) the ability of the Loan Parties, taken as a whole, to perform any of their obligations under this Agreement or any other Loan Document or (c) the validity or enforceability of this Agreement or any and all other Loan Documents or the material rights or remedies of the Administrative Agent and the Lenders thereunder.

“Material Disposition” means any sale, transfer or disposition of property or series of related sales, transfers, or dispositions of property that yields gross proceeds to the Borrower or any of its Restricted Subsidiaries in excess of \$25,000,000.

“Material Indebtedness” means Indebtedness (other than the Loans), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Restricted Subsidiaries in an aggregate principal amount exceeding \$40,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Borrower or any Restricted Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Borrower or such Restricted Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“Material Restricted Domestic Subsidiary” means each Domestic Subsidiary that is a Restricted Subsidiary and (a) which, as of the most recent fiscal quarter of the Borrower, for the period of four consecutive fiscal quarters then ended, for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable, contributed greater than five percent (5%) of Consolidated EBITDA for such period or (b) which contributed greater than five percent (5%) of Consolidated Total Assets as of such date; provided that, if at any time the aggregate amount of Consolidated EBITDA or Consolidated Total Assets attributable to all Domestic Subsidiaries that are not Material Restricted Domestic Subsidiaries exceeds ten percent (10%) of Consolidated EBITDA for any such period or ten percent (10%) of Consolidated Total Assets as of the end of any such fiscal quarter, the Borrower (or, in the event the Borrower has failed to do so within ten (10) Business Days, the Administrative Agent) shall designate sufficient Domestic Subsidiaries as “Material Restricted Domestic Subsidiaries” to eliminate such excess, and such designated Subsidiaries shall for all purposes of this Agreement constitute Material Restricted Domestic Subsidiaries.

“Material Restricted Subsidiary” means each Restricted Subsidiary (a) which, as of the most recent fiscal quarter of the Borrower, for the period of four consecutive fiscal quarters then ended, for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable, contributed greater than five percent (5%) of Consolidated EBITDA for such period or (b) which contributed greater than five percent (5%) of Consolidated Total Assets as of such date.

“Maturity Date” means July 31, 2023.

“Moody’s” means Moody’s Investors Service, Inc.

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received by the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Obligations” means all unpaid principal of and accrued and unpaid interest on the Loans, all LC Exposure, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations and indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Borrower and its Restricted Subsidiaries to any of the Lenders, the Administrative Agent, the Issuing Banks or any indemnified party, individually or collectively, existing on the Effective Date or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, arising or incurred under this Agreement or any of the other Loan Documents or in respect of any of the Loans made or reimbursement or other obligations incurred or any of the Letters of Credit or other instruments at any time evidencing any thereof.

“OFAC” means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

“Original Currency” has the meaning assigned to such term in Section 2.18(a).

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan, Letter of Credit or Loan Document).

“Other First Lien Debt” means obligations secured by Other First Liens.

“Other First Liens” means Liens on the Collateral that are equal and ratable with the Liens thereon securing the Secured Obligations pursuant to a Permitted First Lien Intercreditor Agreement, which Permitted First Lien Intercreditor Agreement (together with such amendments to the Collateral Documents and any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Collateral Agent) to give effect to such Liens) shall be entered into in connection with a permitted incurrence of any such Liens (unless a Permitted First Lien Intercreditor Agreement and/or Collateral Documents (as applicable) covering such Liens are already in effect).

“Other Incremental Term Loans” shall have the meaning assigned to such term in Section 2.20(a).

“Other Revolving Commitments” means, collectively, (a) Extended Revolving Commitments and (b) Replacement Revolving Commitments.

“Other Revolving Loans” means, collectively (a) Extended Revolving Loans and (b) Replacement Revolving Loans.

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19(b)).

“Other Term Loans” means, collectively, (a) Other Incremental Term Loans, (b) Extended Term Loans and (c) Refinancing Term Loans

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.–managed banking offices of depository institutions (as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“Overnight Foreign Currency Rate” means, for any amount payable in a Foreign Currency, the rate of interest per annum as determined by the Administrative Agent at which overnight or weekend deposits in the relevant currency (or if such amount due remains unpaid for more than three (3) Business Days, then for such other period of time as the Administrative Agent may elect in its reasonable discretion) for delivery in immediately available and freely transferable funds would be offered by the Administrative Agent to major banks in the interbank market upon request of such major banks for the relevant currency as determined above and in an amount comparable to the unpaid principal amount of the related Credit Event, plus any taxes, levies, imposts, duties, deductions, charges or withholdings imposed upon, or charged to, the Administrative Agent by any relevant correspondent bank in respect of such amount in such relevant currency.

“Participant” has the meaning assigned to such term in Section 9.04(c).

“Participant Register” has the meaning assigned to such term in Section 9.04(c).

“Participating Member State” means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to economic and monetary union.

“Patriot Act” means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Permitted Acquisition” means any acquisition (whether by purchase, merger, consolidation or otherwise but excluding in any event a Hostile Acquisition) or series of related acquisitions

by the Borrower or any Restricted Subsidiary of (i) any ongoing business or all or substantially all the assets of or (ii) directly, or indirectly so long as each holding company in respect thereof is a wholly-owned Subsidiary, all or substantially all the Equity Interests in, a Person or division or line of business of a Person, if, at the time of and immediately after giving effect thereto:

(a) such Person or division or line of business is engaged in the same or a similar line of business as the Borrower and the Restricted Subsidiaries or business reasonably related thereto or reasonable extensions thereof;

(b) all actions required, if any, to be taken with respect to such acquired or newly formed Restricted Subsidiary under Section 5.09 shall have been taken or shall be taken not later than ninety (90) days after such acquisition (subject to extensions as agreed by the Administrative Agent in its sole discretion);

(c) the Borrower and the Restricted Subsidiaries are in compliance, on a pro forma basis, with the covenants contained in Section 6.10 (including giving effect to any Acquisition Holiday in effect at such time) recomputed as of the last day of the most recently ended fiscal quarter of the Borrower for which financial statements are available, as if such acquisition (and any related incurrence or repayment of Indebtedness, with any new Indebtedness being deemed to be amortized over the applicable testing period in accordance with its terms) had occurred on the first day of each relevant period for testing such compliance and, if the aggregate consideration paid in respect of such acquisition exceeds \$30,000,000, the Borrower shall have delivered to the Administrative Agent a certificate of a Financial Officer or other executive officer of the Borrower to such effect, together with, to the extent available, all relevant financial information, statements and projections requested by the Administrative Agent;

(d) in the case of an acquisition, merger or consolidation involving (I) the Borrower, the Borrower is the surviving entity of any such merger and/or consolidation and (II) any Restricted Subsidiary and not the Borrower, a Restricted Subsidiary is the surviving entity of such merger and/or consolidation; and

(e) if the Leverage Ratio immediately before or immediately after giving effect (including giving effect on a pro forma basis) to such acquisition exceeds (A)(i) the maximum Leverage Ratio permitted under Section 6.10(a) at such time (including giving effect to any Acquisition Holiday in effect at such time) minus (ii) 0.50 to (B) 1.00, based on the financial statements most recently delivered pursuant to Section 5.01(a) or (b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable, the aggregate consideration paid for such acquisition (including the assumption of any Indebtedness), when taken together with the aggregate consideration paid for all other Permitted Acquisitions during the applicable calendar year in which such acquisition is consummated, shall not exceed \$75,000,000 (it being understood and agreed that, for the avoidance of doubt, any Permitted Acquisition made pursuant to the immediately following proviso shall not be included for purposes of determining compliance with the foregoing dollar limitation); provided, that no such dollar limitation shall apply when the Leverage Ratio, immediately before and immediately after giving effect (including giving effect on a pro forma basis) to such acquisition, equals or is less than (A)(i) the maximum Leverage Ratio permitted under Section 6.10(a) at such time (including giving effect to any Acquisition Holiday in effect at such time) minus (ii) 0.50 to (B) 1.00, based on the financial statements most recently delivered pursuant to Section 5.01(a) or (b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable.

“Permitted Encumbrances” means:

- (a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.04;
- (b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, landlord’s, supplier’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 5.04;
- (c) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations;
- (d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (e) judgment Liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;
- (f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Restricted Subsidiary;
- (g) Liens arising by virtue of any contractual, statutory or common law provision relating to banker’s liens, rights of set-off or similar rights and remedies as to deposit of cash and securities in favor of bank, other depository institutions, and brokerage firms;
- (h) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business of the Borrower or any Restricted Subsidiary; and
- (i) Liens in favor of collecting banks arising under Section 4-210 of the Uniform Commercial Code.

“Permitted First Lien Intercreditor Agreement” means, with respect to any Liens on Collateral that are intended to be equal and ratable with the Liens securing the Secured Obligations, one or more customary intercreditor agreements, each of which shall be in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent.

“Permitted Investments” means:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;
- (b) marketable direct obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one

year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either S&P or Moody's;

- (c) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody's;
- (d) investments in certificates of deposit, banker's acceptances and time deposits maturing within one year from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than \$500,000,000;
- (e) fully collateralized repurchase agreements with a term of not more than thirty (30) days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;
- (f) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least \$2,500,000,000;
- (g) cash; and
- (h) other investments consistent with Borrower's Investment Policy, as provided to the Administrative Agent prior to the Effective Date.

"Permitted Junior Intercreditor Agreement" means, with respect to any Liens on Collateral that are intended to be junior to any Liens securing the Secured Obligations, one or more customary intercreditor agreements, each of which shall be in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Plan Asset Regulations" means 29 CFR § 2510.3-101 et seq., as modified by Section 3(42) of ERISA, as amended from time to time.

"Platform" means Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system.

"Pledge Subsidiary" means (i) each Domestic Subsidiary that is a Restricted Subsidiary other than a Domestic Subsidiary that is a direct or indirect subsidiary of a Foreign Subsidiary that is a CFC and (ii) each First Tier Foreign Subsidiary that is a Restricted Subsidiary.

"Pounds Sterling" means the lawful currency of the United Kingdom.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent in its reasonable discretion) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent in its reasonable discretion). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“Pro Rata Extension Offers” shall have the meaning assigned to such term in Section 2.21(a).

“PTF” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Recipient” means (a) the Administrative Agent and (b) any Lender, as applicable.

“Refinancing Amendment” shall have the meaning assigned to such term in Section 2.22(e).

“Refinancing Effective Date” shall have the meaning assigned to such term in Section 2.22(a).

“Refinancing Notes” means any secured or unsecured notes or loans issued by any Loan Party (whether under an indenture, a credit agreement or otherwise) and the Indebtedness represented thereby; provided that:

- (i) 100% of the proceeds of such Refinancing Notes are used to permanently reduce Loans and/or replace Commitments pursuant to Section 2.22 substantially simultaneously with the issuance thereof;
- (ii) the principal amount (or accreted value, if applicable) of such Refinancing Notes does not exceed the principal amount (or accreted value, if applicable) of the aggregate portion of the Loans so reduced and/or the aggregate portion of Commitments so replaced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses);
- (iii) the final maturity date of such Refinancing Notes is on or after the maturity date of the Term Loans so reduced or the Revolving Commitments so replaced, as applicable;
- (iv) the Weighted Average Life to Maturity of such Refinancing Notes is greater than or equal to the Weighted Average Life to Maturity of the Term Loans so repaid;
- (v) the terms of such Refinancing Notes do not provide for any scheduled repayment, mandatory redemption or sinking fund obligations prior to the maturity date of the Term Loans so reduced or the Revolving Commitments so replaced, as applicable (other than (x) in the case of notes, customary offers to repurchase or mandatory prepayment provisions upon a change of control, asset sale, event of loss or change in applicable Tax law and customary acceleration rights after an event of default and prepayment penalties or premiums and (y) in the case of loans, prepayment penalties or premiums, customary amortization and mandatory and voluntary prepayment provisions which are, when taken as a whole, consistent in all material respects with, or not materially less favorable to the Borrower and the Restricted

Subsidiaries than, those applicable to the outstanding Term Loans and/or Revolving Commitments, as the case may be, with such Indebtedness to provide that any such mandatory prepayments as a result of asset sales or events of loss, shall be allocated on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) with the other outstanding Term Loans);

- (vi) there shall be no obligor with respect thereto that is not a Loan Party after giving effect thereto;
- (vii) if such Refinancing Notes are secured by an asset of any Restricted Subsidiary, any Unrestricted Subsidiary or any Affiliate of the foregoing, the security agreements relating to such assets shall not extend to any assets not constituting Collateral after giving effect thereto and shall be no more favorable to the secured party or parties in respect thereof, taken as a whole (as reasonably determined by the Administrative Agent) than the Collateral Documents (with such differences as are reasonably satisfactory to the Administrative Agent);
- (viii) if such Refinancing Notes are secured, such Refinancing Notes shall be secured by all or a portion of the Collateral, but shall not be secured by any assets of the Borrower or its Restricted Subsidiaries other than the Collateral;
- (ix) Refinancing Notes that are secured by Collateral shall be subject to the provisions of a Permitted First Lien Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable (and in any event shall be subject to a Permitted Junior Intercreditor Agreement if the Indebtedness being Refinanced is secured on a junior lien basis to any of the Obligations); and
- (x) any Unrestricted Subsidiary shall be an “unrestricted subsidiary” under the terms of any Refinancing Notes;
- (xi) all other terms applicable to such Refinancing Notes (other than provisions relating to original issue discount, upfront fees, agency and similar fees, prepayment penalties or premiums, interest rates and any other pricing terms (which original issue discount, upfront fees, agency and similar fees, prepayment penalties or premiums, interest rates and other pricing terms shall not be subject to the provisions set forth in this clause (x)) taken as a whole, shall (as reasonably determined by the Administrative Agent) be substantially similar to, or not materially less favorable to the Borrower and its Restricted Subsidiaries than, the terms, taken as a whole, applicable to the Term Loans so reduced or the Revolving Commitments so replaced (except to the extent such covenants and other terms apply solely to any period after the latest maturity date applicable to any Loans or Commitments hereunder or are otherwise reasonably acceptable to the Administrative Agent).

“Refinancing Term Loans” shall have the meaning assigned to such term in Section 2.22(a).

“Register” has the meaning assigned to such term in Section 9.04(b).

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents, advisors and representatives of such Person and such Person’s Affiliates.

“Replacement Revolving Facility” shall have the meaning assigned to such term in Section 2.22(c).

“Replacement Revolving Commitments” shall have the meaning assigned to such term in Section 2.22(c).

“Replacement Revolving Facility Effective Date” shall have the meaning assigned to such term in Section 2.22(c).

“Replacement Revolving Loans” shall have the meaning assigned to such term in Section 2.22(c).

“Required Lenders” means, subject to Section 2.23, at any time, Lenders having Revolving Credit Exposures and unused Revolving Commitments representing more than 50% of the sum of the Total Revolving Credit Exposure and unused Revolving Commitments at such time; provided that, for purposes of declaring the Loans to be due and payable pursuant to Article VII, and for all purposes after the Loans become due and payable pursuant to Article VII or the Revolving Commitments expire or terminate, then, as to each Revolving Lender, clause (a) of the definition of Swingline Exposure shall only be applicable for purposes of determining its Revolving Credit Exposure to the extent such Lender shall have funded its participation in the outstanding Swingline Loans.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Restricted Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Borrower or any Restricted Subsidiary or any option, warrant or other right to acquire any such Equity Interests in the Borrower or any Restricted Subsidiary.

“Restricted Payment Requirements” means, with respect to any Restricted Payment made by the Borrower or any Restricted Subsidiary in reliance upon Section 6.07(d), the following:

(a) no Event of Default has occurred and is continuing immediately prior to making such Restricted Payment or would arise immediately after giving effect (including giving effect on a pro forma basis) thereto; and

(b) there shall be (1) no dollar limit on Restricted Payments made when the Leverage Ratio is less than or equal to 1.50 to 1.00 (without giving effect to any Acquisition Holiday) immediately before and immediately after giving effect (including giving effect on a pro forma basis) to such Restricted Payment (based on the most recently delivered financial statements under Section 5.01(a) or (b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable), and (2) an aggregate dollar limit of \$50,000,000 per calendar year with respect to Restricted Payments made when the Leverage Ratio exceeds 1.50 to 1.00 (without giving effect to any Acquisition Holiday) immediately before and immediately after giving effect (including giving effect on a pro forma basis) to such Restricted Payment (based on the most recently delivered financial statements under Section 5.01(a) or (b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable (it being understood and agreed that, for the avoidance of doubt, any Restricted Payment made pursuant to clause (b)(1) above shall not be included for purposes of determining compliance with this clause (b)(2)).

“Restricted Subsidiary” means any Subsidiary other than an Unrestricted Subsidiary.

“Revolving Commitment” means, with respect to each Lender, the commitment of such Lender to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans

hereunder, expressed as an amount representing the maximum aggregate principal amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may be (a) reduced or terminated from time to time pursuant to Section 2.09, (b) increased, extended or replaced as provided under Section 2.20, 2.21 or 2.22 and (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The amount of each Lender's Revolving Commitment as of the Amendment No. 1 Effective Date is set forth on Schedule 2.01, or in the Assignment and Assumption or other documentation contemplated hereby pursuant to which such Lender shall have assumed its Revolving Commitment, as applicable. On the Effective Date, there is only one Class of Revolving Commitments. After the Effective Date, additional Classes of Revolving Commitments may be added or created pursuant to Extension Amendments, Refinancing Amendments or Incremental Assumption Agreements and other amendments in connection therewith.

“Revolving Credit Exposure” means, with respect to any Revolving Lender at any time, the sum of the outstanding principal amount of such Lender's Revolving Loans, its LC Exposure and its Swingline Exposure at such time.

“Revolving Lender” means, as of any date of determination, each Lender that has a Revolving Commitment or, if the Revolving Commitments have terminated or expired, a Lender with Revolving Credit Exposure.

“Revolving Loan” means a Loan made pursuant to Section 2.01. Unless the context otherwise requires, the term “Revolving Loans” shall include the Other Revolving Loans.

“S&P” means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

“Sale and Leaseback Transaction” means any sale or other transfer of any property or asset by any Person with the intent to lease such property or asset as lessee.

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state, Her Majesty's Treasury of the United Kingdom, or any other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.

“Sanctions” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State or (b) the United Nations Security Council, the European Union, any European Union member state, Her Majesty's Treasury of the United Kingdom, or any other relevant sanctions authority.

“SEC” means the United States Securities and Exchange Commission.

“Secured Obligations” means all Obligations, together with all Swap Obligations and Banking Services Obligations owing to one or more Lenders or their respective Affiliates; provided that the definition of “Secured Obligations” shall not create or include any guarantee by any Loan Party of (or

grant of security interest by any Loan Party to support, as applicable) any Excluded Swap Obligations of such Loan Party for purposes of determining any obligations of any Loan Party.

“Secured Parties” means the holders of the Secured Obligations from time to time and shall include (a) each Lender and each Issuing Bank in respect of its Loans and LC Exposure respectively, (b) the Administrative Agent, the Issuing Banks and the Lenders in respect of all other present and future obligations and liabilities of the Borrower and each Restricted Subsidiary of every type and description arising under or in connection with this Agreement or any other Loan Document, (c) each Lender and Affiliate of such Lender in respect of Swap Agreements and Banking Services Agreements entered into with such Person by the Borrower or any Restricted Subsidiary, (d) each indemnified party under Section 9.03 in respect of the obligations and liabilities of the Borrower to such Person hereunder and under the other Loan Documents, and (e) their respective successors and (in the case of a Lender, permitted) transferees and assigns.

“Security Agreement” means the Pledge and Security Agreement (including any and all supplements thereto), dated as of the date hereof, between the Loan Parties and the Collateral Agent, for the benefit of the Agents and the Secured Parties, and any other pledge or security agreement entered into after the date of this Agreement by any other Loan Party (as required by this Agreement or any other Loan Document), or any other Person, as the same may be amended, restated or otherwise modified from time to time.

“Securities Act” means the United States Securities Act of 1933.

“Solvent” means, in reference to any Person, (a) the fair value of the assets of such Person and its Subsidiaries, taken as a whole, at a fair valuation, will exceed their debts and liabilities, subordinated, contingent or otherwise; (b) the present fair saleable value of the property of such Person and its Subsidiaries, taken as a whole, will be greater than the amount that will be required to pay the probable liability of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (c) such Person and its Subsidiaries, taken as a whole, will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (d) such Person and its Subsidiaries, taken as a whole, will not have unreasonably small capital with which to conduct the business in which they are engaged as such business is now conducted and is proposed to be conducted after the Effective Date.

“Specified Ancillary Obligations” means all obligations and liabilities (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) of any of the Restricted Subsidiaries, existing on the Effective Date or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, to the Lenders or any of their Affiliates under any Swap Agreement or any Banking Services Agreement.

“specified currency” shall have the meaning assigned to such term in Section 2.24.

“Specified Swap Obligation” means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act or any rules or regulations promulgated thereunder.

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves)

expressed as a decimal established by the Board to which the Administrative Agent is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D of the Board. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D of the Board or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Subordinated Indebtedness” means any Indebtedness of the Borrower or any Restricted Subsidiary the payment of which is subordinated to payment of the obligations under the Loan Documents.

“Subordinated Indebtedness Documents” means any document, agreement or instrument evidencing any Subordinated Indebtedness or entered into in connection with any Subordinated Indebtedness.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, Controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” means any subsidiary of the Borrower.

“Subsidiary Guarantor” means each Material Restricted Domestic Subsidiary that is a party to the Subsidiary Guaranty. The Subsidiary Guarantors on the Effective Date are identified as such in Schedule 3.01 hereto.

“Subsidiary Guaranty” means that certain Guaranty dated as of the Effective Date (including any and all supplements thereto) and executed by each Subsidiary Guarantor party thereto, as amended, restated, supplemented or otherwise modified from time to time.

“Swap Agreement” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or the Restricted Subsidiaries shall be a Swap Agreement.

“Swap Obligations” means any and all obligations of the Borrower or any Restricted Subsidiary, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any and all Swap Agreements permitted hereunder with a Lender or an Affiliate of a Lender, and (b) any and all cancellations, buy backs, reversals, terminations or assignments of any such Swap Agreement transaction.

“Swingline Exposure” means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Revolving Lender at any time shall be the sum of (a) its Applicable Percentage of the total Swingline Exposure at such time other than with respect to any Swingline Loans made by such Lender in its capacity as a Swingline Lender and (b) the aggregate principal amount of all Swingline Loans made by such Lender as a Swingline Lender outstanding at such time (less the amount of participations funded by the other Revolving Lenders in such Swingline Loans).

“Swingline Lender” means JPMorgan Chase Bank, N.A., in its capacity as lender of Swingline Loans hereunder.

“Swingline Loan” means a Loan made pursuant to Section 2.05.

“Swiss Francs” means the lawful currency of Switzerland.

“Syndication Agent” means Wells Fargo Bank, National Association in its capacity as syndication agent for the credit facility evidenced by this Agreement.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET2) payment system (or, if such payment system ceases to be operative, such other payment system (if any) reasonably determined by the Administrative Agent to be a suitable replacement) for the settlement of payments in euro.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term Loan Commitments” means, collectively, (a) Incremental Term Loan Commitments and (b) commitments to make Refinancing Term Loans.

“Term Loans” means, collectively, (a) Incremental Term Loans, (b) Other Term Loans, (c) Extended Term Loans and (d) Refinancing Term Loans.

“Total Revolving Credit Exposure” means the sum of the outstanding principal amount of all Lenders’ Revolving Loans, their LC Exposure and their Swingline Exposure at such time; provided, that, clause (a) of the definition of Swingline Exposure shall only be applicable to the extent Revolving Lenders shall have funded their respective participations in the outstanding Swingline Loans.

“Transactions” means (a) the refinancing of the Indebtedness of the Borrower evidenced by the Existing Credit Agreement, (b) the execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, (c) the borrowing of Loans and other credit extensions and the use of the proceeds thereof, (d) the payment of fees, commissions, transaction costs and expenses incurred in connection with each of the foregoing and (e) the issuance of Letters of Credit hereunder.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“UCC” or “Uniform Commercial Code” means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state the laws of which are required to be applied in connection with the issue of perfection of security interests.

“Unliquidated Obligations” means, at any time, any Secured Obligations (or portion thereof) that are contingent in nature or unliquidated at such time, including any Secured Obligation that is: (a) an obligation to reimburse a bank for drawings not yet made under a letter of credit issued by it; (b) any other obligation (including any guarantee) that is contingent in nature at such time; or (c) an obligation to provide collateral to secure any of the foregoing types of obligations.

“Unrestricted Cash” shall mean, as of any date, 100% of the unrestricted cash maintained by the Borrower or any of its Domestic Subsidiaries that are Restricted Subsidiaries in accounts located in the United States and that are not subject to any Liens at such time (other than Liens permitted pursuant to Section 6.02(a), Junior Liens and Liens described in clause (g) of the definition of “Permitted Encumbrance”).

“Unrestricted Subsidiary” means any Subsidiary formed or acquired after the Effective Date that is designated as such by the board of directors (or equivalent governing body) of the Borrower in accordance with Section 5.10 and each Subsidiary of such designated Subsidiary, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 5.10 or ceases to be a Subsidiary of the Borrower.

“U.S. Person” means a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“U.S. Tax Compliance Certificate” has the meaning assigned to such term in Section 2.17(f)(ii)(B)(3).

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means any Loan Party and the Administrative Agent.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

SECTION 1.02.

Classification of Loans and Borrowings

. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurodollar Borrowing”) or by Class and Type (e.g., a “Eurodollar Revolving Borrowing”).

SECTION 1.03.

Terms Generally

. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include”, “includes” and

“including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders and decrees, of all Governmental Authorities. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented and/or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, restated, amended and restated, supplemented and/or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04.

Accounting Terms; GAAP; Pro Forma Calculations

. (a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Restricted Subsidiary at “fair value”, as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof and (iii) without giving effect to any changes in GAAP occurring after the Effective Date, the effect of which would be to cause leases which would be treated as operating leases under GAAP as of the Effective Date to be treated as capital leases under GAAP.

(b) All pro forma computations required to be made hereunder giving effect to any acquisition or disposition, or issuance, incurrence or assumption of Indebtedness, or other transaction shall in each case be calculated giving pro forma effect thereto (and, in the case of any pro forma computation made hereunder to determine whether such acquisition or disposition, or issuance, incurrence or assumption of Indebtedness, or other transaction is permitted to be consummated hereunder, to any other such transaction consummated since the first day of the period covered by any component of such pro forma computation and on or prior to the date of such computation) as if such transaction had occurred on the first

day of the period of four consecutive fiscal quarters ending with the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable, and, to the extent applicable, to the historical earnings and cash flows associated with the assets acquired or disposed of (but without giving effect to any synergies or cost savings) and any related incurrence or reduction of Indebtedness, all in accordance with Article 11 of Regulation S-X under the Securities Act. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Swap Agreement applicable to such Indebtedness).

SECTION 1.05.

Status of Obligations

. In the event that the Borrower or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, the Borrower shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Secured Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Administrative Agent on behalf of the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Secured Obligations are hereby designated as “senior indebtedness” and as “designated senior indebtedness” and words of similar import under and in respect of any indenture or other agreement or instrument under which such Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Administrative Agent on behalf of the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

SECTION 1.06.

Interest Rates

. The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of “LIBO Rate” or with respect to any comparable or successor rate thereto, or replacement rate therefor.

ARTICLE II

The Credits

SECTION 2.01.

Revolving Commitments

. Subject to the terms and conditions set forth herein, each Revolving Lender (severally and not jointly) agrees to make Revolving Loans to the Borrower in Dollars from time to time during the Availability Period in an aggregate principal amount that will not result in (a) such Lender’s Revolving Credit Exposure exceeding such Lender’s Revolving Commitment or (b) subject to Section 2.04, the Dollar Amount of the Total Revolving Credit Exposure exceeding the Aggregate Revolving Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

SECTION 2.02.

Loans and Borrowings

. (a) Each Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Loans of the same Type and Class made by the applicable Lenders ratably in accordance with their respective Commitments of such Class. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender’s failure to make Loans as required. Any Swingline Loan shall be made in accordance with the procedures as set forth in Section 2.05.

(b) Subject to Section 2.14, each Borrowing (other than a Swingline Loan) shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.14, 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$250,000 and not less than \$500,000. At the time that each ABR Borrowing is made (other than a Swingline Loan), such Borrowing shall be in an aggregate amount that is an integral multiple of \$250,000 and not less than \$500,000; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Aggregate Revolving Commitment or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e). Each Swingline Loan shall be in an amount that is an integral multiple of \$250,000 and not less than \$500,000. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of ten (10) Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03.

Requests for Borrowings

. To request a Borrowing (other than Swingline Loans), the Borrower shall notify the Administrative Agent of such request by submitting a Borrowing Request (a) in the case of a Eurodollar Borrowing, not later than 1:00 p.m., New York City time, three (3) Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 12:00 noon, New York City time, on the date of the proposed Borrowing; provided that any such notice of an ABR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e) may be given not later than 10:00 a.m., New York City time, on the date of the proposed Borrowing. Each such Borrowing Request shall be irrevocable and shall be signed by a Financial Officer of the Borrower. Each such Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the aggregate principal amount and Class of the requested Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;
- (iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (v) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each

applicable Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04.

Determination of Dollar Amounts

. The Administrative Agent will determine the Dollar Amount of:

- (a) the LC Exposure as of the date of each request for the issuance, amendment, renewal or extension of any Letter of Credit, and
- (b) all outstanding Letter of Credits and LC Disbursements on and as of the last Business Day of each calendar quarter and, during the continuation of an Event of Default, on any other Business Day elected by the Administrative Agent in its discretion or upon instruction by the Required Lenders.

Each day upon or as of which the Administrative Agent determines Dollar Amounts as described in the preceding clauses (a) and (b) is herein described as a "Computation Date" with respect to each Credit Event for which a Dollar Amount is determined on or as of such day.

SECTION 2.05.

Swingline Loans

(a) Subject to the terms and conditions set forth herein, from time to time during the Availability Period, the Swingline Lender agrees to make Swingline Loans in Dollars to the Borrower in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding \$10,000,000, (ii) the Swingline Lender's Revolving Credit Exposure exceeding its Revolving Commitment, or (iii) the Total Revolving Credit Exposure exceeding the Aggregate Revolving Commitment; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Swingline Loans.

(b) To request a Swingline Loan, the Borrower shall submit a written notice to the Administrative Agent of such request by telecopy or electronic mail, not later than 2:00 p.m., New York City time, on the day of a proposed Swingline Loan. Each such notice shall be in a form approved by the Administrative Agent in its reasonable discretion, shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Swingline Loan. The Administrative Agent will promptly advise the Swingline Lender of any such notice received from the Borrower. The Swingline Lender shall make each Swingline Loan available to the Borrower by means of a credit to the general deposit account of the Borrower with the Swingline Lender (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e), by remittance to the applicable Issuing Bank) by 3:00 p.m., New York City time, on the requested date of such Swingline Loan.

(c) The Swingline Lender may by written notice given to the Administrative Agent not later than 10:00 a.m., New York City time, on any Business Day require the Revolving Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Revolving Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Revolving Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Revolving Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Revolving Commitments, and that each such

payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Revolving Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Revolving Lenders. The Administrative Agent shall notify the Borrower of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Borrower (or other party on behalf of the Borrower) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Revolving Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Borrower for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Borrower of any default in the payment thereof.

(d) The Swingline Lender may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Swingline Lender and the successor Swingline Lender (in each case, not to be unreasonably withheld, delayed or conditioned). The Administrative Agent shall notify the Revolving Lenders of any such replacement of the Swingline Lender. At the time any such replacement shall become effective, the Borrower shall pay all unpaid interest accrued for the account of the replaced Swingline Lender pursuant to Section 2.13(a). From and after the effective date of any such replacement, (x) the successor Swingline Lender shall have all of the rights and obligations of the replaced Swingline Lender under this Agreement with respect to Swingline Loans made thereafter and (y) references herein to the term "Swingline Lender" shall be deemed to refer to such successor or to any previous Swingline Lender, or to such successor and all previous Swingline Lenders, as the context shall require. After the replacement of the Swingline Lender hereunder, the replaced Swingline Lender shall remain a party hereto and shall continue to have all the rights and obligations of a Swingline Lender under this Agreement with respect to Swingline Loans made by it prior to its replacement, but shall not be required to make additional Swingline Loans.

(e) Subject to the appointment and acceptance of a successor Swingline Lender, the Swingline Lender may resign as Swingline Lender at any time upon thirty days' prior written notice to the Administrative Agent, the Borrower and the Revolving Lenders, in which case, the Swingline Lender shall be replaced in accordance with Section 2.05(d) above.

SECTION 2.06.

Letters of Credit

. (a) General. Subject to the terms and conditions set forth herein, the Borrower may request the issuance of Letters of Credit denominated in Agreed Currencies as the applicant thereof for the support of its or its Subsidiaries' obligations, in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the applicable Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. Notwithstanding anything herein to the contrary, no Issuing Bank shall have any obligation hereunder to issue, and shall not issue, any Letter of Credit the proceeds of which would be made available to any Person (i) to fund any activity or business of or with any Sanctioned Person, or in any country or territory that, at the time of such funding, is the subject of any Sanctions, (ii) in any manner that would result in a violation of any Sanctions by any party to this Agreement or (iii) in any manner that would result in a violation of one or more policies of the Issuing Bank

applicable to letters of credit generally. The Borrower unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the support of any Subsidiary's obligations as provided in the first sentence of this paragraph, the Borrower will be fully responsible for the reimbursement of LC Disbursements in accordance with the terms hereof, the payment of interest thereon and the payment of fees due under Section 2.12(b) to the same extent as if it were the sole account party in respect of such Letter of Credit (the Borrower hereby irrevocably waiving any defenses that might otherwise be available to it as a guarantor or surety of the obligations of such a Subsidiary that is an account party in respect of any such Letter of Credit).

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to the applicable Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the Agreed Currency applicable thereto, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by an Issuing Bank, the Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) subject to Section 2.04, the Dollar Amount of the LC Exposure shall not exceed \$10,000,000, (ii) with respect to each Issuing Bank, subject to Section 2.04, (x) the aggregate undrawn Dollar Amount of all outstanding Letters of Credit issued by such Issuing Bank at such time plus (y) the aggregate Dollar Amount of all LC Disbursements made by such Issuing Bank that have not yet been reimbursed by or on behalf of the Borrower at such time shall not exceed the Letter of Credit Commitment of such Issuing Bank, (iii) subject to Section 2.04, no Revolving Lender's Dollar Amount of Revolving Credit Exposure shall exceed its Revolving Commitment, and (iv) subject to Section 2.04, the Dollar Amount of the Total Revolving Credit Exposure shall not exceed the Aggregate Revolving Commitment. The Borrower may, at any time and from time to time, increase or reduce the Letter of Credit Commitment of any Issuing Bank pursuant to the definition of Letter of Credit Commitment; provided that the Borrower shall not reduce the Letter of Credit Commitment of any Issuing Bank if, after giving effect of such reduction, the conditions set forth in clauses (i) through (iv) above shall not be satisfied.

(c) Expiration Date. Each Letter of Credit shall expire (or be subject to termination by notice from the applicable Issuing Bank to the beneficiary thereof) at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is five (5) Business Days prior to the Maturity Date; provided that, any Letter of Credit with a one-year tenor may provide for the automatic renewal thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (ii) above); provided further that, any Letter of Credit may extend beyond the date referred to in clause (ii) above if such Letter of Credit is cash collateralized, no later than thirty (30) days prior to the Maturity Date, in an amount equal to 105% of the face amount of such Letter of Credit in accordance with Section 2.06(j) hereof and on terms and conditions reasonably acceptable to the applicable Issuing Bank and the Administrative Agent.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing

Bank or the Revolving Lenders, such Issuing Bank hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of such Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Revolving Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If any Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit issued by such Issuing Bank, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent in Dollars the Dollar Amount equal to such LC Disbursement, calculated as of the date such Issuing Bank made such LC Disbursement (or if the Issuing Bank shall so elect in its reasonable discretion by notice to the Borrower, in such other Agreed Currency which was paid by the Issuing Bank pursuant to such LC Disbursement in an amount equal to such LC Disbursement) not later than 12:00 noon, Local Time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 10:00 a.m., Local Time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 12:00 noon, Local Time, on the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; provided that the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.05 that such payment be financed with an ABR Revolving Borrowing or Swingline Loan in, subject to Section 2.04, the Dollar Amount of such LC Disbursement and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Revolving Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Revolving Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, mutatis mutandis, to the payment obligations of the Revolving Lenders), and the Administrative Agent shall promptly pay to such Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to such Issuing Bank or, to the extent that Revolving Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Revolving Lender pursuant to this paragraph to reimburse such Issuing Bank for any LC Disbursement (other than the funding of Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement. If the Borrower's reimbursement of, or obligation to reimburse, any amounts in any Foreign Currency would subject the Administrative Agent, any Issuing Bank or any Lender to any stamp duty, ad valorem charge or similar tax that would not be payable if such reimbursement were made or required to be made in Dollars, the Borrower shall, at its option, either (x) pay the amount of any such tax requested by the Administrative Agent, such Issuing Bank or the relevant Lender or (y) reimburse each LC Disbursement made in such Foreign Currency in Dollars, in an amount equal to the Dollar Amount, calculated using the applicable Exchange Rates, on the date such LC Disbursement is made, of such LC Disbursement.

(f) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by any Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Revolving Lenders nor the Issuing Banks, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the applicable Issuing Bank; provided that the foregoing shall not be construed to excuse such Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of an Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination applicable to any Letters of Credit. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, such Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. The applicable Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. Such Issuing Bank shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by telecopy or electronic mail) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such Issuing Bank and the Revolving Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the reimbursement is due and payable, at the rate per annum then applicable to ABR Revolving Loans (or in the case such LC Disbursement is denominated in a Foreign Currency, at the Overnight Foreign Currency Rate for such Agreed Currency plus the then effective Applicable Rate with respect to Eurodollar Revolving Loans) and such interest shall be due and payable on the date when such reimbursement is payable; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of such Issuing Bank, except that interest accrued

on and after the date of payment by any Revolving Lender pursuant to paragraph (e) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement and Resignation of Issuing Bank.

(i) Any Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Revolving Lenders of any such replacement of an Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the replaced Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term “Issuing Bank” shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit then outstanding and issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(ii) Subject to the appointment and acceptance of a successor Issuing Bank, the any Issuing Bank may resign as an Issuing Bank at any time upon thirty days’ prior written notice to the Administrative Agent, the Borrower and the Revolving Lenders, in which case, such Issuing Bank shall be replaced in accordance with Section 2.06(i)(i) above.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Revolving Lenders with LC Exposure representing greater than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Revolving Lenders (the “LC Collateral Account”), an amount in cash equal to 105% of the Dollar Amount of the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that (i) the portions of such amount attributable to undrawn Foreign Currency Letters of Credit or LC Disbursements in a Foreign Currency that the Borrower is not late in reimbursing shall be deposited in the applicable Foreign Currencies in the actual amounts of such undrawn Letters of Credit and LC Disbursements and (ii) the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Article VII. For the purposes of this paragraph, the Foreign Currency LC Exposure shall be calculated using the applicable Exchange Rate on the date notice demanding cash collateralization is delivered to the Borrower. The Borrower also shall deposit cash collateral pursuant to this paragraph as and to the extent required by Section 2.11(b). Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Secured Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account and the Borrower hereby grants the Administrative Agent a security interest in the LC Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower’s risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse any applicable Issuing Bank (ratably in the case of more than one Issuing Bank) for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement

obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Revolving Lenders with LC Exposure representing greater than 50% of the total LC Exposure), be applied to satisfy other Secured Obligations. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all Events of Default have been cured or waived.

(k) Issuing Bank Agreements. Unless otherwise requested by the Administrative Agent, each Issuing Bank shall report in writing to the Administrative Agent (i) promptly following the end of each calendar month, the aggregate amount of Letters of Credit issued by it and outstanding at the end of such month, (ii) on or prior to each Business Day on which such Issuing Bank expects to issue, amend, renew or extend any Letter of Credit, the date of such issuance, amendment, renewal or extension, and the aggregate face amount of the Letter of Credit to be issued, amended, renewed or extended by it and outstanding after giving effect to such issuance, amendment, renewal or extension occurred (and whether the amount thereof changed), it being understood that such Issuing Bank shall not permit any issuance, renewal, extension or amendment resulting in an increase in the amount of any Letter of Credit to occur without first obtaining written confirmation from the Administrative Agent that it is then permitted under this Agreement, (iii) on each Business Day on which such Issuing Bank makes any payment under any Letter of Credit, the date of such payment under such Letter of Credit and the amount of such payment, (iv) on any Business Day on which the Borrower fails to reimburse any payment under any Letter of Credit required to be reimbursed to such Issuing Bank on such day, the date of such failure and the amount of such payment and (v) on any other Business Day, such other information as the Administrative Agent shall reasonably request.

SECTION 2.07.

Funding of Borrowings

. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 2:00 p.m., New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Swingline Loans shall be made as provided in Section 2.05. Except in respect of the provisions of this Agreement covering the reimbursement of Letters of Credit, the Administrative Agent will make such Loans available to the Borrower by promptly crediting the funds so received in the aforesaid account of the Administrative Agent to an account of the Borrower maintained with the Administrative Agent in New York City or Chicago and designated by the Borrower in the applicable Borrowing Request; provided that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the applicable Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to the applicable Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

. (a) Each Borrowing (other than a Swingline Loan) initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type and Class resulting from such election to be made on the effective date of such election. Each such Interest Election Request shall be irrevocable and shall be signed by a Financial Officer of the Borrower. Notwithstanding any contrary provision herein, this Section shall not be construed to permit the Borrower to (i) elect an Interest Period for Eurodollar Loans that does not comply with Section 2.02(d), (ii) convert any Borrowing to a Borrowing of a Type not available under the Class of Commitments pursuant to which such Borrowing was made or (iii) convert any Borrowing to a Borrowing of a different Class.

(c) Each Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which Interest Period shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each applicable Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver an Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period, such Borrowing shall remain a Eurodollar Borrowing with the same Interest Period applicable to the respective Eurodollar Borrowing for the Interest Period then ended. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower,

then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.09.

Termination and Reduction of Commitments

. (a) Unless previously terminated, the Revolving Commitments shall terminate on the Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments of any Class; provided that (i) each reduction of the Commitments of any Class shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Borrower shall not terminate or reduce the Revolving Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.11, the Dollar Amount of the Total Revolving Credit Exposure would exceed the Aggregate Revolving Commitment.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or other transactions specified therein, in which case such notice may be revoked or delayed by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders holding such Commitments in accordance with their respective Commitments of such Class.

SECTION 2.10.

Repayment of Loans; Evidence of Debt

. (a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Revolving Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date and (ii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the fifth Business Day after such Swingline Loan is made; provided that, notwithstanding anything to the contrary contained herein, on each date that a Revolving Borrowing is made, the Borrower shall repay all Swingline Loans then outstanding and the proceeds of any such Borrowing shall be applied by the Administrative Agent to repay any Swingline Loans outstanding.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in the Register established and maintained in accordance with the provisions of Section 9.04(b)(iv) in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein;

provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the Obligations.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form reasonably acceptable to the Administrative Agent and the Borrower. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form.

SECTION 2.11.

Prepayment of Loans

. (a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, without premium or penalty, subject to prior notice in accordance with the provisions of this Section 2.11(a). The Borrower shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by written notice (promptly followed by telephonic confirmation of such request) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Borrowing, not later than 1:00 p.m., New York City time, three (3) Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Borrowing, not later than 1:00 p.m., New York City time, one (1) Business Day before the date of prepayment or (iii) in the case of prepayment of a Swingline Loan, not later than 12:00 noon, New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments of any Class as contemplated by Section 2.09, then such notice of prepayment may be revoked or delayed if such notice of termination is revoked or delayed in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each partial prepayment of any Borrowing of any Class shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type and Class as provided in Section 2.02. Each prepayment of a Borrowing of any Class shall be applied ratably to the Loans of such Class included in the prepaid Borrowing. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.13 and (ii) break funding payments, if any, pursuant to Section 2.16. If at any time the sum of the aggregate principal amount of the Dollar Amount of all of the Revolving Credit Exposures exceeds the Aggregate Revolving Commitment, the Borrower shall immediately repay Borrowings, or cash collateralize LC Exposure, in an account with the Administrative Agent pursuant to Section 2.06(j), as applicable, in an aggregate principal amount sufficient to cause the aggregate principal Dollar Amount of all Revolving Credit Exposures to be less than or equal to the Aggregate Revolving Commitment.

(b) The Borrower shall apply all proceeds from any issuance or incurrence of Refinancing Notes, Refinancing Term Loans and Replacement Revolving Commitments (other than solely by means of extending or renewing then existing Refinancing Notes, Refinancing Term Loans and Replacement Revolving Commitments without resulting in any proceeds), no later than three (3) Business Days after the date on which such Refinancing Notes, Refinancing Term Loans and Replacement Revolving Commitments are issued or incurred, to prepay Term Loans and/or terminate Revolving Commitments being refinanced in accordance with Section 2.22 and the definition of "Refinancing Notes" (as applicable).

SECTION 2.12.

Fees

. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a commitment fee, which shall accrue at the Applicable Rate on the Available Revolving Commitment of such Lender during the period from and including the Effective Date to but excluding the date on which the Revolving Commitment of such Lender terminates; provided that, if such Lender continues to have any Revolving Credit Exposure after its Revolving Commitment terminates, then such commitment fee shall continue to accrue on the daily amount of such Lender's

Revolving Credit Exposure from and including the date on which its Revolving Commitment terminates to but excluding the date on which such Lender ceases to have any Revolving Credit Exposure. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Revolving Commitments terminate, commencing on the first such date to occur after the date hereof; provided that any commitment fees accruing after the date on which the Revolving Commitments terminate shall be payable on demand. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Revolving Lender a participation fee with respect to its participations in issued and outstanding Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurodollar Revolving Loans on the average daily Dollar Amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Revolving Commitment terminates and the date on which such Lender ceases to have any LC Exposure and (ii) to each Issuing Bank for its own account a fronting fee, which shall accrue at the rate per annum separately agreed between the Borrower and the applicable Issuing Bank on the average daily Dollar Amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) attributable to Letters of Credit issued by such Issuing Bank during the period from and including the Effective Date to but excluding the later of the date of termination of the Revolving Commitments and the date on which there ceases to be any LC Exposure, as well as such Issuing Bank's standard fees and commissions with respect to the issuance, amendment, cancellation, negotiation, transfer, presentment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third (3rd) Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Revolving Commitments terminate and any such fees accruing after the date on which the Revolving Commitments terminate shall be payable on demand. Any other fees payable to any Issuing Bank pursuant to this paragraph shall be payable within ten (10) days after demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). Participation fees and fronting fees in respect of Letters of Credit denominated in Dollars shall be paid in Dollars, and participation fees and fronting fees in respect of Letters of Credit denominated in a Foreign Currency shall be paid in such Foreign Currency.

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder or in connection therewith shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution to the applicable parties. Fees paid shall not be refundable under any circumstances.

SECTION 2.13.

Interest

. (a) The Loans comprising each ABR Borrowing (including each Swingline Loan) shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, (i) during the occurrence and continuance of any Event of Default described in paragraph (a), (h), (i), or (j) of Article VII, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (x) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (y) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section and (ii) during the occurrence and continuance of any other Event of Default, the Administrative Agent, at the direction of the Required Lenders, may, at its option, by notice to the Borrower (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 9.02 requiring the consent of “each Lender directly affected thereby” for reductions in interest rates), declare that (x) all Loans shall bear interest at 2% plus the rate otherwise applicable to such Loans as provided in the preceding paragraphs of this Section or (y) in the case of any other amount outstanding hereunder, such amount shall accrue at 2% plus the rate applicable to such fee or other obligation as provided hereunder.

(d) Accrued interest on each Loan of any Class shall be payable in arrears on each Interest Payment Date for such Loan and on the Maturity Date (or, if earlier, upon termination of the Commitments of such Class); provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14.

Alternate Rate of Interest

. (a) If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(i) the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable (including because the LIBO Screen Rate is not available or published on a current basis), for such Interest Period; or

(ii) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or telecopy or other electronic communication as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (A) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and any such Eurodollar Borrowing shall be repaid on the last day of the then current Interest Period applicable thereto and (B) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

(b) If at any time the Administrative Agent determines in its reasonable discretion (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in clause (a)(i) of the foregoing paragraph have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) of the foregoing paragraph have not arisen but either (A) the supervisor for the administrator of the LIBO Screen Rate has made a public statement that the administrator of the LIBO Screen Rate is insolvent (and there is no successor administrator that will continue publication of the LIBO Screen Rate), (B) the administrator of the LIBO Screen Rate has made a public statement identifying a specific date after which the LIBO Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the LIBO Screen Rate), (C) the supervisor for the administrator of the LIBO Screen Rate has made a public statement identifying a specific date after which the LIBO Screen Rate will permanently or indefinitely cease to be published or (D) the supervisor for the administrator of the LIBO Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the LIBO Screen Rate may no longer be used for determining interest rates for loans, then the Administrative Agent and the Borrower shall endeavor to establish an alternate rate of interest to the LIBO Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable (but for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Rate); provided that, if such alternate rate of interest as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement. Notwithstanding anything to the contrary in Section 9.02, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Administrative Agent shall not have received, within five Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment. Until an alternate rate of interest shall be determined in accordance with this clause (b) (but, in the case of the circumstances described in clause (ii) of the first sentence of this Section 2.14(b), only to the extent the LIBO Screen Rate for such Interest Period is not available or published at such time on a current basis), (x) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurodollar Borrowing shall be ineffective and (y) if any Borrowing Request requests a Eurodollar Revolving Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.15.

Increased Costs

. (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or any Issuing Bank;

(ii) impose on any Lender or any Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting into or maintaining any Loan or of maintaining its obligation to make any such Loan or to increase the cost to such Lender, such Issuing Bank or such other Recipient of participating

in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender, such Issuing Bank or such other Recipient hereunder, whether of principal, interest or otherwise, then the Borrower will pay to such Lender, such Issuing Bank or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Bank or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or any Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuing Bank's capital or on the capital of such Lender's or such Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Bank, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender or such Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16.

Break Funding Payments

. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.11), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked or extended under Section 2.11 and is revoked or extended in accordance therewith but not including any such failure that results from a notice under Section 2.14) or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at

the commencement of such period, for deposits in Dollars of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

SECTION 2.17.

Taxes

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.17) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Borrower. The Borrower shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.17, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Loan Parties. The Loan Parties shall indemnify each Recipient, within 10 days after receipt of a written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate setting forth in reasonable detail the amount and type of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the

Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders. (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.17(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person:

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), an executed IRS Form W-9 certifying that such Lender is exempt from U.S. Federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, an executed IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, an executed IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit C-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent

shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) an executed IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable; or

(4) to the extent a Foreign Lender is not the beneficial owner, an executed IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit C-2 or Exhibit C-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit C-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. Federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 2.17 (including by the payment of additional amounts pursuant to this Section 2.17), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.17 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon

the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Survival. Each party's obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(i) Defined Terms. For purposes of this Section 2.17, the term "applicable law" includes FATCA.

SECTION 2.18.

Payments Generally; Allocations of Proceeds; Pro Rata Treatment;

Sharing of Set-offs

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(a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to (i) in the case of payments denominated in Dollars, 1:00 p.m., New York City time and (ii) in the case of payments denominated in a Foreign Currency, 1:00 p.m., Local Time, in the city of the Administrative Agent's Eurodollar Payment Office for such currency, in each case on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made (i) in the same currency in which the applicable Credit Event was made and (ii) to the Administrative Agent at its offices at 10 South Dearborn Street, Chicago, Illinois 60603, or, in the case of a Credit Event denominated in a Foreign Currency, the Administrative Agent's Eurodollar Payment Office for such currency, except payments to be made directly to an Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments denominated in the same currency received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars. Notwithstanding the foregoing provisions of this Section, if, after the making of any Credit Event in any Foreign Currency, currency control or exchange regulations are imposed in the country which issues such currency with the result that the type of currency in which the Credit Event was made (the "Original Currency") no longer exists or the Borrower is not able to make payment to the Administrative Agent for the account of the Lenders in such Original Currency, then all payments to be made by the Borrower hereunder in such currency shall instead be made when due in Dollars in an amount equal to the Dollar Amount (as of the date of repayment) of such payment due, it being the intention of the parties hereto that the Borrower takes all risks of the imposition of any such currency control or exchange regulations.

(b) Any proceeds of Collateral received by the Administrative Agent (i) not constituting a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrower) or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, such funds shall be applied, subject to the provisions of any applicable Intercreditor Agreement, ratably first, to pay any fees, indemnities, or expense reimbursements including amounts then due to the Administrative Agent and the Issuing Banks from the Borrower, second, to pay any fees or expense reimbursements then due to the Lenders from the Borrower, third, to pay interest then due and payable on the Loans ratably, fourth, to prepay principal on the Loans and unreimbursed LC Disbursements and any other amounts owing with respect to Banking Services Obligations and Swap Obligations ratably, fifth, to pay an amount to the Administrative Agent equal to one hundred five percent (105%) of the aggregate undrawn face amount of all outstanding Letters of Credit and the aggregate amount of any unpaid LC Disbursements, to be held as cash collateral for such Obligations, and sixth, to the payment of any other Secured Obligation (other than any Unliquidated Obligations) due to the Administrative Agent or any Lender by the Borrower. Notwithstanding the foregoing, amounts received from any Loan Party shall not be applied to any Excluded Swap Obligation of such Loan Party. Notwithstanding anything to the contrary contained in this Agreement, unless so directed by the Borrower, or unless an Event of Default is in existence, none of the Administrative Agent or any Lender shall apply any payment which it receives to any Eurodollar Loan of a Class, except (a) on the expiration date of the Interest Period applicable to any such Eurodollar Loan or (b) in the event, and only to the extent, that there are no outstanding ABR Loans of the same Class and, in any event, the Borrower shall pay the break funding payment required in accordance with Section 2.16. The Administrative Agent and the Lenders shall have the continuing and exclusive right to apply and reverse and reapply any and all such proceeds and payments to any portion of the Secured Obligations.

(c) To the extent agreed by the Administrative Agent and the Borrower (in its sole discretion), all payments of principal, interest, LC Disbursements, fees, premiums, reimbursable expenses (including, without limitation, all reimbursement for fees and expenses pursuant to Section 9.03), and other sums payable under the Loan Documents, may be paid from the proceeds of Borrowings made hereunder whether made following a request by the Borrower pursuant to Section 2.03 or a deemed request as provided in this Section or may be deducted from any deposit account of the Borrower maintained with the Administrative Agent. Subject to the immediately preceding sentence, the Borrower hereby irrevocably authorizes (i) the Administrative Agent to make a Borrowing for the purpose of paying each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents and agrees that all such amounts charged shall constitute Loans (including Swingline Loans) and that all such Borrowings shall be deemed to have been requested pursuant to Sections 2.03 or 2.05, as applicable and (ii) the Administrative Agent to charge any deposit account of the Borrower maintained with the Administrative Agent for each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents.

(d) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans of any Class or participations in LC Disbursements or Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans of such Class and participations in LC Disbursements and Swingline Loans and accrued interest thereon, as the case may be, than the proportion received by any other similarly situated Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of such Class and participations in LC Disbursements and Swingline Loans of other Lenders, as the case may be, to the extent necessary so that the benefit of all such payments shall be shared by all such applicable Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans of such Class and participations in LC Disbursements and Swingline Loans, as the case may be; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the

purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements and Swingline Loans to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Banks hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Banks, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07(b), 2.18(e) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender and for the benefit of the Administrative Agent, the Swingline Lender or the Issuing Banks to satisfy such Lender's obligations to it under such Section until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account over which the Administrative Agent shall have exclusive control as cash collateral for, and application to, any future funding obligations of such Lender under any such Section; in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

SECTION 2.19.

Mitigation Obligations; Replacement of Lenders

. (a) If any Lender requests compensation under Section 2.15, or the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then, at the request of the Borrower, such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, or otherwise mitigate such circumstances, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.15, (ii) the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17 or (iii) any Lender becomes a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments

pursuant to Sections 2.15 or 2.17) and obligations under the Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrower shall have received the prior written consent (which consent shall not unreasonably be withheld delayed or conditioned) of the Administrative Agent (and if a Revolving Commitment is being assigned, the Issuing Banks and the Swingline Lender), in each case to the extent that such consent would be required for such assignment pursuant to Section 9.04, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Notwithstanding anything to the contrary in this Agreement, in no event shall break funding payments, if any, pursuant to Section 2.16 be due and payable to any such assignor.

SECTION 2.20.

Incremental Commitments

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(a) The Borrower may, by written notice to the Administrative Agent from time to time, request Incremental Term Loan Commitments and/or Incremental Revolving Commitments, as applicable, in an amount not to exceed the Incremental Amount available at the time such Incremental Term Loans are funded or Incremental Revolving Commitments are established from one or more Incremental Term Lenders and/or Incremental Revolving Lenders (which, in each case, may include any existing Lender, but shall be required to be Persons which would qualify as assignees of a Lender in accordance with Section 9.04) willing to provide such Incremental Term Loans and/or Incremental Revolving Commitments, as the case may be, in their sole discretion, all of the proceeds of which shall be used for working capital and general corporate purposes and for the payment of fees and expenses in connection with such Incremental Term Loan Commitments and/or Incremental Revolving Commitments; provided that each Incremental Revolving Lender providing a commitment to make revolving loans shall, to the extent the same would be required for an assignment under Section 9.04, be subject to the approval of the Administrative Agent, the Issuing Banks and the Swingline Lender (which approvals shall not be unreasonably withheld, conditioned or delayed). Such notice shall set forth (i) the amount of the Incremental Term Loan Commitments and/or Incremental Revolving Commitments being requested (which shall be in a minimum amount of \$25,000,000, or equal to the remaining Incremental Amount or, in each case, such lesser amount approved by the Administrative Agent), (ii) the date on which such Incremental Term Loan Commitments and/or Incremental Revolving Commitments are requested to become effective and (iii) in the case of Incremental Term Loan Commitments, whether such Incremental Term Loan Commitments are to be (x) commitments to make the initial Incremental Term Loans hereunder or term loans with terms identical to (and which shall together with any then outstanding Incremental Term Loans, as applicable, form a single Class of) the then initial Incremental Term Loans (if any) or (y) commitments to make term loans with pricing, maturity, amortization, participation in mandatory prepayments, prepayment premiums and penalties and/or other terms different from the then outstanding Incremental Term Loans (if any) ("Other Incremental Term Loans").

(b) The Borrower and each Incremental Term Lender and/or Incremental Revolving Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Term Loan Commitment of such Incremental Term Lender and/or Incremental Revolving Commitment of such Incremental Revolving Lender. Each Incremental Assumption Agreement shall specify the terms of the applicable Incremental Term Loans and/or Incremental Revolving Commitments; provided, that:

(i) any (x) commitments to make additional Incremental Term Loans (as opposed to Other Incremental Term Loans) shall have the same terms as the then outstanding Incremental Term Loans, and shall form part of the same Class of Incremental Term Loans and (y) Incremental Revolving Commitments shall have the same terms as the then outstanding Class of Revolving Commitments (or, if more than one Class of Revolving Commitments is then outstanding, the Revolving Commitments with the then latest maturity date) and shall require no scheduled amortization or mandatory commitment reduction prior to the latest maturity date applicable to the Commitments or Loans of any Class hereunder;

(ii) the Incremental Term Loans (other than the Other Incremental Term Loans), unless agreed to by any such Other Incremental Term Loan Lenders, incurred pursuant to clause (a) of this Section 2.20 shall rank equally and ratably in right of security with the existing Loans;

(iii) the final maturity date of any such Incremental Term Loans (other than Other Incremental Term Loans) shall be no earlier than the latest maturity date applicable to the Commitments or Loans of any Class hereunder and in effect at the date of incurrence of such Incremental Term Loans (but may have amortization and customary prepayments prior to such date) and, except as to pricing, prepayment premiums and penalties, amortization, final maturity date and participation in mandatory prepayments (which shall, subject to the other clauses of this proviso, be determined by the Borrower and the applicable Incremental Term Lenders in their sole discretion), shall have (x) substantially the same terms as the Revolving Loans (in the case of the initial Incremental Term Loans) or the initial Incremental Term Loans or (y) such other terms as shall be reasonably satisfactory to the Administrative Agent; provided that (i) if the interest rate margins in respect of any Incremental Term Loans incurred on or prior to the date that is twelve (12) months after the Effective Date (determined with reference to each pricing tier of any applicable pricing grid) exceeds the interest rate margins for any other Incremental Term Loans outstanding at such time (the “Existing Incremental Term Loans”) (as reasonably determined by the Administrative Agent) by more than 0.50%, then the interest rate margins for the Existing Incremental Term Loans shall be increased (including by way of inclusion of a pricing grid) so that the interest rate margins in respect of such Existing Incremental Term Loans are equal to the interest rate margins for such Incremental Term Loans *minus* 0.50% (determined at each level of each applicable pricing grid); provided further that in determining the interest rate margin(s) applicable to each Incremental Term Loan and the interest rate margin(s) for the Existing Incremental Term Loans, (1) original issue discount (“OID”) or upfront fees (which shall be deemed to constitute like amounts of OID) payable by the Borrower to the Lenders under such Incremental Term Loans or the Existing Incremental Term Loans in each case in the initial primary syndication thereof shall be included (with OID being equated to interest based on assumed four-year life to maturity, or, if the remaining life to maturity is less than four years, based on the actual Weighted Life to Maturity), (2) customary arrangement, underwriting, commitment or any similar fees payable to any arranger (or its affiliates) in connection with the Incremental Term Loans or to one or more arrangers (or their affiliates) of any Existing Incremental Term Loans shall be excluded and (3) if the Incremental Term Loans include an interest rate floor greater than the applicable interest rate floor under the Existing Incremental Term Loans, such differential between interest rate floors shall be equated to the applicable interest rate margin for purposes of determining whether an increase to the interest rate margin under the Existing Incremental Term Loans shall be required, but only to the extent an increase in the interest rate floor in the Existing Incremental Term Loans would cause an increase in the interest rate then in effect thereunder, and in such case the interest rate floor (but not the interest rate margin) applicable to the Existing Incremental Term Loans shall be increased to the extent of such differential between interest rate floors;

(iv) the Weighted Average Life to Maturity of any such Other Incremental Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans with the longest remaining Weighted Average Life to Maturity,

(v) the Borrower shall be in compliance immediately prior to and after giving effect (including giving effect on a pro forma basis) to the incurrence of such Incremental Facility and the use of proceeds thereof with the financial covenants set forth in Section 6.10 (without giving effect to any Acquisition Holiday) as of the last day of the fiscal quarter most recently ended for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable;

(vi) there shall be no borrower (other than the Borrower) or guarantor (other than the Loan Parties) in respect of any Incremental Term Loan Commitments or Incremental Revolving Commitments;

(vii) any Unrestricted Subsidiary shall be an “unrestricted subsidiary” under the terms of any Incremental Facility; and

(viii) Incremental Term Loans and Incremental Revolving Commitments shall not be secured by any asset of the Borrower or its Restricted Subsidiaries other than the Collateral;

Each party hereto hereby agrees that, concurrently with the effectiveness of any Incremental Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Loan Commitments and/or Incremental Revolving Commitments evidenced thereby as provided for in Section 9.02(f). Any amendment to this Agreement or any other Loan Document that is necessary to effect the provisions of this Section 2.20 and any such collateral and other documentation shall be deemed “Loan Documents” hereunder and may be memorialized in writing by the Administrative Agent with the Borrower’s consent (not to be unreasonably withheld, conditioned or delayed), but without the consent of any other Party, and furnished to the other parties hereto.

(c) Notwithstanding the foregoing, no Incremental Term Loan Commitment or Incremental Revolving Commitment shall become effective under this Section 2.20 unless (i) no Event of Default shall exist; (ii) the representations and warranties of the Borrower set forth in this Agreement shall be true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect), except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect) as of such earlier date, in each case on or as of the date of incurrence of such Incremental Term Loan Commitment or Incremental Revolving Commitment; provided that, notwithstanding the foregoing, in the event that the tranche of Incremental Term Loans is used to finance a Permitted Acquisition or other investment permitted hereby, the foregoing shall be limited such that (x) the availability of such Incremental Term Loans shall only be subject to the accuracy of customary “specified representations” and those representations of the seller or the target company (as applicable) included in the acquisition or other purchase agreement related to such Permitted Acquisition or other investment permitted hereby (each a “Purchase Agreement”) that are material to the interests of the Lenders and only to the extent that the Borrower or its applicable Subsidiary has the right to terminate its obligations under such Purchase Agreement as a result of a failure of such representations to be true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect) as of the date of the applicable Purchase Agreement; and (y) and

no Event of Default shall have occurred and be continuing as of the date of the applicable Purchase Agreement; and (iii) the Administrative Agent shall have received customary documents and legal opinions consistent with those delivered on the Effective Date as to such matters as are reasonably requested by the Administrative Agent. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Assumption Agreement.

(d) Any Person providing a Term Loan Commitment or Incremental Revolving Commitment pursuant to this Section 2.20 that is not an existing Lender shall provide to the Administrative Agent, its name, address, tax identification number and/or such other information as shall be reasonably necessary for the Administrative Agent to comply with “know your customer” and anti-money laundering rules and regulations, including without limitation, the Patriot Act.

(e) Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be reasonably necessary to ensure that (i) all Incremental Term Loans (other than Other Incremental Term Loans), when originally made, are included in each Borrowing of the outstanding applicable Class of Term Loans on a pro rata basis, and (ii) all Revolving Loans in respect of Incremental Revolving Commitments, when originally made, are included in each Borrowing of the applicable Class of outstanding Revolving Loans on a pro rata basis. The Borrower agrees that Section 2.16 shall apply to any conversion of Eurodollar Loans to ABR Loans reasonably required by the Administrative Agent to effect the foregoing.

SECTION 2.21.

Extensions of Loans and Commitments

(a) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(d) (which provisions shall not be applicable to this Section 2.21), pursuant to one or more offers made from time to time by the Borrower to all Lenders of any Class of Term Loans and/or Revolving Commitments on a pro rata basis (based, in the case of an offer to the Lenders under any Class of Term Loans, on the aggregate outstanding Term Loans of such Class and, in the case of an offer to the Lenders holding any Class of Revolving Commitments, on the aggregate outstanding Revolving Commitments of such Class, as applicable), and on the same terms to each such Lender (“Pro Rata Extension Offers”), the Borrower is hereby permitted to consummate transactions with individual Lenders that agree to such transactions from time to time to extend the maturity date of such Lender’s Loans and/or Commitments of such Class and to otherwise modify the terms of such Lender’s Loans and/or Commitments of such Class pursuant to the terms of the relevant Pro Rata Extension Offer (including, without limitation, increasing the interest rate or fees payable in respect of such Lender’s Loans and/or Commitments and/or modifying the amortization schedule in respect of such Lender’s Loans and/or adding or increasing any prepayment penalties or premiums). For the avoidance of doubt, the reference to “on the same terms” in the preceding sentence shall mean, (i) in the case of an offer to the Lenders under any Class of Term Loans, that all of the Term Loans of such Class are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same and (ii) in the case of an offer to the Lenders holding any Class of Revolving Commitments, that all of the Revolving Commitments of such Class are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same. Any such extension (an “Extension”) agreed to between the Borrower and any such Lender (an “Extending Lender”) will be established under this Agreement by implementing an Other Term Loan for such Lender if such Lender is extending an existing Term Loan (such extended Term Loan, an “Extended Term Loan”) or an Other Revolving Commitment for such Lender if such Lender is extending an existing Revolving Commitment (such extended Revolving Commitment, an “Extended Revolving Commitment,” and any Revolving Loan made pursuant to such Extended Revolving Commitment, an “Extended Revolving Loan”). Each Pro Rata Extension Offer shall specify the date on which the Borrower proposes that the Extended Term Loan shall be made or the proposed Extended Revolving Commitment shall become effective, which shall be a date not earlier than

ten (10) Business Days after the date on which notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion).

(b) The Borrower and each Extending Lender shall execute and deliver to the Administrative Agent, but without the consent of any other Person, an amendment to this Agreement (an “Extension Amendment”) and such other documentation as the Administrative Agent shall reasonably specify as necessary to evidence the Extended Term Loans and/or Extended Revolving Commitments of such Extending Lender. Each Extension Amendment shall specify the terms of the applicable Extended Term Loans and/or Extended Revolving Commitments; provided that:

(i) except as to interest rates, fees, prepayment penalties and premiums and any other pricing terms, amortization, final maturity date and participation in prepayments and commitment reductions (which shall, subject to clauses (ii) and (iii) of this proviso, be determined by the Borrower and set forth in the Pro Rata Extension Offer) or terms only applicable after the latest maturity date of any other Loans or Commitments, the Extended Term Loans shall have (x) the same terms as the existing Class of Term Loans from which they are extended or (y) such other terms as shall be reasonably satisfactory to the Administrative Agent;

(ii) the final maturity date of any Extended Term Loans shall be no earlier than the latest maturity date applicable to any other Loans or Commitments hereunder and in effect on the date of incurrence;

(iii) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Class of Term Loans to which such offer relates;

(iv) except as to interest rates, fees, prepayment penalties and premiums and any other pricing terms and final maturity (which shall be determined by the Borrower and set forth in the Pro Rata Extension Offer) or terms only applicable after the latest maturity date of any other Loans or Commitments, any Extended Revolving Commitment shall have (x) the same terms as the existing Class of Revolving Commitments from which they are extended or (y) have such other terms as shall be reasonably satisfactory to the Administrative Agent and, in respect of any other terms that would affect the rights or duties of any Issuing Bank or the Swingline Lender, such terms as shall be reasonably satisfactory to such Issuing Bank or the Swingline Lender, as the case may be; and

(v) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) than the other outstanding Term Loans in any mandatory prepayment hereunder. Upon the effectiveness of any Extension Amendment, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Extended Term Loans and/or Extended Revolving Commitments evidenced thereby as provided for in Section 9.02(f).

Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrower’s consent (not to be unreasonably withheld, conditioned or delayed), but without the consent of any other Person, and furnished to the other parties hereto. If provided in any Extension Amendment with respect to any Extended Revolving Commitments, and with the consent of each Issuing Bank and the Swingline Lender, participations in Letters of Credit and Swingline Loans shall be reallocated to lenders holding such Extended Revolving Commitments in the manner specified in such Extension Amendment, including upon effectiveness of such Extended Revolving Commitment or upon or prior to the maturity date for any Class of Revolving Commitments.

(c) Upon the effectiveness of any such Extension, the applicable Extending Lender's Term Loan will be automatically designated an Extended Term Loan and/or such Extending Lender's Revolving Commitment will be automatically designated an Extended Revolving Commitment. For purposes of this Agreement and the other Loan Documents, (i) if such Extending Lender is extending a Term Loan, such Extending Lender will be deemed to have an Other Term Loan having the terms of such Extended Term Loan and (ii) if such Extending Lender is extending a Revolving Commitment, such Extending Lender will be deemed to have an Other Revolving Commitment having the terms of such Extended Revolving Commitment.

(d) Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.21), (i) as a condition to any Extension, not less than 50% of the aggregate amount of outstanding Loans and Commitments of the Class being extended pursuant to this Section 2.21 shall participate in such Extension, (ii) any Extending Lender may extend all or any portion of its Term Loans and/or Revolving Commitment pursuant to one or more Pro Rata Extension Offers (subject to applicable proration in the case of over participation) (including the extension of any Extended Term Loan and/or Extended Revolving Commitment), (iii) as a condition to any Extension, (A) the Borrower shall be in compliance immediately prior to and immediately after giving effect (including giving effect on a pro forma basis) to such Extension with the financial covenants set forth in Section 6.10 (without giving effect to any Acquisition Holiday) as of the last day of the fiscal quarter most recently ended for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable, (B) no Event of Default shall exist and (C) the representations and warranties of the Borrower set forth in this Agreement shall be true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect), except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect) as of such earlier date, (iv) all Extended Term Loans, Extended Revolving Commitments and all obligations in respect thereof shall be Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents that rank equally and ratably in right of security with all other Obligations of the Class being extended (and all other Obligations secured by Other First Liens), (v) no Issuing Bank shall be obligated to issue Letters of Credit under, and the Swingline Lender shall not be obligated to make any Swingline Loan in respect of, such Extended Revolving Commitments unless it shall have consented thereto and (vi) there shall be no borrower (other than the Borrower) and no guarantors (other than the Loan Parties) in respect of any such Extended Term Loans or Extended Revolving Commitments.

(e) Each Extension shall be consummated pursuant to procedures set forth in the associated Pro Rata Extension Offer; provided, that the Borrower shall reasonably cooperate with the Administrative Agent prior to making any Pro Rata Extension Offer to establish reasonable procedures with respect to mechanical provisions relating to such Extension, including, without limitation, timing, rounding and other adjustments.

SECTION 2.22.

Refinancing Amendments

(a) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(d) (which provisions shall not be applicable to this Section 2.22), the Borrower may by revocable written notice to the Administrative Agent establish one or more additional tranches of term loans under this Agreement (such loans, "Refinancing Term Loans"), all the proceeds of which are used to Refinance in whole or in part any Class of Term Loans pursuant to Section 2.11(b). Each such notice shall specify the date (each, a "Refinancing Effective Date") on which the Borrower proposes that the

Refinancing Term Loans shall be made, which shall be a date not earlier than ten (10) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its sole discretion); provided that:

- (i) immediately before giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date, each of the conditions set forth in Section 4.02 shall be satisfied;
- (ii) the final maturity date of the Refinancing Term Loans shall be no earlier than the maturity date of the refinanced Term Loans;
- (iii) the Weighted Average Life to Maturity of such Refinancing Term Loans shall be no shorter than the then-remaining Weighted Average Life to Maturity of the refinanced Term Loans;
- (iv) the aggregate principal amount of the Refinancing Term Loans shall not exceed the outstanding principal amount of the refinanced Term Loans plus amounts used to pay fees, prepayment premiums or penalties, costs and expenses (including original issue discount) and accrued interest associated therewith;
- (v) all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, prepayment penalties and premiums, interest rates and any other pricing terms and optional prepayment or mandatory prepayment or redemption terms, which shall be as agreed between the Borrower and the Lenders providing such Refinancing Term Loans) taken as a whole shall (as reasonably determined by the Administrative Agent) be substantially similar to, or no more restrictive to the Borrower and its Restricted Subsidiaries than, the terms, taken as a whole, applicable to the Term Loans being refinanced (except to the extent such covenants and other terms apply solely to any period after the latest maturity date applicable to any Loans or Commitments hereunder or are otherwise reasonably acceptable to the Administrative Agent);
- (vi) the Borrower shall be in compliance immediately prior to and immediately after giving effect (including giving effect on a pro forma basis) to such refinancing with the financial covenants set forth in Section 6.10 (without giving effect to any Acquisition Holiday) as of the last day of the fiscal quarter most recently ended for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable;
- (vii) there shall be no borrower (other than the Borrower) and no guarantors (other than the Loan Parties) in respect of such Refinancing Term Loans, as determined on the Refinancing Effective Date;
- (viii) any Unrestricted Subsidiary shall be an “unrestricted subsidiary” under the terms of any Refinancing Term Loans, as determined on the Refinancing Effective Date;
- (ix) Refinancing Term Loans shall not be secured by any asset of the Borrower or any of its Restricted Subsidiaries other than the Collateral; and
- (x) Refinancing Term Loans may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory prepayments

(other than as provided otherwise in the case of such prepayments pursuant to Section 2.11(b)) hereunder, as specified in the applicable Refinancing Amendment.

(b) The Borrower may approach any Lender or any other Person that would be a permitted assignee pursuant to Section 9.04 to provide all or a portion of the Refinancing Term Loans; provided, that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans may elect or decline, in its sole discretion, to provide a Refinancing Term Loan. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated an additional Class of Term Loans for all purposes of this Agreement; provided further that any Refinancing Term Loans may, to the extent provided in the applicable Refinancing Amendment governing such Refinancing Term Loans, be designated as an increase in any previously established Class of Term Loans made to a Borrower.

(c) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(d) (which provisions shall not be applicable to this Section 2.22), the Borrower may by revocable written notice to the Administrative Agent establish one or more additional credit facilities hereunder ("Replacement Revolving Facilities") providing for revolving commitments ("Replacement Revolving Commitments") and the revolving loans thereunder, "Replacement Revolving Loans", which replace in whole or in part any Class of Revolving Commitments under this Agreement. Each such notice shall specify the date (each, a "Replacement Revolving Facility Effective Date") on which the Borrower proposes that the Replacement Revolving Commitments shall become effective, which shall be a date not less than ten (10) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its sole discretion); provided that:

(i) immediately before giving effect to the establishment of such Replacement Revolving Commitments on the Replacement Revolving Facility Effective Date, each of the conditions set forth in Section 4.02 shall be satisfied;

(ii) after giving effect to the establishment of any Replacement Revolving Commitments and any concurrent reduction in the aggregate amount of any other Revolving Commitments, the aggregate amount of Revolving Commitments shall not exceed the aggregate amount of the Revolving Commitments outstanding immediately prior to the applicable Replacement Revolving Facility Effective Date plus amounts used to pay fees, prepayment premiums and penalties, costs and expenses (including original issue discount) and accrued interest associated therewith;

(iii) no Replacement Revolving Commitments shall have a final maturity date (or require commitment reductions or amortizations) prior to the maturity date for the Revolving Commitments being replaced;

(iv) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, prepayment penalties and premiums, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the Borrower and the Lenders providing such Replacement Revolving Commitments and (y) the amount of any letter of credit sublimit or swingline sublimit under such Replacement Revolving Facility, which shall be as agreed between the Borrower, the Lenders providing such Replacement Revolving Commitments, the Administrative Agent, the replacement issuing bank and the replacement swingline lender, if any, under such Replacement Revolving Commitments) taken as a whole shall (as reasonably determined by the Administrative Agent) be substantially similar to, or no more restrictive to the Borrower and the Restricted Subsidiaries than, those, taken as a whole, applicable to the Revolving Commitments so replaced (except to the extent such covenants and other terms apply solely to any period after the latest maturity date applicable

to any Loans or Commitments hereunder or are otherwise reasonably acceptable to the Administrative Agent);

(v) the Borrower shall be in compliance immediately prior to and immediately after giving effect (including giving effect on a pro forma basis) to such refinancing with the financial covenants set forth in Section 6.10 (without giving effect to any Acquisition Holiday) as of the last day of the fiscal quarter most recently ended for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable;

(vi) there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantors) in respect of such Replacement Revolving Facility, as determined on the Replacement Revolving Facility Effective Date;

(vii) any Unrestricted Subsidiary shall be an “unrestricted subsidiary” under the terms of any Replacement Revolving Facility, as determined on the Replacement Revolving Facility Effective Date;

(viii) Replacement Revolving Commitments and extensions of credit thereunder shall not be secured by any asset of the Borrower and its Restricted Subsidiaries other than the Collateral; and

(ix) Replacement Revolving Commitments and Replacement Revolving Loans may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory commitment reductions or prepayments (other than as provided otherwise in the case of such prepayments pursuant to Section 2.11(b)) hereunder, as specified in the applicable Refinancing Amendment.

In addition, the Borrower may establish Replacement Revolving Commitments to refinance and/or replace all or any portion of a Term Loan hereunder, so long as the aggregate amount of such Replacement Revolving Commitments does not exceed the aggregate amount of Term Loans repaid at the time of establishment thereof plus amounts used to pay fees, prepayment premiums and penalties, costs and expenses (including original issue discount) and accrued interest associated therewith (it being understood that such Replacement Revolving Commitment may be provided by the Lenders holding the Term Loans being repaid and/or by any other Person that would be a permitted assignee under Section 9.04) so long as (i) immediately before giving effect to the establishment such Replacement Revolving Commitments on the Replacement Revolving Facility Effective Date each of the conditions set forth in Section 4.02 shall be satisfied, (ii) the remaining life to termination of such Replacement Revolving Commitments shall be no shorter than the Weighted Average Life to Maturity then applicable to the refinanced Term Loans, (iii) the final termination date of the Replacement Revolving Commitments shall be no earlier than the maturity date of the refinanced Term Loans, (iv) the Borrower shall be in compliance immediately prior to and immediately after giving effect (including giving effect on a pro forma basis) to such replacement with the financial covenants set forth in Section 6.10 (without giving effect to any Acquisition Holiday) as of the last day of the fiscal quarter most recently ended for which financial statements have been delivered pursuant to Section 5.01(a) or (b) (or, if prior to the date of the delivery of the first financial statements to be delivered pursuant to Section 5.01(a) or (b), the most recent financial statements referred to in Section 3.04), as applicable, (v) there shall be no borrower (other than the Borrower) and no guarantors (other than the Loan Parties) in respect of such Replacement Revolving Facility, (vi) any Unrestricted Subsidiary shall be an “unrestricted subsidiary” under the terms of any Replacement Revolving Facility, (vii) no Replacement Revolving Facility shall be secured by any asset of the Borrower and its Restricted

Subsidiaries other than the Collateral and (viii) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, prepayment penalties and premiums, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the Borrower and the Lenders providing such Replacement Revolving Commitments and (y) the amount of any letter of credit sublimit or swingline sublimit under such Replacement Revolving Facility, which shall be as agreed between the Borrower, the Lenders providing such Replacement Revolving Commitments, the Administrative Agent, the replacement issuing bank and the replacement swingline lender, if any, under such Replacement Revolving Commitments) taken as a whole shall (as reasonably determined by the Administrative Agent) be substantially similar to, or no more restrictive to the Borrower and its Restricted Subsidiaries than, those, taken as a whole, applicable to the Term Loans being refinanced (except to the extent such covenants and other terms apply solely to any period after the latest maturity date applicable to any Loans or Commitments hereunder or are otherwise reasonably acceptable to the Administrative Agent).

(d) The Borrower may approach any Lender or any other Person that would be a permitted assignee of a Revolving Commitment pursuant to Section 9.04 to provide all or a portion of the Replacement Revolving Commitments; provided that any Lender offered or approached to provide all or a portion of the Replacement Revolving Commitments may elect or decline, in its sole discretion, to provide a Replacement Revolving Commitment. Any Replacement Revolving Commitment made on any Replacement Revolving Facility Effective Date shall be designated an additional Class of Revolving Commitments for all purposes of this Agreement; provided that any Replacement Revolving Commitments may, to the extent provided in the applicable Refinancing Amendment, be designated as an increase in any previously established Class of Revolving Commitments.

(e) The Borrower and each Lender providing the applicable Refinancing Term Loans and/or Replacement Revolving Commitments (as applicable) shall execute and deliver to the Administrative Agent an amendment to this Agreement (a "Refinancing Amendment") and such other necessary documentation as the Administrative Agent shall reasonably specify to evidence such Refinancing Term Loans and/or Replacement Revolving Commitments (as applicable). For purposes of this Agreement and the other Loan Documents, (A) if a Lender is providing a Refinancing Term Loan, such Lender will be deemed to have an Other Term Loan having the terms of such Refinancing Term Loan and (B) if a Lender is providing a Replacement Revolving Commitment, such Lender will be deemed to have an Other Revolving Commitment having the terms of such Replacement Revolving Commitment. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.22), (i) no Refinancing Term Loan or Replacement Revolving Commitment is required to be in any minimum amount or any minimum increment, (iii) there shall be no condition to any incurrence of any Refinancing Term Loan or Replacement Revolving Commitment at any time or from time to time other than those set forth in clauses (a) or (c) above, as applicable, and (iv) unless otherwise agreed to by the applicable Lender with respect to such Loans or Commitments, all Refinancing Term Loans, Replacement Revolving Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that rank equally and ratably in right of security with the other Obligations.

SECTION 2.23.

Defaulting Lenders

. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of the Revolving Commitment of such Defaulting Lender pursuant to Section 2.12(a);

(b) the Revolving Commitment and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided, that, except as otherwise provided in Section 9.02, this clause (b) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender directly affected thereby;

(c) if any Swingline Exposure or LC Exposure exists at the time a Revolving Lender becomes a Defaulting Lender then:

(i) all or any part of the Swingline Exposure and LC Exposure of such Defaulting Lender (other than the portion of such Swingline Exposure referred to in clause (b) of the definition of such term) shall be reallocated among the non-Defaulting Lenders that are Revolving Lenders in accordance with their respective Applicable Percentages but only to the extent that such reallocation does not, as to any such non-Defaulting Lender, cause the Dollar Amount of such non-Defaulting Lender's Revolving Credit Exposure to exceed its Revolving Commitment;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within one (1) Business Day following notice by the Administrative Agent (x) first, prepay such Swingline Exposure and (y) second, cash collateralize for the benefit of the applicable Issuing Banks only the Borrower's obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.06(j) for so long as such LC Exposure is outstanding;

(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders that are Revolving Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Revolving Lenders pursuant to Section 2.12(a) and Section 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Revolving Lender hereunder, all letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable ratably to the applicable Issuing Banks until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(d) so long as any Revolving Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Loan and the Issuing Banks shall not be required to issue, amend or increase any Letter of Credit, unless it is satisfied (acting in good faith) that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be 100% covered by the Revolving Commitments of the non-Defaulting Lenders that are Revolving Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.23(c), and participating interests in any such newly made Swingline Loan or any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders that are Revolving Lenders in a manner consistent with Section 2.23(c)(i) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event or a Bail-In Action with respect to a Lender Parent shall occur following the date hereof and for so long as such event shall continue or (ii) the Swingline Lender or the Issuing Banks have a good faith belief that any Revolving Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, the Swingline Lender shall not be required to fund any Swingline Loan and the Issuing Banks shall not be required to issue, amend or increase any Letter of Credit, unless the Swingline Lender or the Issuing Banks, as the case may be, shall have entered into arrangements with the Borrower or such Lender, satisfactory to the Swingline Lender or the Issuing Bank, as the case may be, to defease any risk to it in respect of such Lender hereunder or any obligations of such Lender(s) in question to reimburse any Swingline Loans and/or payments with respect to Letters of Credit shall have been reallocated to non-Defaulting Lenders in accordance with Section 2.23(c) hereof.

In the event that the Administrative Agent, the Borrower, the Swingline Lender and the Issuing Banks each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposure and LC Exposure of the Revolving Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Commitment and on such date such Lender shall purchase at par such of the Loans of the applicable Class of the other Lenders (other than Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

SECTION 2.24.

Judgment Currency.

. If for the purposes of obtaining judgment in any court it is necessary to convert a sum due from the Borrower hereunder in the currency expressed to be payable herein (the "specified currency") into another currency, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the specified currency with such other currency at the Administrative Agent's main New York City office on the Business Day preceding that on which final, non-appealable judgment is given. The obligations of the Borrower in respect of any sum due to any Lender or the Administrative Agent hereunder shall, notwithstanding any judgment in a currency other than the specified currency, be discharged only to the extent that on the Business Day following receipt by such Lender or the Administrative Agent (as the case may be) of any sum adjudged to be so due in such other currency such Lender or the Administrative Agent (as the case may be) may in accordance with normal, reasonable banking procedures purchase the specified currency with such other currency. If the amount of the specified currency so purchased is less than the sum originally due to such Lender or the Administrative Agent, as the case may be, in the specified currency, the Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify such Lender or the Administrative Agent, as the case may be, against such loss, and if the amount of the specified currency so purchased exceeds (a) the sum originally due to any Lender or the Administrative Agent, as the case may be, in the specified currency and (b) any amounts shared with other Lenders as a result of allocations of such excess as a disproportionate payment to such Lender under Section 2.18, such Lender or the Administrative Agent, as the case may be, agrees to remit such excess to the Borrower.

ARTICLE III

Representations and Warranties

The Borrower represents and warrants to the Lenders that:

SECTION 3.01.

Organization; Powers; Subsidiaries

. (a) Each of the Borrower and its Restricted Subsidiaries (i) is duly organized, validly existing and in good standing under the laws of the

jurisdiction of its organization, (ii) has all requisite power and authority to carry on its business as now conducted and (iii) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. (b) Schedule 3.01 hereto identifies, as of the Amendment No. 1 Effective Date, each Subsidiary, noting whether such Subsidiary is an Unrestricted Subsidiary, a Restricted Subsidiary and/or a Material Restricted Domestic Subsidiary, the jurisdiction of its incorporation or organization, as the case may be, the percentage of issued and outstanding shares of each class of its capital stock or other equity interests owned by the Borrower and the other Restricted Subsidiaries and, if such percentage is not 100% (excluding directors' qualifying shares as required by law), a description of each class issued and outstanding. (c) All of the outstanding shares of capital stock and other equity interests of each Restricted Subsidiary are validly issued and outstanding and fully paid and nonassessable and, as of the Amendment No. 1 Effective Date, all such shares and other equity interests indicated on Schedule 3.01 as owned by the Borrower or another Restricted Subsidiary are owned, beneficially and of record, by the Borrower or any Restricted Subsidiary free and clear of all Liens, other than Liens permitted pursuant to this Agreement. (d) As of the Amendment No. 1 Effective Date, except as indicated on Schedule 3.01, there are no outstanding commitments or other obligations of the Borrower or any Restricted Subsidiary to issue, and no options, warrants or other rights of any Person to acquire, any shares of any class of capital stock or other equity interests of the Borrower or any Restricted Subsidiary.

SECTION 3.02.

Authorization; Enforceability

. The execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, and, in the case of the Borrower, the borrowing of Loans and other credit extensions hereunder and the use of the proceeds thereof, in each case, are within each Loan Party's organizational powers and have been duly authorized by all necessary organizational actions and, if required, actions by equity holders of such Loan Party. The Loan Documents to which each Loan Party is a party have been duly executed and delivered by such Loan Party and constitute a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03.

Governmental Approvals; No Conflicts

. The execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, and, in the case of the Borrower, the borrowing of Loans and other credit extensions hereunder and the use of the proceeds thereof, in each case, (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect and except for filings necessary to perfect Liens created pursuant to the Loan Documents, (b) will not violate the charter, by-laws or other organizational documents of the Borrower or any of its Restricted Subsidiaries, (c) will not violate in any material respect (i) any applicable law or regulation binding on the Borrower or any of its Restricted Subsidiaries or their respective properties or (ii) any order of any Governmental Authority, (d) will not violate or result in a default under any indenture, material agreement (including, without limitation, any BRAC Analysis Testing Agreement) or other material instrument binding upon the Borrower or any of its Restricted Subsidiaries, or give rise to a right thereunder to require any payment to be made by the Borrower or any of its Restricted Subsidiaries, in each case, to the extent any such failure or default would give rise to a Material Adverse Effect, and (e) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Restricted Subsidiaries, other than Liens created under the Loan Documents.

SECTION 3.04.

Financial Condition

. The Borrower Audited Financial Statements and the Borrower Unaudited Financial Statements, in each case present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries

for the periods covered thereby in accordance with GAAP, subject to year-end adjustments and the absence of footnotes in the case of the Borrower Unaudited Financial Statements.

SECTION 3.05.

Properties

. (a) Each of the Borrower and its Restricted Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for (i) Permitted Encumbrances and (ii) minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) Each of the Borrower and its Restricted Subsidiaries owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property material to its business, and, to the knowledge of the Borrower and its Restricted Subsidiaries, the use thereof by the Borrower and its Restricted Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06.

Litigation, Environmental and Labor Matters

. (a) There are no actions, suits, proceedings or investigations by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any of its Restricted Subsidiaries (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect or (ii) that involve this Agreement or any other Loan Documents and (x) would materially and adversely affect the transactions set forth in the Loan Documents or otherwise contemplated hereby or (y) contests in any manner the validity or enforceability of any material provision of any Loan Document.

(b) Except with respect to any other matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Restricted Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any reasonable basis for any Environmental Liability.

(c) Except as would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect (a) there are no strikes, lockouts or slowdowns against the Borrower or any of its Restricted Subsidiaries pending or, to their knowledge, threatened and (b) the hours worked by and payments made to employees of the Borrower and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law relating to such matters.

SECTION 3.07.

Compliance with Laws and Agreements

. Each of the Borrower and its Restricted Subsidiaries is in compliance with (a) all laws, regulations and orders of any Governmental Authority applicable to it or its property and (b) all indentures, material agreements (including, without limitation, any BRAC Analysis Testing Agreements) and other material instruments binding upon it or its property, except, in each case, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08.

Investment Company Status

. Neither the Borrower nor any of its Restricted Subsidiaries is an “investment company” as defined in, or required to register under, the Investment Company Act of 1940.

SECTION 3.09.

Taxes

. Each of the Borrower and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid

all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower or such Subsidiary, as applicable, has set aside on its books adequate reserves or (b) to the extent that the failure to do so would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10.

ERISA

. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect.

SECTION 3.11.

Disclosure

. Neither the Information Memorandum nor any of the other reports, financial statements, certificates or other information furnished by or on behalf of the Borrower or any Restricted Subsidiary to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, at the time of and in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed by the Borrower to be reasonable at the time prepared. As of the Amendment No. 1 Effective Date, the information included in the Beneficial Ownership Certification is true and correct in all material respects.

SECTION 3.12.

Federal Reserve Regulations

. No part of the proceeds of any Loan have been used or will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 3.13.

Liens

. There are no Liens on any of the real or personal properties of the Borrower or any Restricted Subsidiary except for Liens permitted by Section 6.02.

SECTION 3.14.

No Default

. No Default or Event of Default has occurred and is continuing.

SECTION 3.15.

Solvency

. Immediately after the consummation of the Transactions to occur on the Amendment No. 1 Effective Date, the Borrower and its Restricted Subsidiaries, on a consolidated basis, are and will be Solvent.

SECTION 3.16.

Insurance

. The Borrower maintains, and has caused each Restricted Subsidiary to maintain, with financially sound and reputable insurance companies, insurance on all their real and personal property in such amounts, subject to such deductibles and self-insurance retentions and covering such properties and risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

SECTION 3.17.

Security Interest in Collateral

. To the extent required thereby, the provisions of this Agreement and the other Loan Documents create legal and valid perfected Liens on all the Collateral in favor of the Collateral Agent, for the benefit of the Secured Parties, and such Liens constitute perfected and continuing Liens on the Collateral, securing the Secured Obligations, enforceable against the applicable Loan Party and all third parties, and having priority over all other Liens on the Collateral except in the case of (a) Permitted Encumbrances, to the extent any such Permitted Encumbrances would have priority over the Liens in favor of the Administrative Agent pursuant to any applicable law and (b) Liens perfected only by possession (including possession of any certificate of title) to the extent the Collateral Agent has not obtained or does not maintain possession of such Collateral.

SECTION 3.18.

Anti-Corruption Laws and Sanctions

. The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Borrower, its Subsidiaries and their respective officers and employees and to the knowledge of the Borrower its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) the Borrower, any Subsidiary or to the knowledge of the Borrower or such Subsidiary any of their respective directors, officers or employees, or (b) to the knowledge of the Borrower, any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds or other Transactions will violate any Anti-Corruption Law or applicable Sanctions.

SECTION 3.19.

Use of Proceeds

. The proceeds of the Loans have been used and will be used solely for the purposes provided in Section 5.08.

SECTION 3.20.

EEA Financial Institutions

. No Loan Party is an EEA Financial Institution.

SECTION 3.21.

Plan Assets; Prohibited Transactions

. None of the Borrower or any of its Subsidiaries is an entity deemed to hold “plan assets” (within the meaning of the Plan Asset Regulations), and neither the execution, delivery or performance of the transactions contemplated under this Agreement, including the making of any Loan and the issuance of any Letter of Credit hereunder, will give rise to a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code.

ARTICLE IV

Conditions

SECTION 4.01.

Effective Date

. The obligations of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Loan Documents. The Administrative Agent (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include telecopy or electronic transmission of signed signature pages) that such party has signed a counterpart of this Agreement and (ii) duly executed copies of the Loan Documents and such other legal opinions, certificates, documents, instruments and agreements as the Administrative Agent shall reasonably request in connection with the Transactions, all in form and substance satisfactory to the Administrative Agent.

(b) Organization Documents, Resolutions, Etc. The Administrative Agent shall have received (x) a good standing certificate (or analogous documentation if applicable) for each Loan Party from the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, to the extent generally available in such jurisdiction and (y) a certificate of the Secretary or an Assistant Secretary of each Loan Party certifying the following:

(i) that there have been no changes in the Certificate of Incorporation or other charter document of such Loan Party, as attached thereto and as certified as of a recent date by the Secretary

of State (or analogous governmental entity) of the jurisdiction of its organization, since the date of the certification thereof by such governmental entity;

(ii) the By-Laws or other applicable organizational document, as attached thereto, of such Loan Party is in effect on the date of such certification;

(iii) the resolutions of the Board of Directors or other governing body of such Loan Party authorizing the execution, delivery and performance of each Loan Document to which it is a party; and

(iv) the names and true signatures of the incumbent officers of each Loan Party authorized to sign the Loan Documents to which it is a party, and (in the case of the Borrower) authorized to request a Borrowing hereunder.

(c) Opinions of Counsel. The Administrative Agent shall have received favorable written opinions (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, LLP, counsel for the Loan Parties, covering such matters relating to the Loan Parties and the Loan Documents as the Administrative Agent shall reasonably request. The Borrower hereby requests such counsel to deliver such opinions.

(d) Closing Certificate. The Administrative Agent shall have received a certificate signed by the President, a Vice President or a Financial Officer of the Borrower certifying that (i) as of the Effective Date, the representations and warranties contained in Article III are true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect) as of such date, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect) as of such earlier date, (ii) no Default or Event of Default has occurred and is continuing as of such date and (iii) since December 31, 2015, there has been no material adverse change in the business, assets, operations or financial condition of the Loan Parties, taken as a whole.

(e) Solvency Certificate. The Administrative Agent shall have received a certificate of the chief financial officer of the Borrower substantially in the form of Exhibit B.

(f) Borrowing Request. The Administrative Agent shall have received a Borrowing Request in accordance with Section 2.03.

(g) Existing Indebtedness. The Administrative Agent shall have received evidence reasonably satisfactory to it that (i) the Borrower and its Restricted Subsidiaries shall have outstanding no third party Indebtedness for borrowed money, other than the credit facility evidenced by this Agreement and other Indebtedness permitted hereunder and (ii) all Indebtedness evidenced by the Existing Credit Agreement to be repaid on the Effective Date has been, or substantially concurrently with the Effective Date will be, repaid, and all Liens (other than Liens permitted to remain outstanding under this Agreement) have been, or substantially concurrently with the Effective Date will be, discharged.

(h) Financial Matters. The Administrative Agent shall have received:

(i) audited consolidated financial statements of the Borrower for the two most recent fiscal years of the Borrower ended prior to the Effective Date as to which such financial statements are available (the "Borrower Audited Financial Statements");

(ii) unaudited interim consolidated financial statements of the Borrower for each quarterly period ended after the latest fiscal year referred to in clause (i) as to which financial statements are available (such unaudited financial statement of the Borrower being referred to as the “Borrower Unaudited Financial Statements”); and

(iii) financial statement projections through and including the Borrower’s 2021 fiscal year.

(i) No Material Adverse Effect. Since December 31, 2015, there shall not have been any material adverse change in the business, assets, operations or financial condition of the Loan Parties, taken as a whole.

(j) Pledged Equity Interests; Stock Powers; Pledged Notes. Subject to Section 5.11, to the extent applicable, the Collateral Agent shall have received the certificates, if any, representing the Equity Interests pledged pursuant to the Security Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof.

(k) Filings, Registrations and Recordings. Uniform Commercial Code financing statements and federal intellectual property filings reasonably requested by the Collateral Agent to be filed or recorded in order to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, shall be in proper form for filing or recordation.

(l) PATRIOT Act. The Administrative Agent and the Lenders shall have received all documentation and other information about the Borrower, the Subsidiary Guarantors and their Subsidiaries that shall have been reasonably requested by the Administrative Agent or any Lender in writing at least 10 days prior to the Effective Date and that the Administrative Agent and the Lenders determine is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the Patriot Act.

(m) Fees; Expenses. The Administrative Agent shall have received all fees due and payable to the Administrative Agent, the Lead Arrangers and the Lenders on or prior to the Effective Date, and all reasonable and documented out-of-pocket expenses to be paid or reimbursed to the Administrative Agent and the Lead Arrangers in accordance with the terms of this Agreement that have been invoiced (such invoice to include reasonable detail) on or prior to the date that this three (3) Business Days prior to the Effective Date shall have been paid, which amounts may be paid, in each case, from the proceeds of the initial Borrowings hereunder.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date (and shall distribute a fully executed copy of the Credit Agreement to the Lenders and an executed promissory note to each Lender requesting a promissory note pursuant to Section 2.10(e)), and such notice shall be conclusive and binding.

SECTION 4.02.

Each Credit Event

. The obligation of each Lender to make a Loan on the occasion of any Borrowing (including, without limitation, pursuant to Sections 2.20, 2.21 and 2.22), and of the Issuing Banks to issue, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) Except as set forth in Section 2.20(c) with respect to Incremental Term Loans used to finance a Permitted Acquisition or other investment permitted hereby, the representations and warranties of the Borrower set forth in this Agreement shall be true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect) on and

as of the date of such Borrowing or the date of issuance, renewal or extension of such Letter of Credit, as applicable, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (or in all respects if the applicable representation and warranty is qualified by materiality or Material Adverse Effect) as of such earlier date.

(b) Except as set forth in Section 2.20(c) with respect to Incremental Term Loans used to finance a Permitted Acquisition or other investment permitted hereby, at the time of and immediately after giving effect to such Borrowing or the issuance, renewal or extension of such Letter of Credit, as applicable, no Default or Event of Default shall have occurred and be continuing.

Each Borrowing and each issuance, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

ARTICLE V

Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and, unless otherwise cash collateralized in accordance with Section 2.06(j), all Letters of Credit shall have expired or terminated, in each case, without any pending draw, and all outstanding LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 5.01.

Financial Statements and Other Information

. The Borrower will furnish to the Administrative Agent and each Lender:

(a) within one hundred twenty (120) days after the end of each fiscal year of the Borrower (or, if earlier, by the date that the Annual Report on Form 10-K of the Borrower for such fiscal year would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its audited consolidated balance sheet and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Ernst & Young LLP or other independent public accountants of recognized national standing (without a “going concern” or like qualification or exception (except to the extent resulting solely from an upcoming maturity) and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (or, if earlier, by the date that the Quarterly Report on Form 10-Q of the Borrower for such fiscal quarter would be required to be filed under the rules and regulations of the SEC, giving effect to any automatic extension available thereunder for the filing of such form), its consolidated balance sheet and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements (i) for the first three fiscal quarters of any fiscal year under clause (b) above and (ii) under clause (a) above, a certificate of a Financial Officer of the Borrower (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 6.10; (iii) specifying any change in the restricted or unrestricted designation of the Restricted Subsidiaries and Unrestricted Subsidiaries as at the end of such period from the Restricted Subsidiaries and Unrestricted Subsidiaries, respectively, provided to the Lenders on the Effective Date or the most recently ended period, as the case may be, and (iv) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) not more than ninety (90) days after the end of each fiscal year of the Borrower, a copy of the plan and forecast (including a projected consolidated and consolidating balance sheet, income statement and funds flow statement) of the Borrower for each quarter of the upcoming fiscal year in form reasonably satisfactory to the Administrative Agent;

(e) promptly after the same become publicly available, copies of all periodic reports and proxy statements filed by the Borrower or any Restricted Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of the SEC or such Governmental Authority successor thereto, as applicable, or with any national securities exchange, or distributed by the Borrower to its shareholders generally, as the case may be;

(f) as soon as practicable, any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in such certification; and

(g) promptly following any request therefor, (i) such other information regarding the operations, business affairs and financial condition of the Borrower or any Restricted Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender may reasonably request and (ii) information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation; provided that none of the Loan Parties will be required to disclose any document, information or other matter pursuant to the foregoing clause (i) (A) to any competitor of any Loan Party, (B) that constitutes non-financial trade secrets, or (C) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by law.

Notwithstanding the foregoing, if, and so long as, the Borrower has one or more Unrestricted Subsidiaries, the Borrower shall deliver to the Administrative Agent, together with such financial statements delivered pursuant to Sections 5.01(a) and (b) above, copies of the balance sheet and cash flows as of the end of and for such period prepared for the Borrower and the Restricted Subsidiaries on a consolidating basis.

Documents required to be delivered pursuant to clauses (a), (b) and (e) of this Section 5.01 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which such documents are filed for public availability on the SEC’s Electronic Data Gathering and Retrieval System; provided that the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent (which notice the Administrative Agent shall promptly provide to each Lender) of the filing of any such documents and, if requested by the Administrative Agent, promptly provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding

anything contained herein, in every instance the Borrower shall be required to provide paper copies of the compliance certificates required by clause (c) of this Section 5.01 to the Administrative Agent.

SECTION 5.02.

Notices of Material Events

. The Borrower will furnish to the Administrative Agent (which the Administrative Agent shall promptly distribute to each Lender) prompt written notice of the following:

(a) the Chief Executive Officer or any Financial Officer obtaining knowledge of the occurrence of any Default;

(b) the Chief Executive Officer or any Financial Officer obtaining knowledge of the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any Affiliate thereof that would reasonably be expected to be adversely determined and, if adversely determined, would reasonably be expected to result in a Material Adverse Effect;

(c) the Chief Executive Officer or any Financial Officer obtaining knowledge of the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect; and

(d) the Chief Executive Officer or any Financial Officer obtaining knowledge of the occurrence of any other development that has resulted in, or would reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03.

Existence; Conduct of Business

. The Borrower will, and will cause each of its Restricted Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect (a) its legal existence and good standing in its jurisdiction of organization and (b) the rights, qualifications, licenses, permits, privileges, franchises, governmental authorizations and intellectual property rights material to the conduct of business of the Borrower and its Restricted Subsidiaries, and maintain all requisite authority to conduct its business in each other jurisdiction in which its business is conducted, except, in the case of this clause (b), as would not reasonably be expected to have a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03.

SECTION 5.04.

Payment of Taxes

. The Borrower will, and will cause each of its Subsidiaries to, pay its Tax liabilities, that, if not paid, would reasonably be expected to result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest would not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.05.

Maintenance of Properties; Insurance

. The Borrower will, and will cause each of its Restricted Subsidiaries to, (a) keep and maintain all property material to the conduct of business of the Borrower and its Restricted Subsidiaries, taken as a whole, in good working order and condition, ordinary wear and tear excepted, and (b) maintain with financially sound and reputable carriers insurance in such amounts and against such risks as is customarily maintained by companies engaged in

the same or similar businesses operating in the same or similar locations. The Borrower will furnish to the Administrative Agent (for distribution to the Lenders), upon request of the Administrative Agent, information in reasonable detail as to the insurance so maintained. On the 90th day to occur after the Effective Date (unless extended by the Administrative Agent in its sole discretion), the Borrower shall deliver to the Administrative Agent endorsements (x) to all "All Risk" physical damage insurance policies on all of the tangible personal property and assets insurance policies of the Borrower and the Subsidiary Guarantors naming the Administrative Agent as lender loss payee, and (y) to all general liability and other liability policies of the Borrower and the Subsidiary Guarantors naming the Administrative Agent an additional insured. In the event the Borrower or any of its Restricted Subsidiaries at any time or times hereafter shall fail to obtain or maintain any of the policies or insurance required herein or to pay any premium in whole or in part relating thereto, then the Administrative Agent, without waiving or releasing any obligations or resulting Default hereunder, may at any time or times thereafter (but shall be under no obligation to do so) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which the Administrative Agent deems advisable. All sums so disbursed by the Administrative Agent shall constitute part of the Obligations, payable as provided in this Agreement. The Borrower will furnish to the Administrative Agent and the Lenders prompt written notice of any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any material portion of the Collateral or interest therein under power of eminent domain or by condemnation or similar proceeding.

SECTION 5.06.

Books and Records; Inspection Rights

. The Borrower will, and will cause each of its Restricted Subsidiaries to, keep proper books of record and account in which entries which are full, true and correct in all material respects are made of all dealings and transactions in relation to its business and activities. The Borrower will, and will cause each of its Restricted Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records, including environmental assessment reports and Phase I or Phase II studies, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested; provided that, excluding any such visits and inspections during the occurrence and continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Lenders under this Section 5.06 and the Administrative Agent shall not exercise such rights more often than one (1) time during any fiscal year of the Borrower. The Administrative Agent and its respective representatives and independent contractors shall use commercially reasonable efforts to avoid interruption of the normal business operations of the Borrower and its Restricted Subsidiaries. The Borrower acknowledges that the Administrative Agent, after exercising its rights of inspection, may prepare and distribute to the Lenders certain reports pertaining to the Borrower and its Restricted Subsidiaries' assets for internal use by the Administrative Agent and the Lenders; provided that none of the Loan Parties will be required to disclose any document, information or other matter pursuant to this Section 5.06 (i) to any competitor of any Loan Party, (ii) that constitutes non-financial trade secrets, or (iii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by applicable law.

SECTION 5.07.

Compliance with Laws and Material Contractual Obligations

. The Borrower will, and will cause each of its Restricted Subsidiaries to, (i) comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property (including without limitation Environmental Laws) and (ii) perform its obligations under all indentures, material agreements (including, without limitation, the BRAC Analysis Testing Agreements) and other material instruments to which it is a party, except, in each case, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and

their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

SECTION 5.08.

Use of Proceeds

. The proceeds of the Loans will be used to refinance certain Indebtedness of the Borrower evidenced by the Existing Credit Agreement, for working capital and general corporate purposes of the Borrower, its Restricted Subsidiaries and, to the extent permitted hereunder, its Unrestricted Subsidiaries, and for the payment of fees and expenses in connection with the foregoing (including funding of upfront and similar fees, commissions, transaction costs and expenses in connection with this Agreement). No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X. The Borrower will not request any Borrowing or Letter of Credit, and the Borrower shall not use, and shall ensure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, businesses or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States or in a European Union member state or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.09.

Subsidiary Guarantors; Pledges; Additional Collateral; Further

Assurances

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(a) As promptly as possible but in any event but not later than thirty (30) days following the delivery of the certificate required to be delivered under Section 5.01(c) (or such later date as may be agreed upon by the Administrative Agent) in respect of the fiscal quarter immediately following the date on which any Person becomes a Restricted Subsidiary (including pursuant to the designation of any Unrestricted Subsidiary as a Restricted Subsidiary) or any Restricted Subsidiary qualifies independently as, or is designated by the Borrower or the Administrative Agent as, a Material Restricted Domestic Subsidiary pursuant to the definition of "Material Restricted Domestic Subsidiary", the Borrower shall provide the Administrative Agent with written notice thereof and shall cause each such Restricted Subsidiary which also qualifies as a Material Restricted Domestic Subsidiary to deliver to the Administrative Agent a joinder to the Subsidiary Guaranty and the Security Agreement (in each case in the form contemplated thereby) pursuant to which such Restricted Subsidiary agrees to be bound by the terms and provisions thereof, such Subsidiary Guaranty and the Security Agreement to be accompanied by appropriate corporate resolutions, other corporate documentation and legal opinions consistent with those delivered on the Effective Date and otherwise in form and substance reasonably satisfactory to the Administrative Agent and its counsel. Notwithstanding anything to the contrary set forth herein, no Restricted Subsidiary constituting an Excluded Subsidiary shall be required to be a Guarantor.

(b) Subject to the limitations contained in this Section 5.09 and elsewhere in the Loan Documents, the Borrower will cause, and will cause each other Loan Party to cause, all of its Collateral to be subject at all times to first priority, perfected Liens in favor of the Collateral Agent for the benefit of the Secured Parties to secure the Secured Obligations in accordance with the terms and conditions of the Collateral Documents, subject in any case to Liens permitted by Section 6.02. Without limiting the generality of the foregoing, the Borrower will cause the Applicable Pledge Percentage of the issued and outstanding Equity Interests of each Pledge Subsidiary directly owned by the Borrower or any other Loan Party to be subject at all times to a first priority, perfected Lien in favor of the Collateral Agent to secure the Secured Obligations in accordance with the terms and conditions of the Collateral Documents. Notwithstanding the foregoing, (i) no Loan Party shall be required to provide any mortgage, landlord waiver, collateral access agreement, estoppel or deed of trust with respect to any real property (including

leasehold interests), (ii) no Loan Party shall be required to obtain the consent of any governmental authority or third party, (iii) no actions shall be required to perfect a security interest in letter of credit rights, other than a filing of a UCC financing statement, (iv) no deposit account or securities account, or similar, control agreements shall be required, (v) assets will be excluded from the Collateral in circumstances where the cost of obtaining a security interest in such assets exceeds the practical benefit to the Lenders afforded thereby as reasonably determined by the Administrative Agent (in consultation with the Borrower) and (vi) the Borrower and Subsidiary Guarantors shall not be required, nor shall the Administrative Agent be authorized, to take any action in any non-U.S. jurisdiction in order to create any security interests in assets located or titled outside the U.S. or to perfect any security interests in such assets, including, without limitation, any intellectual property registered in any non-U.S. jurisdiction or any equity interests of any subsidiaries organized in any non-U.S. jurisdiction (it being understood that there shall be no security agreements or pledge agreements governed under the laws of any non-U.S. jurisdiction).

(c) Without limiting the foregoing, but subject to the limitations in this Section 5.09 and elsewhere in the Loan Documents, the Borrower will, and will cause each Restricted Subsidiary to, execute and deliver, or cause to be executed and delivered, to the Agents such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements, fixture filings and other documents and such other actions or deliveries of the type required by Section 4.01, as applicable), which may be required by law or which the Agents may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created by the Collateral Documents (including, for the avoidance of doubt, in connection with the disclosure of any additional assets constituting Collateral pursuant to any updates of the exhibits to the Security Agreement as required thereby), all at the expense of the Borrower.

(d) Notwithstanding the foregoing, the Borrower shall cause Counsyl to become a Guarantor and otherwise comply with the requirements of this Section 5.09 within 30 days (as such date may be extended by the Administrative Agent in its sole discretion) after the Counsyl Acquisition.

SECTION 5.10.

Designation of Subsidiaries

. The Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that (a) immediately before and after giving effect (including giving effect on a pro forma basis) to such designation, (i) no Event of Default shall have occurred and be continuing or would result therefrom and (ii) the Borrower is in compliance with the financial covenants set forth in Section 6.10 (without giving effect to any Acquisition Holiday) recomputed as of the last day of the most recently ended fiscal quarter of the Borrower for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable, (b) immediately prior to giving effect to such designation, (i) any such Restricted Subsidiary so designated as an Unrestricted Subsidiary has not contributed greater than five percent (5%) of Consolidated EBITDA of the Borrower and its Subsidiaries for the most recently ended period of four fiscal quarters or (ii) any such Restricted Subsidiary so designated as an Unrestricted Subsidiary has not contributed greater than five percent (5%) of Consolidated Total Assets of the Borrower and its Subsidiaries for the most recently ended period of four fiscal quarters, (c) no Subsidiary may be designated as an Unrestricted Subsidiary if such Subsidiary (or any of its Subsidiaries) (i) has at such time of designation or thereafter creates, incurs, assumes or guarantees, any Indebtedness that is recourse to the Borrower or any Restricted Subsidiary or (ii) guarantees Material Indebtedness of any Loan Party, (d) all Investments of the Borrower and the Restricted Subsidiaries in such Unrestricted Subsidiary at the time of designation are permitted in accordance with Section 6.04, (e) the Borrower shall deliver to the Administrative Agent at least two (2) Business Days prior to such designation a certificate of a Financial Officer of the Borrower, certifying that such Subsidiary meets the requirements of an “Unrestricted Subsidiary” set forth in this Section 5.10 and (f) at least three (3) Business Days prior

to the designation of any Unrestricted Subsidiary as a Restricted Subsidiary, the Lenders shall have received all documentation and other information required by bank regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation, the Patriot Act, with respect to such Restricted Subsidiary. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an investment by the Borrower and its Restricted Subsidiaries therein at the date of designation in an amount equal to the fair market value of the Borrower’s or applicable Restricted Subsidiary’s, as the case may be, investment therein, and such investment shall be subject to Section 6.04(t). The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute (i) the incurrence at the time of designation of any Indebtedness, investments, loans, advances, Guarantees or Liens of such Subsidiary existing at such time and (ii) a return on any investment by the Borrower or the applicable Restricted Subsidiary in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the fair market value at the date of such designation of the Borrower or such Restricted Subsidiary’s investment in such Subsidiary.

SECTION 5.11.

Post-Closing Obligations

. Within ninety (90) days after the Effective Date (or such later date as the Administrative Agent shall agree in its sole discretion), the Borrower shall take such actions set forth on Schedule 5.11.

ARTICLE VI

Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and, unless otherwise cash collateralized in accordance with Section 2.06(j), all Letters of Credit have expired or terminated, in each case, without any pending draw, and all outstanding LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01.

Indebtedness

. The Borrower will not, and will not permit any Restricted Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:

(a) the Secured Obligations (including Indebtedness created hereunder pursuant to Section 2.20, Section 2.21 and Section 2.22) and any Refinancing Notes incurred to refinance such Indebtedness;

(b) Indebtedness existing on the date hereof and set forth in Schedule 6.01 and refinancings, extensions, renewals and replacements of any such Indebtedness with Indebtedness of a similar type that does not increase the outstanding principal amount thereof (except to the extent of prepayment premiums, fees, expenses and interest paid in kind owing in connection with such refinancing, extension, renewal or replacement or otherwise added to the principal amount thereof);

(c) Indebtedness of the Borrower to any Restricted Subsidiary and of any Restricted Subsidiary to the Borrower or any other Restricted Subsidiary, in each case, to the extent the related investment, loan or advance is permitted pursuant to Section 6.04(d);

(d) Guarantees by the Borrower of Indebtedness of any Restricted Subsidiary and by any Restricted Subsidiary of Indebtedness of the Borrower or any other Restricted Subsidiary; provided that, in the case of any Guarantee made for the benefit of any Restricted Subsidiary that is not a Loan Party, such Guarantee must also be permitted pursuant to Section 6.04(d);

(e) Indebtedness of the Borrower or any Restricted Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and refinancings, extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof (except to the extent of prepayment premiums, fees, expenses and interest paid in kind owing in connection with such refinancing, extension, renewal or replacement or otherwise added to the principal amount thereof); provided that (i) such Indebtedness is incurred prior to or within ninety (90) days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this clause (e) shall not exceed \$15,000,000 at any time outstanding;

(f) Indebtedness of the Borrower or any Restricted Subsidiary as an account party in respect of trade letters of credit and letters of credit issued in connection with self-insured workers' compensation liabilities or as otherwise required by applicable law;

(g) (i) Indebtedness the proceeds of which are used to finance or to repay Loans used to fund, (ii) Indebtedness assumed in connection with, and (iii) Indebtedness of any subsidiary acquired in connection with, any Permitted Acquisition;

(h) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(i) Indebtedness consisting of financing of insurance premiums in the ordinary course of business;

(j) Indebtedness of the Borrower or any Restricted Subsidiary secured by a Lien on any asset (not constituting Collateral) of the Borrower or any Restricted Subsidiary; provided that the aggregate outstanding principal amount of Indebtedness permitted by this clause (j) shall not in the aggregate exceed \$50,000,000 at any time;

(k) deferred compensation incurred in the ordinary course of business;

(l) unsecured Indebtedness constituting obligations in respect of working capital adjustment requirements, deferred purchase price adjustments, "earn outs", indemnities or similar obligations in connection with any Permitted Acquisition;

(m) taxes deferred in compliance with applicable law;

(n) Indebtedness with respect to judgments or awards not constituting an Event of Default;

(o) unsecured Indebtedness issued to officers, directors and employees which is used to purchase equity interests of the Borrower, to the extent such purchase of equity interests is permitted under this Agreement and in an aggregate outstanding principal amount for all such Indebtedness not to exceed \$5,000,000 at any time;

(p) unsecured Indebtedness owing to banks or other financial institutions under credit cards to officers and employees for, and constituting, business related expenses incurred in the ordinary course of business;

(q) Indebtedness with respect to surety, appeal or similar bonds or instruments, in each case provided in the ordinary course of business;

(r) other Indebtedness in an aggregate principal amount not exceeding the greater of (x) \$25,000,000 and (y) 10% of Consolidated Total Assets (including after giving pro forma effect to any acquisitions or investments made in connection therewith) as of the end of the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements of the Borrower referred to in Section 3.04, as applicable) so long as immediately before and immediately after giving effect (including giving effect on a pro forma basis) to the incurrence of such Indebtedness no Event of Default exists or would result therefrom; and

(s) other unsecured Indebtedness so long as immediately before and immediately after giving effect (including giving effect on a pro forma basis) to the incurrence of such Indebtedness (i) no Event of Default exists or would result therefrom and (ii) the Leverage Ratio is not greater than 2.75 to 1.00 (without giving effect to any Acquisition Holiday) based on the financial statements most recently delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable.

SECTION 6.02.

Liens

. The Borrower will not, and will not permit any Restricted Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including accounts receivable) or rights in respect of any thereof, except:

(a) Liens created pursuant to any Loan Document;

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of the Borrower or any Restricted Subsidiary existing on the date hereof and set forth in Schedule 6.02; provided that (i) such Lien shall not apply to any other property or asset of the Borrower or any Restricted Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof and refinancings, extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof (except to the extent of prepayment premiums, fees, expenses and interest paid in kind owing in connection with such refinancing, extension, renewal or replacement or otherwise added to the principal amount thereof);

(d) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Restricted Subsidiary or existing on any property or asset of any Person that becomes a Restricted Subsidiary after the date hereof prior to the time such Person becomes a Restricted Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Restricted Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Restricted Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Restricted Subsidiary, as the case may be, and refinancings, extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof (except to the extent of prepayment premiums, fees, expenses and interest paid in kind owing in connection with such refinancing, extension, renewal or replacement or otherwise added to the principal amount thereof);

(e) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Restricted Subsidiary; provided that (i) such security interests secure Indebtedness permitted by clause (e) of Section 6.01, (ii) such security interests and the Indebtedness secured thereby are incurred

prior to or within ninety (90) days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such Lien shall not apply to any other property or assets of the Borrower or any Restricted Subsidiary; provided that, subject to the foregoing restrictions, individual financings of assets subject to such Liens provided by one lender or lessor may be cross-collateralized to the other financings provided by such lender or lessor;

(f) Liens on any property or asset acquired pursuant to a Permitted Acquisition provided that (i) such Liens secure Indebtedness permitted by clause (g) of Section 6.01, (ii) such Liens and the Indebtedness secured thereby are incurred prior to or within ninety (90) after such Permitted Acquisition, (iii) the Indebtedness secured thereby does not exceed the consideration paid for such Permitted Acquisition and (iv) such Lien shall not apply to any other property or assets of the Borrower or any Restricted Subsidiary;

(g) Liens on assets (not constituting Collateral) of the Borrower and its Restricted Subsidiaries not otherwise permitted above so long as the aggregate principal amount of the Indebtedness and other obligations subject to such Liens does not at any time exceed \$50,000,000;

(h) any interest or title of a lessor, licensor, sublessor or sublicensor under any lease or license not prohibited by this Agreement and entered into in the ordinary course of business;

(i) Liens arising from precautionary Uniform Commercial Code financing statements (or equivalent filings or registrations in foreign jurisdictions) filed under any lease permitted by this Agreement and entered into in the ordinary course of business;

(j) Liens arising out of consignment or similar arrangements for the sale of goods entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business;

(k) Liens on insurance policies securing Indebtedness incurred by the Borrower or any Restricted Subsidiary not prohibited by this Agreement to secure the payment of insurance premiums;

(l) additional Liens on property of the Borrower or any of its Restricted Subsidiaries securing any Indebtedness or other liabilities; provided that, the aggregate principal amount of all such Indebtedness and liabilities secured by property of the Loan Parties shall not exceed the greater of (x) \$10,000,000 and (y) 2.5% of Consolidated Total Assets (including after giving pro forma effect to any acquisitions or investments made in connection therewith) as of the end of the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements of the Borrower referred to in Section 3.04), as applicable; and

(m) Liens on Collateral that are Other First Liens or Junior Liens, so long as such Other First Liens or Junior Liens secure Indebtedness permitted by Section 6.01(a) and guarantees thereof permitted by Section 6.01(d);

provided that no property or assets of the Borrower or any Restricted Subsidiary shall be subject to a Lien, pledged or otherwise encumbered, in each case, to secure any Indebtedness or other obligations of any Unrestricted Subsidiary.

SECTION 6.03.

Fundamental Changes and Asset Sales

. (a) The Borrower will not, and will not permit any Restricted Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one

transaction or in a series of transactions) any of its assets (including pursuant to a Sale and Leaseback Transaction), or any of the Equity Interests of any of its Restricted Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that:

(i) any Restricted Subsidiary may merge into or consolidate with the Borrower or any other Restricted Subsidiary; provided that (A) if the Borrower is a party in such transaction, the Borrower is the surviving corporation; and (B) if any Subsidiary Guarantor is a party in such transaction and the Borrower is not, the surviving entity shall be or become a Subsidiary Guarantor;

(ii) any Restricted Subsidiary that is not a Loan Party may sell, transfer, lease or otherwise dispose of its assets (A) to the Borrower or any other Restricted Subsidiary or (B) in any transaction permitted pursuant to Section 6.04;

(iii) any Subsidiary Guarantor may sell, transfer, lease or otherwise dispose of its assets (A) to a Loan Party or (B) in any transaction permitted pursuant to Section 6.04;

(iv) Borrower or any Restricted Subsidiary may merge into or consolidate with another Person in order to consummate a transaction what is otherwise permitted pursuant to Section 6.04; provided that (A) if the Borrower is a party in such transaction, the Borrower is the surviving corporation; and (B) if any Subsidiary Guarantor is a party in such transaction and the Borrower is not, the surviving entity shall be or become a Subsidiary Guarantor;

(v) the Borrower and its Restricted Subsidiaries may (A) sell inventory in the ordinary course of business, (B) effect sales, trade-ins or dispositions of used equipment for value in the ordinary course of business, (C) enter into licenses or sublicenses of technology or other intellectual property in the ordinary course of business, (D) enter into leases in the ordinary course of business, and (E) make any other sales, transfers, leases or dispositions (and any merger or consolidation with another Person in order to consummate such sale, transfer, lease or disposition) that, together with all other property of the Borrower and its Restricted Subsidiaries previously leased, sold or disposed of as permitted by this clause (E) during any fiscal year of the Borrower, does not exceed the greater of (x) \$35,000,000 and (y) an amount equal to 15% of Consolidated Total Assets as of the end of the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable;

(vi) the use or transfer of cash or cash equivalents in a manner that is not prohibited by the terms of the Agreement;

(vii) sales, transfers or dispositions of accounts in the ordinary course of business for purposes of collection or settlement of disputed claims;

(viii) sales, transfers or dispositions of assets resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of; and

(ix) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders; provided that, if any such dissolved or liquidated Subsidiary is a Loan Party, such Subsidiary shall sell, transfer or otherwise dispose of its assets to another Loan Party prior to or concurrently with such dissolution or liquidation;

provided that any such merger or consolidation involving a Person that is not a wholly-owned Restricted Subsidiary immediately prior to such merger or consolidation shall not be permitted unless it is also permitted by Section 6.04; provided further that when any Restricted Subsidiary is merging or consolidating with or into an Unrestricted Subsidiary and the Restricted Subsidiary is not the continuing or surviving Person, the Borrower shall have complied with the requirements of Section 5.10.

(b) The Borrower will not, and will not permit any of its Restricted Subsidiaries to, engage to any material extent in any business other than businesses of the type conducted by the Borrower and its Restricted Subsidiaries on the date of execution of this Agreement and businesses reasonably related thereto, reasonable extensions thereof or ancillary or complimentary thereto.

(c) The Borrower will not, nor will it permit any of its Restricted Subsidiaries to, change its fiscal year from the basis in effect on the Effective Date, in each case other than to match the fiscal year of any Restricted Subsidiary to the fiscal year of the Borrower.

SECTION 6.04.

Investments, Loans, Advances, Guarantees and Acquisitions

. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, purchase, hold or acquire (including pursuant to any merger or consolidation with any Person that was not a wholly owned Restricted Subsidiary prior to such merger or consolidation) any capital stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any Person or any assets of any other Person constituting a business unit, except:

(a) cash and Permitted Investments;

(b) Permitted Acquisitions;

(c) investments, loans and advances by the Borrower and its Restricted Subsidiaries existing on the date hereof in or to other Persons (including investments, loans and advances by Borrower in or to its Restricted Subsidiaries), in each case as set forth on Schedule 6.04;

(d) investments, loans or advances made by the Borrower in or to any Restricted Subsidiary and made by any Restricted Subsidiary in or to the Borrower or any other Restricted Subsidiary and Guarantees by the Borrower or any Restricted Subsidiary for the benefit of the Borrower or any other Restricted Subsidiary; provided that, at the time of any such investment, loan, advance by any Loan Party in, or Guarantee by any Loan Party for the benefit of, any Restricted Subsidiary that is not a Loan Party, the aggregate amount of all such investments, loans, advances, and Guarantees which are outstanding, shall not collectively exceed the greater of (x) \$25,000,000 and (y) an amount equal to 10% of Consolidated Total Assets as of the end of the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable;

(e) Guarantees constituting Indebtedness permitted by Section 6.01;

(f) cash and marketable securities held in Deposit Accounts (as defined in the Security Agreement) or Securities Accounts (as defined in the Security Agreement), which are subject to control agreements to the extent required by the Security Agreement;

- (g) investments in negotiable instruments for collection in the ordinary course of business;
- (h) advances made in connection with purchases of goods or services in the ordinary course of business;
- (i) investments received in settlement of delinquent obligations to the Borrower or any Restricted Subsidiary effected in the ordinary course of business or owing to the Borrower or any Restricted Subsidiary as a result of any bankruptcy or insolvency proceeding involving an account debtor or upon the foreclosure or enforcement of any Lien in favor of the Borrower or any Restricted Subsidiary;
- (j) investments, loans, advances and Guarantees existing on the Effective Date and set forth on Schedule 6.04;
- (k) investments arising under Swap Agreements entered into in compliance with Section 6.05;
- (l) loans or advances made by the Borrower or any Restricted Subsidiary to its employees in the ordinary course of business consistent for travel and entertainment expenses, relocation costs and similar purposes up to a maximum of \$4,000,000 in the aggregate at any one time outstanding;
- (m) investments, loans and advances owned by, and Guarantees made by, any Person existing at the time such Person becomes a Restricted Subsidiary of the Borrower or consolidates or merges with the Borrower or any of its Restricted Subsidiaries (including in connection with a Permitted Acquisition) so long as such investments, loans, advances and Guarantee were not made in contemplation of such Person becoming a Restricted Subsidiary or of such consolidation or merger;
- (n) (i) endorsements for collection or deposit in the ordinary course of business and consistent with past practice and (ii) extensions of trade credit in the ordinary course of business;
- (o) investments by any Loan Party or any Restricted Subsidiary of a Loan Party in any Restricted Subsidiary of such Person in such amount which is required by law to maintain a minimum net capital requirement or as may otherwise be required by applicable law or regulation;
- (p) extensions of credit consisting of accounts receivable or notes receivable arising from the sale or lease of goods in the ordinary course of business of the Borrower or any Restricted Subsidiary;
- (q) investments held and loans and advances made by a Person acquired in a Permitted Acquisition or an acquisition that is otherwise permitted hereunder to the extent that none of such investments, loans or advances were made in connection with or contemplation of such acquisition and were in existence as of the date of consummation of such acquisition;
- (r) investments by the Borrower or any of its Restricted Subsidiaries for which the consideration consists solely of Equity Interests of the Borrower;
- (s) any endorsement of a check or other medium of payment for deposit or collection, or any similar transaction, in each case in the ordinary course of business;
- (t) investments in Unrestricted Subsidiaries; provided that, the Consolidated EBITDA of the Borrower and its Subsidiaries attributable to all such Unrestricted Subsidiaries is not greater than

twelve and one half percent (12.5%) of Consolidated EBITDA of the Borrower and its Subsidiaries for the most recently ended period of four fiscal quarters based on the financial statements most recently delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable;

(u) any other investment, loan, advance or Guarantee (other than acquisitions) so long as during the term of this Agreement, at the time of making any such Investment, loan, advance or Guarantee, the aggregate amount of all such investments, loans, advances and Guarantees which are outstanding, do not collectively exceed an amount equal to the greater of (x) \$25,000,000 and (y) 10% of Consolidated Total Assets as of the end of the most recent fiscal quarter for which financial statements shall have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable; and

(v) investments by an Unrestricted Subsidiary entered into prior to the day that such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary.

SECTION 6.05.

Swap Agreements

. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower or any Restricted Subsidiary has actual exposure (other than those in respect of Equity Interests of the Borrower or any of its Restricted Subsidiaries), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Restricted Subsidiary.

SECTION 6.06.

Transactions with Affiliates

. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions not otherwise prohibited hereunder and at prices and on terms and conditions not less favorable to the Borrower or such Restricted Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Borrower and its wholly owned Restricted Subsidiaries not involving any other Affiliate, (c) any transactions otherwise permitted hereby, (d) the issuance of Equity Interests of the Borrower to any employee, director, officer, manager, distributor or consultant (or their respective controlled Affiliates) of the Borrower or any of its Restricted Subsidiaries, and (e) compensation, salaries and employment agreements and arrangements (and expense reimbursement and indemnification arrangements for) to officers and directors of the Borrower and its Restricted Subsidiaries.

SECTION 6.07.

Restricted Payments

. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except:

(a) the Borrower or any Restricted Subsidiary may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its common stock;

(b) Restricted Subsidiaries may make Restricted Payments ratably with respect to their Equity Interests so long as such Restricted Payment is not prohibited by Sections 6.03 and 6.04 hereof;

(c) the Borrower may make Restricted Payments pursuant to and in accordance with stock option or equity-based plans or other benefit plans for directors, officers, employees or consultants of the Borrower and its Restricted Subsidiaries; and

(d) the Borrower and its Restricted Subsidiaries may make any other Restricted Payment so long as at the time of the making of such Restricted Payment, the Restricted Payment Requirements are satisfied in connection with such Restricted Payment.

SECTION 6.08.

Restrictive Agreements

. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower or any Restricted Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets to secure the Secured Obligations, or (b) the ability of any Restricted Subsidiary to pay dividends or other distributions with respect to holders of its Equity Interests or to make or repay loans or advances to the Borrower or any other Restricted Subsidiary or to Guarantee the Secured Obligations; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law, regulation, rule or order of any Governmental Authority or by any Loan Document, (ii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Restricted Subsidiary or any other asset pending such sale, provided such restrictions and conditions apply only to the Restricted Subsidiary that is, or the assets that are, to be sold and such sale is permitted hereunder or a condition to the closing of such sale is the payment in full of this Agreement or a consent under this Agreement, (iii) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness, (iv) clause (a) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof, (v) the foregoing shall not apply to restrictions and conditions contained in other Indebtedness permitted under this Agreement so long as such restrictions and conditions are not more onerous for the Borrower and the Restricted Subsidiaries than the restrictions and conditions contained in the Loan Documents, (vi) neither clause (a) (solely in the case of any such Person that becomes a Foreign Subsidiary) nor clause (b) of the foregoing shall apply to agreements or obligations to which a Person was subject at the time such Person becomes a Restricted Subsidiary so long as such agreements or obligations were not entered into in contemplation of such Person becoming a Restricted Subsidiary and (vii) the foregoing shall not apply to customary provisions contained in joint venture or similar agreements and related to the organizational documents of non-wholly owned Restricted Subsidiaries; provided that the Borrower or the applicable Restricted Subsidiary shall use commercially reasonable efforts to exclude any such limitations or restrictions from such joint venture agreements and organizational documents.

SECTION 6.09.

Subordinated Indebtedness and Amendments to Subordinated Indebtedness Documents and Assurex Merger Agreement

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(a) The Borrower will not, and will not permit any Restricted Subsidiary to, directly or indirectly voluntarily prepay, defease or in substance defease, purchase, redeem, retire or otherwise acquire, any Subordinated Indebtedness or any Indebtedness from time to time outstanding under the Subordinated Indebtedness Documents, in each case other than:

(i) in connection with any refinancings, extensions, renewals and replacements thereof that do not decrease the outstanding principal amount thereof or, so long as such subordination agreement has been approved by the Administrative Agent in its reasonable discretion, to the extent not otherwise prohibited by the respective subordination agreement with respect to any such Indebtedness; and

(ii) so long as immediately prior to and immediately after giving effect (including giving effect on a pro forma basis) to such prepayment (1) no Event of Default shall have occurred and is continuing or would result therefrom and (2) the Leverage Ratio is not greater than 2.75 to 1.00 (without giving effect to any Acquisition Holiday) based on the financial statements most

recently delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the delivery of any such financial statements, the most recent financial statements referred to in Section 3.04), as applicable.

(b) Unless not otherwise prohibited by the respective subordination agreement (solely to the extent that such subordination agreement has been approved by the Administrative Agent in its sole discretion) with respect to any such Indebtedness, the Borrower will not, and will not permit any Restricted Subsidiary to, amend the Subordinated Indebtedness Documents or any document, agreement or instrument evidencing any Indebtedness incurred pursuant to the Subordinated Indebtedness Documents (or any refinancings, replacements, substitutions, extensions or renewals thereof) or pursuant to which such Indebtedness is issued where such amendment, modification or supplement provides for the following or which has any of the following effects:

(i) increases the overall principal amount of any such Indebtedness (other than as permitted pursuant to Section 6.01) or increases the amount of any single scheduled installment of principal or interest that is required to be made prior to the Maturity Date;

(ii) shortens or accelerates the date upon which any installment of principal or interest becomes due or adds any additional mandatory redemption provisions, in each case, prior to the Maturity Date;

(iii) shortens the final maturity date of such Indebtedness or otherwise accelerates the amortization schedule with respect to such Indebtedness, in each case prior to the Maturity Date;

(iv) increases the rate of interest accruing on such Indebtedness;

(v) provides for the payment of additional fees or increases existing fees;

(vi) amends or modifies any financial or negative covenant (or covenant which prohibits or restricts the Borrower or any Restricted Subsidiary from taking certain actions) in a manner which is more onerous or more restrictive in any material respect to the Borrower or such Restricted Subsidiary or which is otherwise materially adverse to the Borrower, any Restricted Subsidiary and/or the Lenders or, in the case of any such covenant, which places material additional restrictions on the Borrower or such Restricted Subsidiary or which requires the Borrower or such Restricted Subsidiary to comply with more restrictive financial ratios or which requires the Borrower to better its financial performance, in each case from that set forth in the existing applicable covenants in the Subordinated Indebtedness Documents or the applicable covenants in this Agreement, unless, in each case, such amendment or modification is intended to match an amendment or modification to the Loan Documents and maintain the same cushion as is in the existing Subordinated Indebtedness Documents and the Loan Documents; or

(vii) amends, modifies or adds any affirmative covenant in a manner which (i) when taken as a whole, is materially adverse to the Borrower, any Restricted Subsidiary and/or the Lenders or (ii) is more onerous than the existing applicable covenant in the Subordinated Indebtedness Documents or the applicable covenant in this Agreement, unless, in each case, such amendment, modification or addition is intended to match an amendment, modification or addition to the Loan Documents and maintain the same cushion as is in the existing Subordinated Indebtedness Documents and the Loan Documents.

(c) The Borrower will not, and will not permit any Subsidiary to, agree to, enter into or otherwise permit any amendment, modification, consent or waiver in respect of the Assurex Merger

Agreement that is materially adverse to the interests of the Secured Parties, unless consented to in writing by the Administrative Agent (such consent not to be unreasonably withheld, delayed or conditioned).

(d) The Borrower will not, and will not permit any Subsidiary to, agree to, enter into or otherwise permit any amendment, modification, consent or waiver in respect of the Counsyl Merger Agreement that is materially adverse to the interests of the Secured Parties, unless consented to in writing by the Administrative Agent (such consent not to be unreasonably withheld, delayed or conditioned).

SECTION 6.10.

Financial Covenants

(a) Maximum Leverage Ratio. Beginning with the fiscal quarter ending March 31, 2017, the Borrower will not permit the Leverage Ratio, determined as of the end of each of its fiscal quarters for the period of four (4) consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Borrower and its Restricted Subsidiaries on a consolidated basis to be greater than 2.75 to 1.00; provided that the Borrower may, only twice during the term of this Agreement in connection with a Permitted Acquisition for which the aggregate consideration paid or to be paid in respect thereof equals or exceeds \$100,000,000, elect to increase the maximum Leverage Ratio permitted hereunder to 3.25 to 1.00 for a period of four consecutive fiscal quarters commencing with the fiscal quarter in which such Permitted Acquisition occurs (any such election in respect of the maximum Leverage Ratio pursuant to this Section 6.10(a) being referred to as an “Acquisition Holiday”); provided further that, notwithstanding the foregoing, at least two (2) consecutive full fiscal quarters must elapse between the end of the first Acquisition Holiday and the beginning of the second Acquisition Holiday.

(b) Minimum Interest Coverage Ratio. Beginning with the fiscal quarter ending March 31, 2017, the Borrower will not permit the Interest Coverage Ratio, determined as of the end of each of its fiscal quarters in each case for the period of four (4) consecutive fiscal quarters ending with the end of such fiscal quarter, all calculated for the Borrower and its Restricted Subsidiaries on a consolidated basis to be less than 3.00 to 1.00.

ARTICLE VII

Events of Default

If any of the following events (“Events of Default”) shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification thereof or waiver thereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02, 5.03 (with respect to the Borrower's existence), 5.08 or 5.09 or 5.11, in Article VI or in Article X;

(e) the Borrower or any Subsidiary Guarantor, as applicable, shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article) or any other Loan Document, and such failure shall continue unremedied for a period of thirty (30) days after the earlier of (i) the Chief Executive Officer or any Financial Officer of the Borrower becoming aware thereof and (ii) notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of the Required Lenders);

(f) the Borrower or any Restricted Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (in each case, after giving effect to any applicable grace or cure periods);

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness (in each case, after giving effect to any applicable grace or cure periods); provided that, in each case, such event or condition remains unremedied or has not been waived by the holders of such Indebtedness;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Material Restricted Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Material Restricted Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Material Restricted Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Material Restricted Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any Material Restricted Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$40,000,000 shall be rendered against the Borrower, any Restricted Subsidiary or any combination thereof or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any Restricted Subsidiary to enforce any such judgment and in each case, the judgment or

attachment shall remain undischarged, not dismissed and unsatisfied for a period of thirty (30) consecutive days during which execution shall not be effectively stayed; provided, that any such amount shall be calculated after deducting from the sum so payable any amount of such judgment that is covered by a valid and binding policy of insurance in favor of the Borrower or such Restricted Subsidiary (but only if the applicable insurer shall have been advised of such judgment and of the intent of the Borrower or such Restricted Subsidiary to make a claim in respect of any amount payable by it in connection therewith and such insurer shall not have disputed coverage);

(l) an ERISA Event shall have occurred that when taken together with all other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect;

(m) a Change in Control shall occur;

(n) the occurrence of any default or event of default under the Security Agreement or the failure of any Subsidiary Guarantor to make any payment required under the Subsidiary Guaranty;

(o) any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms (or the Borrower or any Restricted Subsidiary shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction based on any such assertion, that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms) other than any cessation in validity or enforceability that occurs in accordance with its terms; or

(p) any Collateral Document shall for any reason fail to create a valid and perfected security interest having the priority required pursuant to such Collateral Document in all or any material portion of the Collateral purported to be covered thereby, except as permitted by the terms of any Loan Document;

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Commitments (including the Letter of Credit Commitments), and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other Secured Obligations of the Borrower accrued hereunder and under the other Loan Documents, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower and (iii) require cash collateral for the LC Exposure in accordance with Section 2.06(j) hereof; and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding and cash collateral for the LC Exposure, together with accrued interest thereon and all fees and other Secured Obligations accrued hereunder and under the other Loan Documents, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Collateral Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

ARTICLE VIII

The Administrative Agent and the Collateral Agent

Each of the Lenders, on behalf of itself and any of its Affiliates that are Secured Parties, and the Issuing Banks hereby irrevocably appoints JPMorgan Chase Bank, N.A. as Administrative Agent and Collateral Agent hereunder and authorizes each of the Agents to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Agents by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. In addition, to the extent required under the laws of any jurisdiction other than the United States of America, each of the Lenders, on behalf of itself and any of its Affiliates that are Secured Parties, and the Issuing Banks hereby grants to the Collateral Agent any required powers of attorney to execute any Collateral Document governed by the laws of such jurisdiction on such Lender's or such Issuing Bank's behalf. The provisions of this Article are solely for the benefit of the Agents and the Lenders (including the Swingline Lender and the Issuing Banks), and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" as used herein or in any other Loan Documents (or any similar term) with reference to the Administrative Agent or the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any Restricted Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

No Agent shall have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) no Agent shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) no Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that such Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth in the Loan Documents, no Agent shall have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Restricted Subsidiaries that is communicated to or obtained by the bank serving as an Agent or any of its Affiliates in any capacity. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct as determined by a final nonappealable judgment of a court of competent jurisdiction. No Agent shall be deemed to have knowledge of any Default unless and until written notice thereof is given to such Agent by the Borrower or a Lender, and neither shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of Liens on the Collateral or the existence of the Collateral or (vi) the satisfaction of any condition set forth in Article IV

or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to such Agent.

The Agents shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Agents also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Agents may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Each Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by such Agent. The Agents and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Agents and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facility provided for herein as well as activities as an Agent.

Subject to the appointment and acceptance of a successor Agent as provided in this paragraph, any Agent may resign at any time by notifying the Lenders, the Issuing Banks and the Borrower. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, then the retiring Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent or Collateral Agent, as applicable, hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After any Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Agent.

Each Lender acknowledges and agrees that the extensions of credit made hereunder are commercial loans and letters of credit and not investments in a business enterprise or securities. Each Lender further represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and has, independently and without reliance upon any Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender shall, independently and without reliance upon any Agent or any other Lender and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any related agreement or any document furnished hereunder or thereunder and in deciding whether or to the extent to which it will continue as a Lender or assign or otherwise transfer its rights, interests and obligations hereunder.

None of the Lenders, if any, identified in this Agreement as a Syndication Agent or Co-Documentation Agent shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of such

Lenders shall have or be deemed to have a fiduciary relationship with any Lender. Each Lender hereby makes the same acknowledgments with respect to the relevant Lenders in their respective capacities as Syndication Agent or Co-Documentation Agents, as applicable, as it makes with respect to the Administrative Agent in the preceding paragraph.

The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of any Agent) authorized to act for, any other Lender. The Administrative Agent shall have the exclusive right on behalf of the Lenders to enforce the payment of the principal of and interest on any Loan after the date such principal or interest has become due and payable pursuant to the terms of this Agreement.

In its capacity, the Collateral Agent is a “representative” of the Secured Parties within the meaning of the term “secured party” as defined in the New York Uniform Commercial Code. Each Lender and the Administrative Agent authorizes the Collateral Agent to enter into each of the Collateral Documents to which it is a party and to take all action contemplated by such documents. Each Lender agrees that no Secured Party (other than the Collateral Agent) shall have the right individually to seek to realize upon the security granted by any Collateral Document, it being understood and agreed that such rights and remedies may be exercised solely by the Collateral Agent for the benefit of the Secured Parties upon the terms of the Collateral Documents. In the event that any Collateral is hereafter pledged by any Person as collateral security for the Secured Obligations, the Collateral Agent is hereby authorized, and hereby granted a power of attorney, to execute and deliver on behalf of the Secured Parties any Loan Documents necessary or appropriate to grant and perfect a Lien on such Collateral in favor of the Collateral Agent on behalf of the Secured Parties. The Lenders and the Administrative Agent hereby authorize the Collateral Agent, at its option and in its discretion, to release any Lien granted to or held by the Collateral Agent upon any Collateral (i) as described in Section 9.02(d); (ii) as permitted by, but only in accordance with, the terms of the applicable Loan Document; or (iii) if approved, authorized or ratified in writing by the Required Lenders, unless such release is required to be approved by all of the Lenders hereunder. Upon request by the Collateral Agent at any time, the Lenders and the Administrative Agent will confirm in writing the Collateral Agent’s authority to release particular types or items of Collateral pursuant hereto. Upon any sale or transfer of assets constituting Collateral which is permitted pursuant to the terms of any Loan Document, or consented to in writing by the Required Lenders or all of the Lenders, as applicable, and upon at least five (5) Business Days’ prior written request by the Borrower to the Collateral Agent, the Collateral Agent shall (and is hereby irrevocably authorized by the Lenders and the Administrative Agent to) execute such documents as may be necessary to evidence the release of the Liens granted to the Collateral Agent for the benefit of the Secured Parties herein or pursuant hereto upon the Collateral that was sold or transferred; provided that (i) the Collateral Agent shall not be required to execute any such document on terms which, in the Collateral Agent’s opinion, would expose any Agent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty, and (ii) such release shall not in any manner discharge, affect or impair the Secured Obligations or any Liens upon (or obligations of the Borrower or any Restricted Subsidiary in respect of) all interests retained by the Borrower or any Restricted Subsidiary, including (without limitation) the proceeds of the sale, all of which shall continue to constitute part of the Collateral. Any execution and delivery by the Collateral Agent of documents in connection with any such release shall be without recourse to or warranty by the Collateral Agent.

The Lenders and the other Secured Parties (by virtue of their acceptance of the benefits of the Loan Documents) hereby irrevocably authorize and instruct the Collateral Agent to, without any further consent of any Lender or any other Secured Party, enter into (or acknowledge and consent to) or amend, renew, extend, supplement, restate, replace, waive or otherwise modify any Permitted Junior Intercreditor Agreement, any Permitted First Lien Intercreditor Agreement and any other intercreditor or subordination agreement (in form reasonably satisfactory to the Collateral Agent and deemed appropriate by it) with the

collateral agent or other representative of holders of Indebtedness secured (and permitted to be secured) by a Lien on assets constituting a portion of the Collateral under (1) Section 6.02(l) (and in accordance with the relevant requirements thereof) and (2) any other provision of Section 6.02 (it being acknowledged and agreed that the Collateral Agent shall be under no obligation to execute any Intercreditor Agreement pursuant to this clause (2), and may elect to do so, or not do so, in its sole and absolute discretion) (any of the foregoing, an “Intercreditor Agreement”). The Lenders and the other Secured Parties (by virtue of their acceptance of the benefits of the Loan Documents) irrevocably agree that (x) the Collateral Agent may rely exclusively on a certificate of a Financial Officer of the Borrower as to whether any such other Liens are permitted hereunder and as to the respective assets constituting Collateral that secure (and are permitted to secure) such Indebtedness hereunder and (y) any Intercreditor Agreement entered into by the Collateral Agent shall be binding on the Secured Parties, and each Lender and each other Secured Party hereby agrees that it will take no actions contrary to the provisions of, if entered into and if applicable, any Intercreditor Agreement.

In case of the pendency of any proceeding with respect to any Loan Party under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan or any LC Disbursement shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LC Exposure and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim under Sections 2.12, 2.13, 2.15, 2.16, 2.17 and 9.03) allowed in such judicial proceeding; and

(b) collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such proceeding is hereby authorized by each Lender, each Issuing Bank and each other Secured Party to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, the Issuing Banks or the other Secured Parties, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03).

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar laws in any other applicable jurisdictions, or (b) at any other sale, foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid by the Administrative Agent at the direction of the Required Lenders on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that shall vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) for the asset or assets so

purchased (or for the equity interests or debt instruments of the acquisition vehicle or vehicles that are issued in connection with such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more acquisition vehicles and to assign any successful credit bid to such acquisition vehicle or vehicles (ii) each of the Secured Parties' ratable interests in the Obligations which were credit bid shall be deemed without any further action under this Agreement to be assigned to such vehicle or vehicles for the purpose of closing such sale, (iii) the Administrative shall be authorized to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or equity interests thereof, shall be governed, directly or indirectly, by, and the governing documents shall provide for, control by the vote of the Required Lenders or their permitted assignees under the terms of this Agreement or the governing documents of the applicable acquisition vehicle or vehicles, as the case may be, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.02 of this Agreement), (iv) the Administrative Agent on behalf of such acquisition vehicle or vehicles shall be authorized to issue to each of the Secured Parties, ratably on account of the relevant Obligations which were credit bid, interests, whether as equity, partnership, limited partnership interests or membership interests, in any such acquisition vehicle and/or debt instruments issued by such acquisition vehicle, all without the need for any Secured Party or acquisition vehicle to take any further action, and (v) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of Obligations credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Secured Parties pro rata and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such Obligations shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action. Notwithstanding that the ratable portion of the Obligations of each Secured Party are deemed assigned to the acquisition vehicle or vehicles as set forth in clause (ii) above, each Secured Party shall execute such documents and provide such information regarding the Secured Party (and/or any designee of the Secured Party which will receive interests in or debt instruments issued by such acquisition vehicle) as the Administrative Agent may reasonably request in connection with the formation of any acquisition vehicle, the formulation or submission of any credit bid or the consummation of the transactions contemplated by such credit bid.

ARTICLE IX

Miscellaneous

SECTION 9.01.

Notices

. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopy, as follows:

(i) if to the Borrower, to it at Myriad Genetics, Inc., 320 Wakara Way, Salt Lake City, Utah 84108, attention: R. Bryan Riggsbee (Telecopy: 801-584-3640), (Telephone: 801-584-3540); with a copy, in the case of any notice of an Event of Default, to: Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., Attention: Joseph W. Price, Chrysler Center, 666 Third Avenue, New York New York 10017, Facsimile No.: 212-983-3115, Email: JWPrice@Mintz.com;

(ii) if to the Administrative Agent or the Collateral Agent, to JPMorgan Chase Bank, N.A., 10 South Dearborn St., Floor L2, Chicago, Illinois 60603, jpm.agency.servicing.1@jpmorgan.com, Attention of Loan and Agency Services (Telecopy No. (888) 292-9533), with a copy to JPMorgan Chase Bank, N.A., 712 Main Street, Floor 8 North,

Houston, Texas 77002, attention: Laura S. Woodward; laura.s.woodward@jpmorgan.com (Telecopy No. 713-216-6710), (Telephone: 713-216-4943);

(iii) if to JPMorgan Chase Bank, N.A. in its capacity as an Issuing Bank, to it at JPMorgan Chase Bank, N.A., 10 South Dearborn St., Floor L2, Chicago, Illinois 60603, jpm.agency.servicing@jpmorgan.com with a copy to Bianca.E.Hernandez@jpmorgan.com, Attention of Bianca Hernandez (Telecopy No. 844-490-5663) (Telephone: 312-732-4734);

(iv) if to the Swingline Lender, to it at JPMorgan Chase Bank, N.A., 10 South Dearborn St., Floor L2, Chicago, Illinois 60603, jpm.agency.servicing@jpmorgan.com with a copy to Bianca.E.Hernandez@jpmorgan.com, Attention of Bianca Hernandez (Telecopy No. 844-490-5663) (Telephone: 312-732-4734); and

(v) if to any other Lender or Issuing Bank, to it at its address (or telecopy number) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through Approved Electronic Platforms, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by using Approved Electronic Platforms pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto.

(d) Electronic Communications.

(i) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders and the Issuing Banks by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other electronic

platform chosen by the Administrative Agent to be its electronic transmission system (the “Approved Electronic Platform”).

(ii) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Effective Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders, each of the Issuing Banks and the Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that the Administrative Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Approved Electronic Platform, and that there are confidentiality and other risks associated with such distribution. Each of the Lenders, each of the Issuing Banks and the Borrower hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(iii) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT, ANY ARRANGER, ANY CO-DOCUMENTATION AGENT, ANY SYNDICATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, “APPLICABLE PARTIES”) HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER, ANY ISSUING BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY’S OR THE ADMINISTRATIVE AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM.

“Communications” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to this Section, including through an Approved Electronic Platform.

(iv) Each Lender and each Issuing Bank agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender and Issuing Bank agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender’s or Issuing Bank’s (as applicable) email address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(v) Each of the Lenders, each of the Issuing Banks and the Borrower agrees that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with the Administrative Agent's generally applicable document retention procedures and policies.

(vi) Nothing herein shall prejudice the right of the Administrative Agent, any Lender or any Issuing Bank to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

SECTION 9.02.

Waivers; Amendments

. (a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Except as provided in Section 2.20, 2.21 and 2.22 and subject to clauses (c) and (f) below, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby ((x) other than any reduction of any rate of interest accrued pursuant to Section 2.13(c) and (y) except that any amendment or modification of the financial covenants in this Agreement (or defined terms used in the financial covenants in this Agreement) shall not constitute a reduction in the rate of interest or fees for purposes of this clause (ii)), (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby (other than any reduction of the amount of, or any extension of the payment date for, the mandatory prepayments required under Section 2.11, in each case which shall only require the approval of the Required Lenders), (iv) change Section 2.18(b) or (d) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender (it being understood that, notwithstanding the foregoing, solely with the consent of the parties prescribed by Section 2.20, 2.21 and 2.22, as applicable, to be parties to any respective Incremental Term Loan Amendment, Extension Amendment and/or Refinancing Amendment, Incremental Term Loans, Extended Term Loans and/or Refinancing Term Loans may be included in the determination of Required Lenders on substantially the same basis as the Revolving Commitments and the Revolving Loans are included on the Effective Date), (vi) release all or substantially all of the Subsidiary Guarantors from their obligations under the Subsidiary Guaranty, in each case, without the written consent of each Lender, or (vii) except as provided in clause (d) of this Section or in any

Collateral Document, release all or substantially all of the Collateral, without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of any Agent, the Issuing Banks or the Swingline Lender hereunder without the prior written consent of such Agent, such Issuing Bank or the Swingline Lender, as the case may be (it being understood that any change to Section 2.23 shall require the consent of the Administrative Agent, the Issuing Banks and the Swingline Lender); provided further, that no such agreement shall amend or modify the provisions of Section 2.06 or any letter of credit application and any bilateral agreement between the Borrower and any Issuing Bank regarding such Issuing Bank's Letter of Credit Commitment or the respective rights and obligations between the Borrower and such Issuing Bank in connection with the issuance of Letters of Credit without the prior written consent of the Administrative Agent and such Issuing Bank, respectively. Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement shall be required of any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (i), (ii) or (iii) of the first proviso of this paragraph and then only in the event such Defaulting Lender shall be directly affected by such amendment, waiver or other modification.

(c) Notwithstanding the foregoing, this Agreement and any other Loan Document may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (x) to add one or more credit facilities (in addition to the Incremental Facilities, Extensions, Replacement Revolving Loans and Refinancing Term Loans described in this Agreement) to this Agreement and to permit extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Revolving Loans and the Term Loans and the accrued interest and fees in respect thereof and (y) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and Lenders.

(d) The Lenders hereby irrevocably authorize the Collateral Agent, at its option and in its sole discretion, to release, and the Collateral Agent hereby agrees to release, any Liens granted to the Collateral Agent by the Loan Parties on any Collateral (i) upon the termination of all the Commitments, payment and satisfaction in full in cash of all Secured Obligations (other than Unliquidated Obligations), and the cash collateralization of all Unliquidated Obligations under clause (a) of the definition thereof in a manner satisfactory to the Administrative Agent, (ii) constituting property being sold or disposed of if the Borrower certifies to the Administrative Agent that the sale or disposition is made in compliance with the terms of this Agreement (and the Administrative Agent may rely conclusively on any such certificate, without further inquiry), (iii) constituting property leased to the Borrower or any Restricted Subsidiary under a lease which has expired or been terminated in a transaction permitted under this Agreement, or (iv) as required to effect any sale or other disposition of such Collateral in connection with any exercise of remedies of the Administrative Agent and the Lenders pursuant to Article VII. Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral. In addition, each of the Lenders, on behalf of itself and any of its Affiliates that are Secured Parties, irrevocably authorizes the Collateral Agent, at its option and in its discretion, (i) to subordinate any Lien on any assets granted to or held by the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.02(e) or Section 6.02(f), (ii) in the event that the Borrower shall have advised the Collateral Agent that, notwithstanding the use by the Borrower of commercially reasonable efforts to obtain the consent of such holder (but without the requirement to pay any sums to obtain such consent) to permit the Collateral Agent to retain its liens (on a subordinated basis as contemplated by clause (i) above), the holder of such other Indebtedness requires, as a condition to the extension of such credit, that the Liens on such assets granted to or held by the Collateral Agent under any Loan Document be released, to release the Collateral Agent's Liens on such assets or (iii) include holders

of Other First Liens or (to the extent necessary or advisable under applicable local law) Junior Liens in the benefit of the Collateral Documents in connection with the incurrence of any Other First Lien Debt or Indebtedness permitted to be secured by Junior Liens and to give effect to any Intercreditor Agreement associated therewith.

(e) If, in connection with any proposed amendment, waiver or consent requiring the consent of “each Lender” or “each Lender directly affected thereby,” the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but not obtained being referred to herein as a “Non-Consenting Lender”), then the Borrower may elect to replace a Non-Consenting Lender as a Lender party to this Agreement, provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Borrower and the Administrative Agent shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of clause (b) of Section 9.04, and (ii) the Borrower shall pay or cause to be paid to such Non-Consenting Lender in same day funds on the day of such replacement (1) the outstanding principal amount of its Loans and participations in LC Disbursements and all interest, fees and other amounts then accrued but unpaid to such Non-Consenting Lender by the Borrower hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.15 and 2.17, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.16 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement Lender.

(f) Notwithstanding anything to the contrary herein the Administrative Agent may, with the consent of the Borrower only, amend, modify or supplement this Agreement or any of the other Loan Documents (i) to cure any ambiguity, omission, mistake, defect or inconsistency, (ii) to integrate any Term Loan Commitments, Other Revolving Commitments, Term Loans and Other Revolving Loans in a manner consistent with Sections 2.20, 2.21 and 2.22 as may be necessary to establish such Term Loan Commitments, Other Revolving Commitment, Term Loans or Other Revolving Loans as a separate Class or tranche from the existing Term Loan Commitments (if any), revolving Commitments, Term Loans (if any) or Revolving Loans, as applicable, and, in the case of Extended Term Loans, to reduce the amortization schedule of the related existing Class of Term Loans (if any) proportionately and (iii) to integrate any Other First Lien Debt.

(g) Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be necessary to ensure that all Incremental Term Loans established pursuant to Section 2.20 will be included in an existing Class of Term Loans (if any) outstanding on such date (an “Applicable Date”), when originally made, are included in each Borrowing of outstanding Term Loans of such Class (the “Existing Class Loans”), on a pro rata basis, and/or to ensure that, immediately after giving effect to such new Term Loans (the “New Class Loans” and, together with the Existing Class Loans, the “Class Loans”), each Lender holding Class Loans will be deemed to hold its Pro Rata Share (as defined below) of each Class Loan on the Applicable Date (but without changing the amount of any such Lender’s Term Loans), and each such Lender shall be deemed to have effectuated such assignments as shall be required to ensure the foregoing. The “Pro Rata Share” of any Lender on the Applicable Date is the ratio of (1) the sum of such Lender’s Existing Class Loans immediately prior to the Applicable Date plus the amount of New Class Loans made by such Lender on the Applicable Date over (2) the aggregate principal amount of all Class Loans on the Applicable Date.

SECTION 9.03.

Expenses; Indemnity; Damage Waiver

. (a) The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses actually incurred by the Agents and their

Affiliates in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as Intralinks) of the credit facilities provided for herein, the preparation and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated); provided that, for the purposes of this clause (i), the Borrower shall only be required to pay the actual reasonable and documented fees, charges and disbursements of one primary external counsel and, if reasonably necessary, one local counsel in each relevant jurisdiction for the Agents and their Affiliates, taken as a whole, (ii) all reasonable out-of-pocket expenses incurred by the Issuing Banks in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by any Agent, any Issuing Bank or any Lender, including the reasonable fees, charges and disbursements of any counsel for any Agent, any Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with this Agreement and any other Loan Document, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit; provided that, for purposes of this clause (iii), the Borrower shall only be required to pay the fees, disbursements and other charges of one primary external counsel for the Agents, all Issuing Banks and all Lenders, taken as a whole, and, if reasonably necessary, a single local counsel for the Agents, all Issuing Banks and all Lenders, taken as a whole, in each relevant jurisdiction (which may be a single local counsel acting in multiple jurisdictions) or, solely in the case of an actual or perceived conflict of interest among the Agents, the Issuing Banks and the Lenders where the Persons affected by such conflict inform the Borrower of such conflict, one additional primary external counsel and one additional local counsel in each relevant jurisdiction to each group of similarly situated affected Persons, taken as a whole.

(b) The Borrower shall indemnify the Agents, and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all reasonably and documented losses, claims, penalties, damages, liabilities and related expenses; provided that, the Borrower shall only be required to pay the actual reasonable and documented out-of-pocket fees, charges and disbursements of one primary external counsel for all Indemnitees (and, if reasonably necessary, a single local counsel for all Indemnitees in each relevant jurisdiction (which may be a single local counsel acting in multiple jurisdictions) or, solely in the case of an actual or perceived conflict of interest between any of the Indemnitees where the Indemnitees affected by such conflict inform the Borrower of such conflict, one additional primary external counsel and one additional local counsel in each relevant jurisdiction to each group of similarly situated affected Indemnitees), incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of any Loan Document or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not such claim, litigation, investigation or proceeding is brought by the Borrower or any other Loan Party or its or their respective equity holders, Affiliates, creditors or any other third Person and whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, penalties, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from (x) the bad faith, gross negligence or willful misconduct of such Indemnitee or the bad faith, gross negligence or willful misconduct of such Indemnitee’s Controlled

Affiliates or any of its or their directors, officers, employees or principals (each a “Related Party”), (y) without limiting clause (z) below, a material breach by such Indemnitee or its Related Parties of its express obligations under this Agreement pursuant to a claim initiated by the Borrower or any other Loan Party or (z) any dispute among Indemnities or their Related Parties other than claims against the Administrative Agent, any Lead Arranger or any of the Lenders in its capacity as an agent, arranger, bookrunner, or similar capacity. This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to any Agent, any Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to such Agent and, in the case of any Revolving Lender such Issuing Bank or the Swingline Lender, as the case may be, such Lender’s Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount (it being understood that the Borrower’s failure to pay any such amount shall not relieve the Borrower of any default in the payment thereof); provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against such Agent, such Issuing Bank or the Swingline Lender in its capacity as such.

(d) To the extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee (i) for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet), or (ii) on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable not later than fifteen (15) Business Days after written demand therefor.

SECTION 9.04.

Successors and Assigns

. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of (such consent not to be unreasonably withheld, delayed or conditioned):

(A) the Borrower (provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the

Administrative Agent within ten (10) Business Days after having received notice thereof); provided, further, that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default described in paragraph (a), (b), (h), (i), or (j) of Article VII has occurred and is continuing, any other assignee;

(B) the Administrative Agent;

(C) the Issuing Banks; provided that no consent of the Issuing Banks shall be required for an assignment of all or any portion of a Term Loan; and

(D) the Swingline Lender; provided that no consent of the Swingline Lender shall be required for an assignment of all or any portion of a Term Loan.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$10,000,000 unless each of the Borrower and the Administrative Agent otherwise consent, provided that no such consent of the Borrower shall be required if any Event of Default pursuant to Section 7 subclauses (a), (b), (h), (i) or (j) has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement, provided that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of \$3,500, such fee to be paid by either the assigning Lender or the assignee Lender or shared between such Lenders; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower and its Affiliates and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws.

For the purposes of this Section 9.04(b), the terms "Approved Fund" and "Ineligible Institution" have the following

meanings:

“Approved Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Ineligible Institution” means (a) a natural person, (b) a Defaulting Lender or its Lender Parent, (c) the Borrower, any of its Subsidiaries or any of its Affiliates, or (d) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent, the Issuing Banks and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, any Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee’s completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.05(c), 2.06(d) or (e), 2.07(b), 2.18(e) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) Any Lender may, without the consent of the Borrower, the Administrative Agent, the Issuing Banks or the Swingline Lender, sell participations to one or more banks or other entities other

than an Ineligible Institution (a “Participant”), in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged; (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (C) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the requirements and limitations therein, including the requirements under Section 2.17(f) (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.18 and 2.19 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 2.15 or 2.17, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.18(d) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05.

Survival

. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement or any other Loan Document is outstanding and unpaid or any Letter of Credit is

outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

SECTION 9.06.

Counterparts; Integration; Effectiveness; Electronic Execution

. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to (i) fees payable to the Administrative Agent and the Lead Arrangers and (ii) any modifications to the Letter of Credit Commitment of any Issuing Bank constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, e-mailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act, provided that nothing herein shall require the Administrative Agent to accept electronic signatures in any form or format without its prior written consent.

SECTION 9.07.

Severability

. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08.

Right of Setoff

. If an Event of Default shall have occurred and be continuing, each Secured Party is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held and other obligations at any time owing by such Secured Party to or for the credit or the account of the Borrower or any Subsidiary Guarantor against any of and all of the Secured Obligations held by such Secured Party, irrespective of whether or not such Secured Party shall have made any demand under the Loan Documents and although such obligations may be unmatured; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so setoff shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.23 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Secured Party under

this Section are in addition to other rights and remedies (including other rights of setoff) which such Secured Party may have.

SECTION 9.09.

Governing Law; Jurisdiction; Consent to Service of Process

. (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) Each of the parties to this Agreement hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in the Borough of Manhattan, and of the United States District Court for the Southern District of New York sitting in the Borough of Manhattan, and any appellate court from any thereof, in any action or proceeding arising out of or relating to any Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(c) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10.

WAIVER OF JURY TRIAL

. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11.

Headings

. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12.

Confidentiality

. Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents,

including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and who are subject to customary confidentiality obligations of professional practice or who agree to be bound by the terms of this paragraph (or language substantially similar to this paragraph) (with such Credit Party being, to the extent within its control, responsible for such Person's compliance with this paragraph)), (b) to the extent requested by any Governmental Authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (1) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (2) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) on a confidential basis to (1) any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facility provided for herein or (2) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facility provided for herein, (h) with the prior written consent of the Borrower or (i) to the extent such Information (1) becomes publicly available other than as a result of a breach of this Section or (2) becomes available to the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis from a source other than the Borrower and the Subsidiaries. For the purposes of this Section, "Information" means all information received from the Borrower relating to the Borrower, the Subsidiaries or its or their business, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN THE IMMEDIATELY PRECEDING PARAGRAPH FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER, THE OTHER LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

SECTION 9.13.

USA PATRIOT Act

. Each Lender that is subject to the requirements of the Patriot Act hereby notifies each Loan Party that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the Patriot Act.

SECTION 9.14.

Appointment for Perfection

. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens, for the benefit of the Collateral Agent and the Secured Parties, in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession or control. Should any Lender (other than the Collateral Agent) obtain possession or control of any such Collateral, such Lender shall notify the Collateral Agent thereof, and, promptly upon the Collateral Agent's request therefor shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Collateral Agent's instructions.

SECTION 9.15.

Releases of Subsidiary Guarantors

.
(a) A Subsidiary Guarantor shall automatically be released from its obligations under the Subsidiary Guaranty upon the consummation of any transaction permitted by this Agreement as a result of which such Subsidiary Guarantor ceases to be a Restricted Subsidiary; provided that, if so required by this Agreement, the Required Lenders shall have consented to such transaction and the terms of such consent shall not have provided otherwise. In connection with any termination or release pursuant to this Section, the applicable Agent shall (and is hereby irrevocably authorized by each Lender to) execute and deliver to any Loan Party, at such Loan Party's expense, all documents that such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by any Agent.

(b) Further, the Administrative Agent shall (and is hereby irrevocably authorized by each Lender to), upon the request of the Borrower, release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty if such Subsidiary Guarantor is no longer a Material Restricted Domestic Subsidiary; provided that, notwithstanding the foregoing or anything else contained in the Loan Documents, if any Subsidiary Guarantor ceases to be a Material Restricted Domestic Subsidiary, such Subsidiary Guarantor shall automatically cease to be a Subsidiary Guarantor.

(c) At such time as the principal and interest on the Loans, all LC Disbursements, the fees, expenses and other amounts payable under the Loan Documents and the other Secured Obligations (other than Banking Services Obligations, Swap Obligations, and Unliquidated Obligations) shall have been paid in full in cash, the Commitments shall have been terminated and no Letters of Credit shall be outstanding, the Subsidiary Guaranty and all obligations (other than those expressly stated to survive such termination) of each Subsidiary Guarantor thereunder shall automatically terminate, all without delivery of any instrument or performance of any act by any Person.

SECTION 9.16.

Interest Rate Limitation

. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall

be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.17.

No Advisory or Fiduciary Responsibility

. The Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that no Credit Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Credit Party is acting solely in the capacity of an arm's length contractual counterparty to the Borrower with respect to the Loan Documents and the transaction contemplated therein and not as a financial advisor or a fiduciary to, or an agent of, the Borrower or any other person. The Borrower agrees that it will not assert any claim against any Credit Party based on an alleged breach of fiduciary duty by such Credit Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Borrower acknowledges and agrees that no Credit Party is advising the Borrower as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction. The Borrower shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Credit Parties shall have no responsibility or liability to the Borrower with respect thereto.

The Borrower further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party, together with its Affiliates, is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Credit Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Borrower and other companies with which the Borrower may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Credit Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

In addition, the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Borrower may have conflicting interests regarding the transactions described herein and otherwise. No Credit Party will use confidential information obtained from the Borrower by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Borrower in connection with the performance by such Credit Party of services for other companies, and no Credit Party will furnish any such information to other companies. The Borrower also acknowledges that no Credit Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to the Borrower, confidential information obtained from other companies.

SECTION 9.18.

Acknowledgment and Consent to Bail-In of EEA Financial

Institutions

. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document may be subject to the Write-Down and Conversion Powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any EEA Resolution Authority.

SECTION 9.19.

Certain ERISA Matters

. (a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, and the conditions for exemptive relief thereunder are and will continue to be satisfied in connection therewith,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person

became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that:

(i) none of the Administrative Agent, or any Lead Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto),

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21, as amended from time to time) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least \$50 million, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E),

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the obligations),

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Letters of Credit, the Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder, and

(v) no fee or other compensation is being paid directly to the Administrative Agent, or any Lead Arranger or any their respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Letters of Credit, the Commitments or this Agreement.

(c) The Administrative Agent, and each Lead Arranger hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Letters of Credit, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans, the Letters of Credit or the Commitments for an amount less than the amount being paid for an interest in the Loans, the Letters of Credit or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

ARTICLE X

Borrower Guarantee

In order to induce the Lenders to extend credit to the Borrower hereunder and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Borrower hereby absolutely and irrevocably and unconditionally guarantees, as a primary obligor and not merely as a surety, the payment when and as due of the Specified Ancillary Obligations of the Restricted Subsidiaries. The Borrower further agrees that the due and punctual payment of such Specified Ancillary Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee hereunder notwithstanding any such extension or renewal of any such Specified Ancillary Obligation.

The Borrower waives presentment to, demand of payment from and protest to any Restricted Subsidiary of any of the Specified Ancillary Obligations, and also waives notice of acceptance of its obligations and notice of protest for nonpayment. The obligations of the Borrower hereunder shall not be affected by (a) the failure of any applicable Lender (or any of its Affiliates) to assert any claim or demand or to enforce any right or remedy against any Restricted Subsidiary under the provisions of any Banking Services Agreement, any Swap Agreement or otherwise; (b) any extension or renewal of any of the Specified Ancillary Obligations; (c) any rescission, waiver, amendment or modification of, or release from, any of the terms or provisions of this Agreement, any other Loan Document, any Banking Services Agreement, any Swap Agreement or other agreement; (d) any default, failure or delay, willful or otherwise, in the performance of any of the Specified Ancillary Obligations; (e) the failure of any applicable Lender (or any of its Affiliates) to take any steps to perfect and maintain any security interest in, or to preserve any rights to, any security or collateral for the Specified Ancillary Obligations, if any; (f) any change in the corporate, partnership or other existence, structure or ownership of any Restricted Subsidiary or any other guarantor of any of the Specified Ancillary Obligations; (g) the enforceability or validity of the Specified Ancillary Obligations or any part thereof or the genuineness, enforceability or validity of any agreement relating thereto or with respect to any collateral securing the Specified Ancillary Obligations or any part thereof, or any other invalidity or unenforceability relating to or against any Restricted Subsidiary or any other guarantor of any of the Specified Ancillary Obligations, for any reason related to this Agreement, any other Loan Document, any Banking Services Agreement, any Swap Agreement, or any provision of applicable law, decree, order or regulation of any jurisdiction purporting to prohibit the payment by such Restricted Subsidiary or any other guarantor of the Specified Ancillary Obligations, of any of the Specified Ancillary Obligations or otherwise affecting any term of any of the Specified Ancillary Obligations; or (h) any other act, omission or delay to do any other act which may or might in any manner or to any extent vary the risk of the Borrower or otherwise operate as a discharge of a guarantor as a matter of law or equity or which would impair or eliminate any right of the Borrower to subrogation.

The Borrower further agrees that its agreement hereunder constitutes a guarantee of payment when due (whether or not any bankruptcy or similar proceeding shall have stayed the accrual or collection of any of the Specified Ancillary Obligations or operated as a discharge thereof) and not merely of collection, and waives any right to require that any resort be had by any applicable Lender (or any of its Affiliates) to any balance of any deposit account or credit on the books of the Administrative Agent, any Issuing Bank or any Lender in favor of any Restricted Subsidiary or any other Person.

The obligations of the Borrower hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, and shall not be subject to any defense or set-off, counterclaim, recoupment or termination whatsoever, by reason of the invalidity, illegality or unenforceability of any of the Specified Ancillary Obligations, any impossibility in the performance of any of the Specified Ancillary Obligations or otherwise.

The Borrower further agrees that its obligations hereunder shall constitute a continuing and irrevocable guarantee of all Specified Ancillary Obligations now or hereafter existing and shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any Specified Ancillary Obligation (including a payment effected through exercise of a right of setoff) is rescinded, or is or must otherwise be restored or returned by any applicable Lender (or any of its Affiliates) upon the insolvency, bankruptcy or reorganization of any Restricted Subsidiary or otherwise (including pursuant to any settlement entered into by a holder of Specified Ancillary Obligations in its discretion).

In furtherance of the foregoing and not in limitation of any other right which any applicable Lender (or any of its Affiliates) may have at law or in equity against the Borrower by virtue hereof, upon the failure of any Restricted Subsidiary to pay any Specified Ancillary Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment or otherwise, the Borrower hereby promises to and will, upon receipt of written demand by any applicable Lender (or any of its Affiliates), forthwith pay, or cause to be paid, to such applicable Lender (or any of its Affiliates) in cash an amount equal to the unpaid principal amount of such Specified Ancillary Obligations then due, together with accrued and unpaid interest thereon. The Borrower further agrees that if payment in respect of any Specified Ancillary Obligation shall be due in a currency other than Dollars and/or at a place of payment other than New York or Chicago and if, by reason of any Change in Law, disruption of currency or foreign exchange markets, war or civil disturbance or other event, payment of such Specified Ancillary Obligation in such currency or at such place of payment shall be impossible or, in the reasonable judgment of any applicable Lender (or any of its Affiliates), disadvantageous to such applicable Lender (or any of its Affiliates) in any material respect, then, at the election of such applicable Lender, the Borrower shall make payment of such Specified Ancillary Obligation in Dollars and/or in New York or Chicago and, as a separate and independent obligation, shall indemnify such applicable Lender (and any of its Affiliates) against any losses or reasonable out-of-pocket expenses that it shall sustain as a result of such alternative payment.

Upon payment by the Borrower of any sums as provided above, all rights of the Borrower against any Restricted Subsidiary arising as a result thereof by way of right of subrogation or otherwise shall in all respects be subordinated and junior in right of payment to the prior indefeasible payment in full in cash of all the Specified Ancillary Obligations owed by such Restricted Subsidiary to the applicable Lender (or its applicable Affiliates).

Nothing shall discharge or satisfy the liability of the Borrower hereunder except the full performance and payment in cash of the Secured Obligations (other than Unliquidated Obligations).

The Borrower hereby absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each Subsidiary Guarantor to honor all of its obligations under the Subsidiary Guaranty in respect of Specified Swap Obligations (provided, however, that the Borrower shall only be liable under this paragraph for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this paragraph or otherwise under this Article X voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The Borrower intends that this paragraph constitute, and this paragraph shall be deemed to constitute, a “keepwell, support, or other agreement” for the benefit of each Subsidiary Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective authorized officers as of the day and year first above written.

MYRIAD GENETICS, INC.,
as the Borrower

By

Name:

Title:

Signature Page to Credit Agreement
Myriad Genetics, Inc.

JPMORGAN CHASE BANK, N.A., individually as a Lender, as the
Swingline Lender, as an Issuing Bank and as Administrative Agent

By

Name:

Title:

JPMORGAN CHASE BANK, N.A., as Collateral Agent

By

Name:

Title:

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Syndication
Agent and individually as a Lender

By

Name:

Title:

[OTHER LENDERS TO COME]

By

Name:

Title:

Signature Page to Credit Agreement
Myriad Genetics, Inc.

SCHEDULE 2.01

COMMITMENTS

<u>LENDER</u>	<u>COMMITMENT</u>
JPMORGAN CHASE BANK, N.A.	\$62,500,000
WELLS FARGO BANK, NATIONAL ASSOCIATION	\$62,500,000
U.S. BANK NATIONAL ASSOCIATION	\$40,000,000
PNC BANK, NATIONAL ASSOCIATION	\$40,000,000
FIFTH THIRD BANK	\$40,000,000
ZIONS FIRST NATIONAL BANK, a division of ZB, N.A.	\$40,000,000
SILICON VALLEY BANK	\$40,000,000
BANK OF AMERICA, N.A.	\$25,000,000
AGGREGATE REVOLVING COMMITMENT:	\$350,000,000

SCHEDULE 2.02

LETTER OF CREDIT COMMITMENTS

ISSUING BANK

LETTER OF CREDIT COMMITMENT

JPMORGAN CHASE BANK, N.A.

\$10,000,000

SCHEDULE 5.11

POST-CLOSING OBLIGATIONS

1. The Borrower shall (a) cause Myriad Genetics Laboratories, Inc. to re-issue its certificated Equity Interests to reflect the current legal name of Myriad Genetics Laboratories, Inc. and (b) deliver such re-issued stock certificate to the Collateral Agent, together with a stock power executed in blank and in form and substance reasonably satisfactory to the Collateral Agent.
 2. The Borrower shall, and shall cause its Subsidiaries to, record with the United States Patent and Trademark Office such filings as are necessary to correct chain of title issues identified by the Collateral Agent to the Borrower and make any filings with such office related to such recordings as may be required pursuant to the terms of the Loan Documents, in each case in form and substance reasonably satisfactory to the Collateral Agent.
 3. The Borrower shall deliver to the Collateral Agent such insurance policy certificates and endorsements as required under the terms of the Loan Documents.
-

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the “Assignment and Assumption”) is dated as of the Effective Date set forth below and is entered into by and between [Insert name of Assignor] (the “Assignor”) and [Insert name of Assignee] (the “Assignee”). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement identified below (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the “Credit Agreement”), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor’s rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guarantees, and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the “Assigned Interest”). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor:
2. Assignee:
[and is an Affiliate/Approved Fund of [identify Lender]¹]
3. Borrower(s): Myriad Genetics, Inc.
4. Administrative Agent: JPMorgan Chase Bank, N.A., as the administrative agent under the Credit Agreement
5. Collateral Agent: JPMorgan Chase Bank, N.A., as the collateral agent under the Credit Agreement
6. Credit Agreement: The Credit Agreement dated as of December 23, 2016 among Myriad Genetics, Inc., the Lenders parties thereto, JPMorgan Chase Bank, N.A., as Administrative Agent and Collateral Agent, and the other agents parties thereto

¹ Select as applicable.

Assigned Interest:

7.

Class of Commitment / Loans Assigned	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/ Loans Assigned	Percentage Assigned of Commitment/Loans ¹
	\$	\$	%
	\$	\$	%
	\$	\$	%

Effective Date: _____, 20__ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Title:

Consented to and Accepted:

JPMORGAN CHASE BANK, N.A., Administrative Agent[, an
Issuing Bank and Swingline Lender]²

By: _____
Title:

¹ Set forth, so at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.
² To be added only if required by the terms of the Credit Agreement.

[Consented to:]¹

MYRIAD GENETICS, INC.

By:

Title:

¹ To be added only if the consent of the Borrower is required by the terms of the Credit Agreement.

STANDARD TERMS AND CONDITIONS FOR

ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Acceptance and adoption of the terms of this Assignment and Assumption by the Assignee and the Assignor by Electronic Signature or delivery of an executed counterpart of a signature page of this Assignment and Assumption by any Approved Electronic Platform shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of New York.

EXHIBIT B

FORM OF SOLVENCY CERTIFICATE

[_____]

This Solvency Certificate is being executed and delivered pursuant to Section 4.01(e) of the Credit Agreement (the “Credit Agreement”) dated as of December 23, 2016 among Myriad Genetics, Inc. (the “Company”), the lenders party thereto from time to time and JPMorgan Chase Bank, N.A., as the administrative agent and collateral agent; the terms defined therein being used herein as therein defined.

I, [_____], the chief financial officer of the Company, solely in such capacity and not in an individual capacity, hereby certify that I am the chief financial officer of the Company and that I am generally familiar with the businesses and assets of the Company and its Restricted Subsidiaries (taken as a whole), I have made such other investigations and inquiries as I have deemed appropriate and I am duly authorized to execute this Solvency Certificate on behalf of the Company pursuant to the Credit Agreement.

I further certify, solely in my capacity as chief financial officer of the Company, and not in my individual capacity, as of the date hereof and after giving effect to the Transactions and the incurrence of the indebtedness and obligations being incurred in connection with the Credit Agreement and the Transactions on the date hereof, that: (i) the fair value of the assets of the Company and its Restricted Subsidiaries, taken as a whole, at a fair valuation, will exceed their debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of the Company and its Restricted Subsidiaries, taken as a whole, will be greater than the amount that will be required to pay the probable liability of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Company and its Restricted Subsidiaries, taken as a whole, will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) the Company and its Restricted Subsidiaries, taken as a whole, will not have unreasonably small capital with which to conduct the business in which they are engaged as such business is now conducted and is proposed to be conducted after the Effective Date.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, I have executed this Solvency Certificate on the date first written above.

By:

Name:[_____]

Title:Chief Financial Officer

EXHIBIT C-1

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of December 23, 2016 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "Credit Agreement"), among Myriad Genetics, Inc., a Delaware corporation (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent") and Collateral Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name:

Title:

Date: _____, 20[]

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of December 23, 2016 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the "Credit Agreement"), among Myriad Genetics, Inc., a Delaware corporation (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent") and Collateral Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or IRS Form W-8BEN-E. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name:

Title:

Date: _____, 20[]

EXHIBIT C-3

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of December 23, 2016 (as amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the “Credit Agreement”), among Myriad Genetics, Inc., a Delaware corporation (the “Borrower”), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the “Administrative Agent”) and Collateral Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner’s/member’s beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: _____, 20[__]

FORM OF

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of December 23, 2016 (as amended, restated, amended and restated supplemented and/or otherwise modified from time to time, the "Credit Agreement"), among Myriad Genetics, Inc, a Delaware corporation (the "Borrower"), the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent") and Collateral Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to the Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or IRS Form W-8BEN-E or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or IRS Form W-8BEN-E from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement.

[NAME OF LENDER]

By: _____

Name:

Title:

Date: _____, 20[___]

FORM OF BORROWING REQUEST

JPMorgan Chase Bank, N.A.,
as Administrative Agent
for the Lenders referred to below

10 South Dearborn, Floor L2
Chicago, Illinois 60603
Attention: Loan and Agency Services
Facsimile: (888) 292-9533

With a copy to:

712 Main Street, Floor 8 North
Houston, Texas 77002
Attention: Laura S. Woodward
Facsimile: 713-216-671

Re: MYRIAD GENETICS, INC.

[Date]

Ladies and Gentlemen:

Reference is hereby made to the Credit Agreement dated as of December 23, 2016 (as the same may be amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the “Credit Agreement”), among Myriad Genetics, Inc., a Delaware corporation (the “Borrower”), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the “Administrative Agent”) and collateral agent. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The Borrower hereby gives you notice pursuant to Section 2.03 of the Credit Agreement that it requests a Borrowing under the Credit Agreement, and in connection therewith the Borrower specifies the following information with respect to the Borrowing requested hereby:

1. Aggregate principal amount of Borrowing:¹ _____
2. Date of Borrowing (which shall be a Business Day): _____
3. Class and Type of Borrowing (ABR or Eurodollar): _____
4. Interest Period and the last day thereof (if a Eurodollar Borrowing):² _____
5. Location and number of the Borrower’s account or any other account agreed upon by the Administrative Agent and the Borrower to which proceeds of Borrowing are to be disbursed: _____

¹ Not less than applicable amounts specified in Section 2.02(c).

² Which must comply with the definition of “Interest Period” and end not later than the Maturity Date.

[Signature Page Follows]

The undersigned hereby represents and warrants that the conditions to lending specified in Section [4.01] [4.02] of the Credit Agreement are satisfied as of the date [of the proposed Borrowing on the Effective Date] [hereof].

Very truly yours,

MYRIAD GENETICS, INC.,
as the Borrower

By:
Name:
Title:

FORM OF INTEREST ELECTION REQUEST

JPMorgan Chase Bank, N.A.,
as Administrative Agent
for the Lenders referred to below

10 South Dearborn, Floor L2
Chicago, Illinois 60603
Attention: Loan and Agency Services
Facsimile: (888) 292-9533

With a copy to:

712 Main Street, Floor 8 North
Houston, Texas 77002
Attention: Laura S. Woodward
Facsimile: 713-216-671

Re: Myriad Genetics, Inc.

[Date]

Ladies and Gentlemen:

Reference is hereby made to the Credit Agreement dated as of December 23, 2016 (as the same may be amended, restated, amended and restated, supplemented and/or otherwise modified from time to time, the “Credit Agreement”), among Myriad Genetics, Inc., a California corporation (the “Borrower”), the Lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the “Administrative Agent”) and collateral agent. Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The Borrower hereby gives you notice pursuant to Section 2.08 of the Credit Agreement that it requests to [convert][continue] an existing Borrowing under the Credit Agreement, and in connection therewith the Borrower specifies the following information with respect to the [conversion][continuation] requested hereby:

1. List date, Type, principal amount and Interest Period (if applicable) of existing Borrowing: _____
2. Aggregate principal amount of resulting Borrowing: _____
3. Effective date of interest election (which shall be a Business Day): _____
4. Type of Borrowing (ABR or Eurodollar): _____
5. Interest Period and the last day thereof (if a Eurodollar Borrowing):¹ _____

[Signature Page Follows]

¹ Which must comply with the definition of “Interest Period” and end not later than the Maturity Date.

Very truly yours,

MYRIAD GENETICS, INC.,
as Borrower

By:
Name:
Title:

AGREEMENT AND PLAN OF MERGER

by and among

MYRIAD GENETICS, INC.;

CINNAMON MERGER SUB, INC.;

COUNSYL, INC.;

and

FORTIS ADVISORS LLC, as the Securityholders' Representative

Dated as of May 25, 2018

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<u>Exhibit A</u>	-Certain Definitions
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AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (as may be amended from time to time, this “**Agreement**”) is made and entered into as of May 25, 2018, by and among: MYRIAD GENETICS, INC., a Delaware Corporation (“**Parent**”); CINNAMON MERGER SUB, INC., a Delaware corporation and a wholly owned subsidiary of Parent (“**Merger Sub**”); COUNSYL, INC., a Delaware corporation (the “**Company**”); and FORTIS ADVISORS LLC, as the Securityholders’ Representative. Certain capitalized terms used in this Agreement are defined in Exhibit A.

RECITALS

A. Parent, Merger Sub and the Company intend to effect a merger of Merger Sub into the Company (the “**Merger**”) in accordance with this Agreement and the Delaware General Corporation Law, as amended (the “**DGCL**”). Upon consummation of the Merger, Merger Sub will cease to exist as a separate corporate entity, and the Company will become a wholly owned subsidiary of Parent.

B. The respective boards of directors of Parent, Merger Sub and the Company have approved this Agreement and approved the Merger and the other transactions contemplated by this Agreement.

AGREEMENT

The parties to this Agreement, intending to be legally bound, agree as follows:

SECTION 1. DESCRIPTION OF TRANSACTION

1.1 Merger of Merger Sub into the Company

Upon the terms and subject to the conditions set forth in this Agreement, and in accordance with the DGCL, at the Effective Time, Merger Sub shall be merged with and into the Company, and the separate existence of Merger Sub shall cease. The Company will continue as the surviving corporation in the Merger (the “**Surviving Corporation**”).

1.2 Effect of the Merger

The Merger shall have the effects set forth in this Agreement and in the applicable provisions of the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time, except as otherwise agreed pursuant to the terms of this Agreement, all of the property, rights, privileges, powers and franchises of the Company and Merger Sub shall vest in the Surviving Corporation, and all debts, liabilities and duties of the Company and Merger Sub shall become the debts, liabilities and duties of the Surviving Corporation.

1.3 Closing; Effective Time

The consummation of the transactions contemplated by this Agreement (the “**Closing**”) shall take place at the Company’s offices, at 7:00 a.m. San Francisco time on a date to be designated by the Company (the “**Closing Date**”), which shall be no later than the second Business Day after the satisfaction or waiver of the last to be satisfied or waived of the

conditions set forth in Section 6 (*Conditions Precedent to Obligations of Parent and Merger Sub*) and Section 7 (*Conditions Precedent to Obligation of the Company*) (other than those conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions); *provided* that if such Business Day would otherwise occur (a) on or before July 31, 2018, then the Closing shall be delayed until July 31, 2018, and (b) after July 31, 2018 and on or between the 20th day and the last day of a month, then the Closing shall be delayed until the last Business Day of such month, in each case, so long as, as of the date the Closing would have otherwise occurred but for the foregoing *proviso* (such date, the “**Satisfaction Date**”) (i) each party has delivered to the other party the certificates required to be delivered by it pursuant to Section 6.9 (*Conditions Precedent to Obligations of Parent and Merger Sub*) and Section 7.6 (*Conditions Precedent to Obligations of the Company*), as applicable, and (ii) each party irrevocably confirms in writing to the other party that the conditions in Section 6.1, 6.2 and 6.10 (*Conditions Precedent to Obligations of Parent and Merger Sub*) (in the case of Parent) and Section 7.1 and 7.2 (*Conditions Precedent to Obligations of the Company*) (in the case of the Company) have been satisfied or are waived, that but for the passage of time until such date, there is no other condition that is not then satisfied or waived nor any other bases then available to rely on to refuse to close on such date and that it is ready, willing and able to close on such date subject to the continued satisfaction of the remaining conditions in Section 6 (*Conditions Precedent to Obligations of Parent and Merger Sub*) (in the case of Parent) or Section 7 (*Conditions Precedent to Obligations of the Company*) (in the case of the Company), as the case may be; *provided* that between the Satisfaction Date and the Closing, the Company shall not have materially breached its covenants and agreements set forth in Section 4.2 (*Conduct of the Business of the Company*). Subject to the provisions of this Agreement, a certificate of merger satisfying the applicable requirements of the DGCL (the “**Certificate of Merger**”) shall be duly executed by the Company and, concurrently with or as soon as practicable following the Closing (but no later than the Closing Date and no earlier than the confirmation of receipt of the Payment Amount by the Payment Agent to Parent and the Company), delivered to and filed with the Secretary of State of the State of Delaware in accordance with the DGCL. The Merger shall become effective upon the date and time of the filing of such Certificate of Merger with the Secretary of State of the State of Delaware, or at such later time as may be mutually agreed in writing by the Company and Parent and specified in the Certificate of Merger (the “**Effective Time**”).

1.4 Certificate of Incorporation and Bylaws; Directors and Officers

(a) The certificate of incorporation of the Surviving Corporation shall be amended and restated as of the Effective Time to conform to the certificate of incorporation of Merger Sub as in effect immediately prior to the Effective Time until amended in accordance with the DGCL, except that the certificate of incorporation shall be amended to change the name of the Surviving Corporation to “Counsyl, Inc.”

(b) The bylaws of the Surviving Corporation shall be amended and restated immediately as of the Effective Time to conform to the bylaws of Merger Sub as in effect immediately prior to the Effective Time until amended in accordance with the DGCL.

(c) The directors and officers of the Surviving Corporation as of the Effective Time shall be the respective individuals who are directors and officers of Merger Sub immediately prior to the Effective Time.

1.5 Conversion of Shares

At the Effective Time, by virtue of the Merger and without any further action on the part of Parent, Merger Sub, the Company or any stockholder of the Company:

(a) any shares of Company Capital Stock then held by the Company (or held in the Company's treasury) shall be cancelled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor;

(b) any shares of Company Capital Stock then held by Parent, Merger Sub or any other Subsidiary of Parent shall be cancelled and retired and shall cease to exist, and no consideration shall be delivered in exchange therefor;

(c) except as provided in subsections (a) and (b) of this Section 1.5 (Conversion of Shares) and subject to Sections 1.11 (Exchange/Payment) and 1.14 (Appraisal and Dissenters' Rights), each share of Series D Preferred Stock issued and outstanding immediately prior to the Effective Time (except for Dissenting Shares) shall cease to be an existing and issued share of Series D Preferred Stock, and shall be converted, by virtue of the Merger and without any action on the part of the holder thereof, into the right to receive, without interest, an amount equal to \$10.84 payable, subject to an Election pursuant to Section 1.7 (Parent Stock Elections), in cash and shares of Parent Stock (valued at the Parent Stock Price);

(d) except as provided in subsections (a) and (b) of this Section 1.5 (Conversion of Shares) and subject to Sections 1.11 (Exchange/Payment) and 1.14 (Appraisal and Dissenters' Rights), each share of Series C Preferred Stock issued and outstanding immediately prior to the Effective Time (except for Dissenting Shares) shall cease to be an existing and issued share of Series C Preferred Stock, and shall be converted, by virtue of the Merger and without any action on the part of the holder thereof, into the right to receive, without interest, an amount equal to \$8.84 payable, subject to an Election pursuant to Section 1.7 (Parent Stock Elections), in cash and shares of Parent Stock (valued at the Parent Stock Price);

(e) except as provided in subsections (a) and (b) of this Section 1.5 (Conversion of Shares) and subject to Sections 1.11 (Exchange/Payment) and 1.14 (Appraisal and Dissenters' Rights), each share of Series B Preferred Stock issued and outstanding immediately prior to the Effective Time (except for Dissenting Shares) shall cease to be an existing and issued share of Series B Preferred Stock, and shall be converted, by virtue of the Merger and without any action on the part of the holder thereof, into the right to receive, without interest, an amount equal to \$5.0518 payable, subject to an Election pursuant to Section 1.7 (Parent Stock Elections), in cash and shares of Parent Stock (valued at the Parent Stock Price).

(f) except as provided in subsections (a) and (b) of this Section 1.5 (Conversion of Shares) and subject to Sections 1.11 (Exchange/Payment) and 1.14 (Appraisal and Dissenters' Rights), each share of Series A Preferred Stock issued and outstanding immediately prior to the Effective Time (except for Dissenting Shares) shall cease to be an

existing and issued share of Series A Preferred Stock, and shall be converted, by virtue of the Merger and without any action on the part of the holder thereof, into the right to receive, without interest, an amount equal to \$4.28 payable, subject to an Election pursuant to Section 1.7 (*Parent Stock Elections*), in cash and shares of Parent Stock (valued at the Parent Stock Price).;

(g) except as provided in subsections (a) and (b) of this Section 1.5 (*Conversion of Shares*) and subject to Sections 1.11 (*Exchange/Payment*), 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), 1.13 (*Post-Closing Distributions*), 1.14 (*Appraisal and Dissenters' Rights*) and 1.15 (*Securityholders' Representative*), each share of Company Common Stock issued and outstanding immediately prior to the Effective Time (except for Dissenting Shares) shall cease to be an existing and issued share of Company Common Stock, and shall be converted, by virtue of the Merger and without any action on the part of the holder thereof, into the right to receive, without interest, an amount payable, subject to an Election pursuant to Section 1.7 (*Parent Stock Elections*), in cash and shares of Parent Stock (valued at the Parent Stock Price) equal to the Per Share Merger Consideration; and

(h) each share of the common stock, \$0.0001 par value per share, of Merger Sub issued and outstanding immediately prior to the Effective Time shall be converted into one share of validly issued, fully paid and nonassessable common stock of the Surviving Corporation, such that immediately following the Effective Time, Parent shall become the sole and exclusive owner of all of the issued and outstanding capital stock of the Company as the Surviving Corporation.

1.6 Treatment of Company Options, Company RSUs and Company Warrants.

(a) (I) Subject to Sections 1.11 (*Exchange/Payment*), 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), 1.13 (*Post-Closing Distributions*) and 1.15 (*Securityholders' Representative*), contingent on and effective immediately prior to the Effective Time, each In-the-Money-Option that is outstanding and unexercised immediately prior to the Effective Time, whether under the Equity Incentive Plans or otherwise, whether or not vested or exercisable, shall become fully vested and exercisable immediately prior to the Effective Time and to the extent not exercised prior to the Effective Time, shall be cancelled at the Effective Time and, in consideration of such cancellation, the holder thereof shall be entitled to receive, without interest, a payment, subject to an Election pursuant to Section 1.7 (*Parent Stock Elections*), in cash and shares of Parent Stock (valued at the Parent Stock Price) in an amount equal to (i) the aggregate number of shares of Company Common Stock issuable upon the exercise of such In-the-Money-Option *multiplied* by (ii) the amount by which the Per Share Merger Consideration exceeds the exercise price per share of such In-the-Money-Option (the “**Closing Options Payout Amount**”). (II) With respect to each Out-of-the-Money-Option, contingent on and effective immediately prior to the Effective Time, each Out-of-the-Money-Option that is outstanding and unexercised immediately prior to the Effective Time, whether under the Equity Incentive Plans or otherwise, whether or not vested or exercisable, shall be cancelled at the Effective Time without the payment of any consideration to the holder of such Out-of-the-Money-Option, and the holder of such Out-of-the-Money-Option shall have no further rights with respect thereto.

The Company agrees that the Board of Directors of the Company shall adopt such resolutions or take such other actions (including obtaining any required consents) prior to the Effective Time as may be required to effect the transactions described in Section 1.6(a) (*Treatment of Company Options, Company RSUs and Company Warrants*).

(b) Subject to Sections 1.11 (*Exchange/Payment*), 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), 1.13 (*Post-Closing Distributions*) and 1.15 (*Securityholders' Representative*), contingent on and effective immediately prior to the Effective Time, each Company RSU that is outstanding immediately prior to the Effective Time, whether under the Equity Incentive Plans or otherwise, whether or not vested, shall become fully vested immediately prior to the Effective Time and shall be cancelled at the Effective Time and, in consideration of such cancellation, the holder thereof shall be entitled to receive, without interest, a payment, subject to an Election pursuant to Section 1.7 (*Parent Stock Elections*), in cash and shares of Parent Stock (valued at the Parent Stock Price) in an amount equal to (i) the aggregate number of shares of Company Common Stock issuable upon the settlement of such Company RSU, *multiplied* by (ii) the Per Share Merger Consideration (the ***"Closing RSUs Payout Amount"***).

The Company agrees that the Board of Directors of the Company shall adopt such resolutions or take such other actions (including obtaining any required consents) prior to the Effective Time as may be required to effect the transactions described in Section 1.6(b) (*Treatment of Company Options, Company RSUs and Company Warrants*).

(c) Subject to Sections 1.11 (*Exchange/Payment*), 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), 1.13 (*Post-Closing Distributions*) and 1.15 (*Securityholders' Representative*), contingent on and effective immediately prior to the Effective Time, each Company Warrant that is outstanding immediately prior to the Effective Time (other than the Excluded Company Warrants), shall be cancelled at the Effective Time and, in consideration of such cancellation, the holder thereof shall be entitled to receive, without interest, a cash payment in an amount equal to (i) in the case of each Company Series B Preferred Stock Warrant, (A) (1) the aggregate number of shares of Series B Preferred Stock issuable upon exercise of such Company Series B Preferred Stock Warrant *multiplied* by (2) \$5.0518, *minus* (A) (1) the exercise price payable in respect of a share of Series B Preferred Stock issuable under such Company Series B Preferred Stock Warrant, *multiplied* by (2) the number of shares of Series B Preferred Stock issuable upon the exercise of such Company Series B Preferred Stock Warrant and (ii) in the case of each Company Put Warrant, (A) the aggregate number of shares of Company Common Stock issuable upon the exercise of such Company Put Warrant *multiplied* by (B) the difference of (1) the Per Share Merger Consideration *minus* (2) the exercise price payable in respect of a share of Company Common Stock issuable under such Company Put Warrant. Notwithstanding the foregoing, in no event shall Parent be required to issue more than the number of shares of Parent Stock referenced in Section 1.7(c) in connection with the transactions contemplated hereby and the exercise of Company Warrants.

Prior to the Effective Time, the Company shall satisfy all notification requirements under the terms of the outstanding Company Warrants, including with respect to the Put Option (as defined in the Company Put Warrant), or obtain waivers in lieu of satisfaction of such

notification requirements, and all Company Warrants shall be treated in accordance with their terms.

1.7 Parent Stock Elections.

(a) Each Company Stockholder, each holder of In-the-Money Options and each holder of Company RSUs shall have the right, subject to the limitations set forth in this Section 1.7, to submit an election in accordance with the following procedures:

(i) Each Company Stockholder, holder of In-the-Money Options or holder of Company RSUs may specify in a request made in accordance with this Section 1.7(a) (herein called an “**Election**”) whether such Company Stockholder, holder of In-the-Money Options or holder of Company RSUs desires to receive payment of his, her or its respective portion of the Payment Amount in the form of (A) 100% shares of Parent Stock, (B) 100% cash or (C) a percentage specified by the Company Stockholder, holder of In-the-Money Options or holder of Company RSUs in shares of Parent Stock valued at the Parent Stock Price and the balance in cash.

(ii) The Letter of Transmittal and the Election Form shall contain provisions for the Company Stockholder, holder of In-the-Money Options or holder of Company RSUs to make an Election, and the Company or the Payment Agent shall provide Letters of Transmittal or the Election Form, as applicable, to the Company Stockholders, holders of In-the-Money Options and holders of Company RSUs promptly after the date hereof so as to permit such Company Stockholders, holders of In-the-Money Options and holders of Company RSUs to exercise their right to make an Election on or before the twentieth (20th) day after the date hereof (the “**Election Deadline**”). In no event shall the Letter of Transmittal and the Election Form be made initially available less than ten (10) days prior to the Election Deadline.

(iii) Any Election shall have been made properly only if Parent shall have received, by 5:00 p.m., Eastern Time, on the date of the Election Deadline, a Letter of Transmittal or an Election Form, as applicable, properly completed and signed and, if applicable, accompanied by certificates representing shares of Company Capital Stock to which such Letter of Transmittal relates. As the Company Stockholders will be instructed to return any completed Letter of Transmittal to the Payment Agent, Parent and the Company shall instruct the Payment Agent to present all Letters of Transmittal received at the Election Deadline to Parent promptly upon the occurrence of the Election Deadline. The Company shall present all Election Forms received at the Election Deadline to Parent promptly upon the occurrence of the Election Deadline.

(iv) Any Company Stockholder, holder of In-the-Money Options or holder of Company RSUs may, at any time prior to the Election Deadline, change or revoke his, her or its Election by written notice received by Payment Agent or Parent prior to the Election Deadline accompanied by a properly completed and signed revised Letter of Transmittal or an Election Form, as applicable. If Parent shall determine after reasonable consultation with the Company and Payment Agent that any Election is not properly made or no Election was made with respect to any shares of Company Capital Stock, such Company Stockholder, holder of In-

the-Money Options or holder of Company RSUs shall be deemed to have elected to receive 100% cash.

(v) If Parent or the Company terminates this Agreement in accordance with Section 9.1 (Termination), all Elections shall be revoked automatically, and Parent and the Company shall promptly instruct the Payment Agent to return all certificates representing shares of Company Capital Stock, if any, to the respective Company Stockholders.

(vi) Each holder of shares of Company Capital Stock, holder of In-the-Money Options and holder of Company RSUs exchanged pursuant to the Merger that would otherwise have been entitled to receive a fraction of a share of Parent Stock (after taking into account any Certificates delivered by such holder) shall receive, in lieu thereof, cash (without interest) in an amount equal to such fractional part of a share of Parent Stock multiplied by the Parent Stock Price, less any applicable withholding Taxes. No such holder will be entitled to dividends, voting rights or any other rights as a stockholder in respect of any fractional shares.

(b) Each share of Parent Stock issued hereunder shall be issued at a valuation, solely for purposes of the distributions made hereunder equal to the Parent Stock Price (it being understood and agreed that the actual trading price of such shares on the Nasdaq Global Select Market on the date such shares are delivered to the Company Stockholders, holders of In-the-Money Options and holders of Company RSUs and each day thereafter may vary). The Company and Parent each hereby irrevocably acknowledges and agrees that the mere change in the Parent Stock Price shall not give the Company, any Company Stockholder, any holder of In-the-Money Options, any holder of Company RSUs or Parent any right of recourse or a basis for the Company or Parent to avoid its obligations to complete the Merger and the other transactions contemplated hereby. Each Letter of Transmittal shall include an acknowledgement by the Company Stockholder, holder of In-the-Money Options or holder of Company RSUs electing to receive shares of Parent Stock that although the Parent Stock Price is being used for all Parent Stock issued pursuant to the terms of this Agreement, it is likely that, due to the fact that the Parent Stock is traded on a public market, which can be volatile and unpredictable, the actual value of the Parent Stock on the date such shares are delivered to the Company Stockholders, holders of In-the-Money Options and holders of Company RSUs may differ from the Parent Stock Price.

(c) If, as a result of the Election process, the Company Stockholders, holders of In-the-Money Options and holders of Company RSUs in the aggregate would receive greater than 2,994,251 shares of Parent Stock, the Payment Agent and Parent shall adjust the cash/stock Election of each Company Stockholder, holder of In-the-Money Options and holder of Company RSUs as necessary, as instructed by the Company and pro rata in accordance with the ownership of shares of Company Capital Stock by each such Company Stockholder and shares of Company Capital Stock subject to the In-the-Money Options and Company RSUs held by such holders of In-the-Money Options and Company RSUs to ensure that no more than 2,994,251 shares of Parent Stock is paid as the Closing Merger Consideration Amount. The Letter of Transmittal shall include disclosure that the Election is subject to adjustment as set forth in this Section 1.7(c).

(d) Notwithstanding anything in this Agreement to the contrary, no shares of Parent Stock shall be payable to any Company Stockholder, holder of In-the-Money Options or holder of Company RSUs who will not be an “accredited investor” as such term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act as of the Effective Time (the “**Unaccredited Investors**”), and each such Unaccredited Investor shall instead receive Merger Consideration in the form of 100% cash. For purposes of this Agreement, all holders of Company Capital Stock, In-the-Money Options or Company RSUs who fail to return a questionnaire containing information used to determine whether such holder is an “accredited investor” (an “**Investor Questionnaire**”) contained in the Letter of Transmittal or the Election Form, as applicable, or otherwise fail to demonstrate on his, her or its Investor Questionnaire his, her or its status as an “accredited investor” shall be deemed to be an Unaccredited Investor.

1.8 Payoff Letters

Prior to the Closing, the Company shall obtain payoff letters for the Closing Date Indebtedness set forth on Section 1.8 of the Disclosure Schedule, which shall provide the dollar amount and the payee of the applicable Closing Date Indebtedness required to be paid in order to fully pay off such Closing Date Indebtedness and release any related Liens as of the Closing (the “**Payoff Letters**”).

1.9 Further Action

If, at any time after the Effective Time, any further action is necessary or desirable to carry out the purposes of this Agreement or to vest the Surviving Corporation with full right, title and possession of and to all rights and property of Merger Sub and the Company, the officers and directors of the Surviving Corporation and Parent shall take such action, so long as such action is not inconsistent with this Agreement.

1.10 Closing of the Company’s Transfer Books

At the Effective Time: (a) all shares of Company Capital Stock outstanding immediately prior to the Effective Time shall automatically be cancelled and retired and shall cease to exist, and all holders of certificates representing shares of Company Capital Stock that were outstanding immediately prior to the Effective Time shall cease to have any rights as stockholders of the Company, and each certificate representing any such Company Capital Stock (a “**Company Stock Certificate**”) or uncertificated book-entry shares (a “**Book-Entry**”) shall thereafter represent the right to receive the consideration referred to in Section 1.5 (Conversion of Shares) (or if applicable, Section 1.14 (Appraisal and Dissenters’ Rights)), if any; and (b) the stock transfer books of the Company shall be closed with respect to all shares of Company Capital Stock outstanding immediately prior to the Effective Time. No further transfer of any such shares of Company Capital Stock shall be made on such stock transfer books after the Effective Time. If, after the Effective Time, a Company Stock Certificate or a Book-Entry is presented to the Payment Agent or to the Surviving Corporation or Parent, such Company Stock Certificate or a Book-Entry shall be cancelled and shall be exchanged as provided in Section 1.11 (Exchange/Payment).

(a) Prior to the Closing Date, Parent shall select a reputable bank or trust company reasonably acceptable to the Company to act as payment agent in the Merger (the “**Payment Agent**”). Prior to the Closing, Parent shall pay the Payment Agent any upfront administration fee of the Payment Agent and shall deposit with the Payment Agent (i) cash in U.S. Dollars in an amount sufficient to pay the aggregate cash portion of the Payment Amount and (ii) certificates representing the total number of shares of Parent Stock or otherwise make available book-entry shares of Parent Stock in an amount to pay the Parent Stock portion of the Payment Amount, in each case, as provided herein and as set forth in the Company Payment Schedule (all cash and shares of Parent Stock deposited with the Payment Agent being hereinafter referred to as the “**Payment Fund**”).

(b) As soon as practicable after the date hereof, the Company or the Payment Agent shall mail to the holders of Company Capital Stock as of immediately prior to the Effective Time: (i) a letter of transmittal that contains an Investor Questionnaire and a Form of Election, in substantially the form attached hereto as Exhibit B (the “**Letter of Transmittal**”) and (ii) instructions for use in effecting the surrender of Company Stock Certificates or Book-Entries, if applicable, in exchange for the amounts of cash and Parent Stock payable in accordance with Section 1.5 (*Conversion of Shares*). As soon as practicable after the date hereof, the Company shall mail to the holders of In-the-Money Options and holders of Company RSUs an Investor Questionnaire and a Form of Election, in substantially the form attached hereto as Exhibit D (the “**Election Form**”) for use in effecting the payment in accordance with Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*).

(c) As soon as reasonably practicable following the later of the Effective Time and the surrender of a Company Stock Certificate or Book-Entry to the Payment Agent for payment, together with a duly executed Letter of Transmittal, if applicable, (A) the Payment Agent shall, and Parent shall cause the Payment Agent to, pay the holder of such Company Stock Certificate or Book-Entry, as applicable, in exchange therefor, the cash amounts and shares of Parent Stock payable in accordance with Section 1.5 (*Conversion of Shares*) for each share evidenced by such Company Stock Certificate or Book-Entry, as applicable, and (B) the Company Stock Certificate or Book-Entry, as applicable, so surrendered shall be cancelled.

(d) As soon as practicable after the Effective Time, but in no event later than one Business Day after the Effective Time, the Payment Agent shall mail to the holders of Company Warrants and the Non-Employee Option Holders and Non-Employee RSU Holders, in each case as of immediately prior to the Effective Time: (i) a Letter of Transmittal, (ii) instructions for use in effecting the surrender of In-the-Money-Options held by Non-Employee Option Holders and Company RSUs held by Non-Employee RSU Holders in exchange for the cash amounts payable in accordance with Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*), and (iii) instructions for use in effecting the surrender of Company Warrants in exchange for the cash amounts payable in accordance with Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*). Notwithstanding the foregoing, Parent and the Company shall use commercially reasonable efforts to cause (x) the Letter of Transmittal to be made available to each holder of Company Warrants and to each Non-Employee Option Holder and Non-Employee RSU Holder, and (y) such Person’s Letter of

Transmittal to be reviewed and processed prior to the Effective Time, such that, so long as such Person continues to hold the Company Warrants, In-the-Money-Options or Company RSUs, as applicable, surrendered by such Letter of Transmittal as of immediately prior to the Effective Time, such Person will be paid the payment in cash described in Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*), as applicable, with respect to such Letter of Transmittal on the Closing Date.

(e) As soon as reasonably practicable following the later of the Effective Time and the surrender of a Company Warrant to the Payment Agent for payment, together with a duly executed Letter of Transmittal, (A) the Payment Agent shall, and Parent shall cause the Payment Agent to, pay the holder of such Company Warrant, in exchange therefor, the cash amounts payable in accordance with Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*) for each share evidenced by such Company Warrant, and (B) the Company Warrant so surrendered shall be cancelled.

(f) As soon as reasonably practicable following the later of the Effective Time and the delivery to the Payment Agent of a duly executed Letter of Transmittal, the Payment Agent shall, and Parent shall cause the Payment Agent to, pay each Non-Employee Option Holder and Non-Employee RSU Holder, in exchange therefor, the cash amounts payable to such Person in accordance with Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*).

(g) If any Company Stock Certificate and Company Warrant shall have been lost, stolen or destroyed, Parent or the Payment Agent, as applicable, may, as a condition to the payment of the consideration hereunder with respect to each share of Company Capital Stock evidenced by such Company Stock Certificate or Company Warrant, require the owner of such Company Stock Certificate or Company Warrant to provide a reasonably appropriate affidavit and agreement to provide customary indemnity against any claim that may be made against the Payment Agent, Parent, the Surviving Corporation or any of their respective Affiliates with respect to such Company Stock Certificate.

(h) Within one payroll period following the Effective Time (or, in the case of any distribution made pursuant to Sections 1.6(a) and 1.6(b) (*Treatment of Company Options, Company RSUs and Company Warrants*) after the Effective Time, within one payroll period following the date of such distribution) subject to Section 1.11(k) (*Exchange/Payment*), Parent shall cause the Surviving Corporation to pay to each Employee Option Holder and Employee RSU Holder the applicable amount required to be paid pursuant to Sections 1.6(a) and 1.6(b) (*Treatment of Company Options, Company RSUs and Company Warrants*), with respect to such individual's Employee Options or Employee RSUs, in accordance with Section 5.6(d)(ii) (*Tax Matters*).

(i) Any portion of the amounts payable in accordance with Sections 1.5 (*Conversion of Shares*) and 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*) in connection with the Closing that remains undistributed by the Payment Agent to a Participating Securityholder as of the first anniversary of the date of deposit of such amounts with the Payment Agent shall be delivered to Parent upon demand, and any Participating Securityholder who has not theretofore surrendered the documentation contemplated under this

Section 1.11 (*Exchange/Payment*) shall thereafter look only to Parent for satisfaction of his, her or its claims for the cash amounts payable in accordance with Sections 1.5 (*Conversion of Shares*) and 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*), as applicable.

(j) Neither Parent nor the Surviving Corporation shall be liable to any holder or former holder of Company Capital Stock, Company Warrants, Company Options or Company RSUs with respect to any amounts properly delivered to any public official pursuant to any applicable abandoned property Law or escheat Law.

(k) Each of Parent, the Company, the Surviving Corporation and the Payment Agent (each a “**Withholding Agent**”) will be entitled to deduct and withhold from the consideration otherwise payable under this Agreement to any Person, the amounts such Withholding Agent is required to deduct and withhold under the Code or any other Tax Law. If any withholding obligation may be reduced or avoided by any holder of Company Capital Stock, Company Warrants, In-the-Money-Options or Company RSUs providing information or documentation to a Withholding Agent, the Withholding Agent shall request such information from such holder of Company Capital Stock, Company Warrants, In-the-Money-Options or Company RSUs and use commercially reasonable efforts to reduce or avoid such withholding obligation. To the extent that amounts are so withheld and properly paid over to the applicable Governmental Body in accordance with applicable Law, such withheld and paid over amounts will be treated as having been paid to such Person in respect of which such deduction and withholding was made.

(l) At the Closing, Parent shall pay to the Escrow Agent an amount in cash equal to the Adjustment Escrow Amount to secure any adjustments required pursuant to Section 1.12(g) (*Post Closing Adjustment to Closing Merger Consideration Amount*) (the “**Adjustment Escrow**”). The Adjustment Escrow Amount shall be held by the Escrow Agent and disbursed by it solely for the purposes and in accordance with the terms of this Agreement and the terms of an Escrow Agreement in the form attached hereto as Exhibit C to be entered into by Parent, Securityholders’ Representative and the Escrow Agent (the “**Escrow Agreement**”).

(m) At or prior to the Closing, the Company shall deliver the following agreements and documents to Parent:

(i) written resignations of all directors of the Company, effective as of the Effective Time;

(ii) the Certificate of Merger, executed by the Company;

(iii) a (i) certification that meets the requirements of Treasury Regulations Sections 1.897-2(h)(1) and 1.1445-2(c)(3), dated within 30 days prior to the Closing Date and (ii) notice to the Internal Revenue Service, in accordance with the requirements of Treasury Regulations Section 1.897-2(h)(2), together with written authorization for Parent to deliver such notice and a copy of the certification to the Internal Revenue Service on behalf of the Company after the Closing, in each case properly completed and executed by the Company;

(iv) a spreadsheet (the “**Closing Payment Schedule**”), duly certified by an officer of the Company setting forth: (i) the name, address and email address of each holder of Company Capital Stock, Company Warrants, In-the-Money-Options and Company RSUs immediately prior to the Effective Time, (ii) a designation, with respect to each holder of In-the-Money-Options and Company RSUs, as to whether such In-the-Money-Options and Company RSUs are Employee Options and Employee RSUs and whether to be paid through the Company’s payroll account, (iii) the number of shares of Company Capital Stock held by each holder thereof immediately prior to the Effective Time (including the number of shares of Company Capital Stock for which Company Warrants, In-the-Money-Options and Company RSUs are exercisable), (iv) a calculation of the Closing Merger Consideration Amount, the Per Share Merger Consideration payable as of the Closing Date and each Company Stockholder’s payment in cash and/or shares of Parent Stock and (v) the Ownership Percentage for each Participating Securityholder; and

(v) copies of Written Consents reflecting receipt of the Required Company Stockholder Vote;

(vi) a certificate of the Secretary of the Company, dated as of the Closing Date, certifying and attaching: (A) the Company Charter, (B) the resolutions adopted by the board of directors of the Company to authorize and approve this Agreement, the Merger and the other transactions contemplated hereby, and (C) the incumbency and signatures of the officers of the Company executing this Agreement and the other agreements, instruments and other documents executed by or on behalf of the Company pursuant to this Agreement or otherwise in connection with the transactions contemplated hereby;

(vii) the Payoff Letters;

(viii) evidence that all Liens (other than Permitted Encumbrances and items set forth in Section 1.11(m)(viii) of the Disclosure Schedule) in any assets of the Company have been released prior to, or shall be released simultaneously with, the Closing; and

(ix) the Escrow Agreement, executed by the Securityholders’ Representative.

(n) At or prior to the Closing, Parent shall deliver to the Company and the Securityholders’ Representative the Escrow Agreement, duly executed by Parent, and the Payment Agent Agreement, duly executed by Parent, Merger Sub and the Payment Agent. In addition, at Closing, Parent shall have paid, or caused to be paid, the following:

(i) The Payment Amount and any upfront administration fee of the Payment Agent shall be deposited with the Payment Agent in accordance with wire transfer instructions provided by the Payment Agent;

(ii) The amount of the Securityholders’ Representative Reserve and any upfront engagement fee of the Securityholders’ Representative shall be deposited with the Securityholders’ Representative in accordance with wire transfer instructions provided by the Securityholders’ Representative;

(iii) The amounts reflected on the Payoff Letters shall be paid by wire transfer of immediately available funds to the counterparties to such letters;

(iv) The Estimated Closing Date Transaction Expenses payable to third parties at Closing shall be paid by wire transfer of immediately available funds to each of the applicable third parties in accordance with the Estimated Closing Statement and instructions provided by each such third party; and

(v) The aggregate Closing Options Payout Amount and Closing RSUs Payout Amount with respect to Employee Options and Employee RSUs shall be deposited in the Company's payroll accounts for further distribution to the Employee Option Holders and Employee RSU Holders in accordance with Section 5.6(d)(ii).

1.12 Post Closing Adjustment to Closing Merger Consideration Amount

(a) Not less than three Business Days prior to the Closing Date, the Company shall deliver to Parent the Estimated Closing Statement. Upon the delivery of the Estimated Closing Statement, the Company will make reasonably available to Parent and its representatives the work papers and other books and records used in preparing the Estimated Closing Statement. The Company shall consider in good faith any comments by Parent thereto, and if the parties cannot agree on one or more amounts to be used in the Estimated Closing Statement, the Company shall use the amount proposed by Parent.

(b) Within 60 days following the Closing, Parent shall prepare and deliver to the Securityholders' Representative a written statement (the "**Closing Statement**") setting forth (i) an unaudited Closing Date Balance Sheet and (ii) in reasonable detail its calculation of (A) the Closing Date Net Working Capital and the Final Net Working Capital Adjustment, (B) the Closing Date Cash Amount, (C) the Closing Date Indebtedness and (D) the Closing Date Transaction Expenses. Following the Closing, Parent shall provide to the Securityholders' Representative and its representatives reasonable access, during regular business hours, in such a manner as to not interfere with the normal operation of Parent or the Surviving Corporation (subject to the execution of customary work paper access letters, if requested), to work papers and books and records relating to the preparation of the Closing Statement and to the Continuing Employees who are knowledgeable about the preparation of the Closing Statement, in each case, solely for the purpose of assisting the Securityholders' Representative and its representatives in their review of the Closing Statement and the calculations contained therein.

(c) If the Securityholders' Representative disagrees with the calculations in the Closing Statement, the Securityholders' Representative shall notify Parent of such disagreement in writing (the "**Dispute Notice**") no later than 45 days after delivery of the Closing Statement. The Dispute Notice must set forth in reasonable detail (A) any item on the Closing Statement that the Securityholders' Representative believes has not been prepared in accordance with this Agreement and the Securityholders' Representative's determination of the amount of such item and (B) the Securityholders' Representative's alternative calculation of the Closing Date Net Working Capital and Final Net Working Capital Adjustment, the Closing Date Cash Amount, the Closing Date Indebtedness or the Closing Date Transaction Expenses, as the case may be. The Dispute Notice shall include only disagreements based on mathematical errors or

the failure of the Closing Date Net Working Capital, Final Net Working Capital Adjustment, the Closing Date Cash Amount, the Closing Date Indebtedness or the Closing Date Transaction Expenses to be calculated in accordance with this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), the Accounting Principles and the definitions of such terms contained in this Agreement (including the inclusion or exclusion of items in the definition and the magnitude of the included or excluded items). Any item or amount that Securityholders' Representative does not dispute in reasonable detail in the Dispute Notice within such period shall be final, binding and conclusive for all purposes hereunder.

(d) In the event any such Dispute Notice is timely provided, Parent and Securityholders' Representative shall use commercially reasonable efforts for a period of 15 days after the date of such Dispute Notice (or such longer period as they may mutually agree) to resolve any disagreements with respect to the calculations included in the Closing Statement that were disputed in the Dispute Notice. If, at the end of such 15-day period (or such longer period as mutually agreed), the Securityholders' Representative and Parent remain unable to resolve the dispute in its entirety, then the unresolved items and amounts thereof in dispute shall be submitted to KPMG US LLP, or if such firm cannot or does not accept such engagement, another nationally recognized accounting firm, reasonably acceptable to Parent and Securityholders' Representative, which shall not be the independent accountants of Parent or the Company (the "**Dispute Auditor**"). The Dispute Auditor shall determine, based solely on the provisions of this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), Accounting Principles and the written presentations by Securityholders' Representative and Parent, and not by independent review, only those items and amounts that remain then in dispute as set forth in the Dispute Notice.

(e) The Dispute Auditor's determination of the Closing Date Net Working Capital, the Final Net Working Capital Adjustment, the Closing Date Cash Amount, the Closing Date Indebtedness or the Closing Date Transaction Expenses, as applicable, shall be made within 30 days after the dispute is submitted for its determination and shall be set forth in a written statement delivered to Securityholders' Representative and Parent. A judgment of a court of competent jurisdiction selected pursuant to Section 10.5 (*Applicable Law; Jurisdiction*) hereof may be entered upon the Dispute Auditor's determination; *provided* that no party shall make any filing to obtain such judgment unless (i) the payment required by such determination shall not have been made and (ii) 15 days shall have elapsed following delivery of the Dispute Auditor's determination and; *provided, further*, that any filing to obtain such judgment shall respect the confidential nature of the dispute resolution process provided in this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*) and shall disclose the details of the dispute only to the extent necessary to obtain a judgment. The Dispute Auditor shall have exclusive jurisdiction over, and resorting to the Dispute Auditor as provided in this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*) shall be the only recourse and remedy of the parties against one another with respect to, those items and amounts that remain in dispute under this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), and Parent shall not be entitled to seek indemnification or recovery of any attorneys' fees or other professional fees incurred by Parent in connection with any dispute governed by this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*). The Dispute Auditor shall allocate its fees and expenses between Parent and

Securityholders' Representative (on behalf of the Participating Securityholders) according to the degree to which the positions of the respective parties are not accepted by the Dispute Auditor.

(f) The Securityholders' Representative and Parent shall, and shall cause their respective Affiliates and representatives to, cooperate in good faith with the Dispute Auditor, and shall give the Dispute Auditor access to all data and other information it reasonably requests for purposes of such resolution. In no event shall the decision of the Dispute Auditor assign a value to any item greater than the greatest value for such item claimed by either Parent or Securityholders' Representative or lesser than the smallest value for such item claimed by either Parent or Securityholders' Representative. Any determinations made by the Dispute Auditor pursuant to this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*) shall be final, non-appealable and binding on the parties hereto, absent manifest error or common law fraud.

(g) **"Adjustment Amount"** shall mean the net amount, which may be positive or negative, equal to: (i) (a) the amount of the Final Net Working Capital Adjustment (based on the Closing Date Net Working Capital (as finally determined in accordance with this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*))) minus (b) the Estimated Net Working Capital Adjustment; plus (ii) (a) the Closing Date Cash Amount (as finally determined in accordance with this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*)); minus (b) the Estimated Closing Date Cash Amount; minus (iii) (a) the amount of Closing Date Indebtedness (as finally determined in accordance with this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*)); minus (b) the Estimated Closing Date Indebtedness; minus (iv) (a) the amount of Closing Date Transaction Expenses (as finally determined in accordance with this Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*)); minus (b) the Estimated Closing Date Transaction Expenses. The amount in clauses (i) – (iv) of this Section 1.12(g) (*Post Closing Adjustment to Closing Merger Consideration Amount*) and the Adjustment Amount may be positive or negative; provided that for all purposes of this Agreement, if the absolute value of such net amount is \$40,000 or less, then the Adjustment Amount shall be \$0.

If the Adjustment Amount is a positive number, then (A) within five Business Days after the final determination of the amount, Parent shall pay the Adjustment Amount due to the Participating Securityholders that are holders of Company Common Stock or Company Put Warrants, the Non-Employee Option Holders or Non-Employee RSU Holders (other than amounts payable in respect of Employee Options and Employee RSUs) to the Payment Agent for further distribution to such Participating Securityholders based on each such Participating Securityholder's Ownership Percentage and (B) within one payroll period after the final determination of the amount, Parent shall cause the Surviving Corporation to pay the Adjustment Amount due to the Participating Securityholders who are Employee Option Holders or Employee RSU Holders based on each such individual's Ownership Percentage in respect of such individual's Employee Options and Employee RSUs, in accordance with Section 5.6(d)(ii) (*Tax Matters*). Parent and Securityholders' Representative also shall instruct the Escrow Agent to release from the Adjustment Escrow the amount then remaining in the Adjustment Escrow, if any, and pay such amount to the Payment Agent and the Surviving Corporation, allocated in the same manner as distributions pursuant to the immediately preceding sentence. Prior to any such distribution of the Adjustment Amount to the Participating Securityholders, the Securityholders'

Representative shall deliver to Parent and the Payment Agent an updated Closing Payment Schedule (which need not be certified) setting forth the portion of the Adjustment Amount and the Adjustment Escrow Amount payable to each Participating Securityholder.

If the Adjustment Amount is a negative number then within five Business Days after the final determination of such amount, Parent shall be entitled to recover the Adjustment Amount solely from and to the extent of the Adjustment Escrow Amount, and the Securityholders' Representative and Parent shall instruct the Escrow Agent to pay the Adjustment Amount to Parent from the Adjustment Escrow and release from the Adjustment Escrow any balance then remaining in the Adjustment Escrow after payment of the Adjustment Amount to Parent, if any, and pay such amount to the Payment Agent and the Surviving Corporation, for distribution to the Participating Securityholders in the same manner as distributions pursuant to this Section 1.12(g) (*Post Closing Adjustment to Closing Merger Consideration Amount*).

(h) On the Closing Date, Parent shall cause the payment of: (i) the Estimated Closing Date Transaction Expenses, if any, to the Persons identified on the Estimated Closing Statement and (ii) the Estimated Closing Date Indebtedness (and any penalty, fee, premium and charge), if any, to the Persons identified on Section 1.8 of the Disclosure Schedule. The Company shall deliver all applicable wire instructions for the payment of any Estimated Closing Date Transaction Expenses and Estimated Closing Date Indebtedness to Parent at least three Business Days prior to the Closing.

(i) Notwithstanding anything to the contrary contained herein, no line item included in the calculation of Closing Date Net Working Capital and Final Net Working Capital Adjustment, the Closing Date Cash Amount, the Closing Date Indebtedness and the Closing Date Transaction Expenses shall be duplicative of any other line item included in such other calculations.

1.13 Post-Closing Distributions.

(a) Any distributions to be made to the Participating Securityholders after the Closing, including distribution of any remaining balance in the Adjustment Escrow and the Securityholders' Representative Reserve shall be released to the Surviving Corporation or the Payment Agent, as applicable, and (i) Parent shall cause the Surviving Corporation to pay (within one payroll period after the applicable payment due date or the date of the Securityholders' Representative's request to Parent or the Surviving Corporation for payment) the cash distribution due to the Participating Securityholders in respect of Employee Options or Employee RSUs based on each such holder's Ownership Percentage attributable to such Employee Options or Employee RSUs, in accordance with Section 5.6(d)(ii) (*Tax Matters*) and (ii) the Payment Agent shall pay the Participating Securityholders in respect of Company Capital Stock, Company Warrants, Non-Employee Options or Non-Employee RSUs based on each such holder's Ownership Percentage attributable to such Company Capital Stock, Company Warrants, Non-Employee Options or Non-Employee RSUs. Prior to any such distribution to the Participating Securityholders, the Securityholders' Representative shall deliver to Parent and the Payment Agent an updated Closing Payment Schedule (which need not be certified) setting forth

the portion of the cash distribution payable to each Participating Securityholder in accordance with this Agreement.

(b) Any distribution of cash made to the Participating Securityholders shall be made in accordance with Sections 1.5 (*Conversion of Shares*), 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*), 1.11(h) (*Exchange/Payment*), 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), 1.13 (*Post-Closing Distributions*), 1.14 (*Appraisal and Dissenters' Rights*) and 1.15 (*Securityholders' Representative*) at the time of such distribution as set forth in this Agreement.

1.14 Appraisal and Dissenters' Rights.

(a) Notwithstanding any other provision of this Agreement to the contrary, shares of Company Capital Stock held by a holder who has made a demand for appraisal of such shares in accordance with Section 262 of the DGCL and shares of Company Capital Stock that, as of the Effective Time, constitute "dissenting shares" within the meaning of Section 1300(b) of the California Corporations Code (the "**CCC**") (any such shares being referred to as "**Dissenting Shares**" until such time as such holder fails to perfect or otherwise loses such holder's appraisal rights under Section 262 of the DGCL or Chapter 13 of the CCC with respect to such shares), will not be converted into or represent the right to receive cash in accordance with Section 1.5 (*Conversion of Shares*), but will be converted into the right to receive such consideration as may be determined to be due with respect to such Dissenting Shares pursuant to the DGCL or the CCC (and at the Effective Time, such Dissenting Shares shall no longer be outstanding and shall automatically be cancelled and shall cease to exist, and such holder shall cease to have any rights with respect thereto, except the rights set forth in Section 262 of the DGCL or Chapter 13 of the CCC); *provided, however*, that if a holder of Dissenting Shares (a "**Dissenting Stockholder**") withdraws, has failed to perfect or otherwise loses such holder's demand for such payment and appraisal or becomes ineligible for such payment and appraisal then, as of the later of the Effective Time or the date on which such Dissenting Stockholder withdraws such demand or otherwise becomes ineligible for such payment and appraisal, such holder's Dissenting Shares will cease to be Dissenting Shares (and the right of such holder to be paid the fair value of such holder's Dissenting Shares under Section 262 of the DGCL or Chapter 13 of the CCC will cease) and will be converted into the right to receive a cash payment determined in accordance with and subject to the provisions of Section 1.5 (*Conversion of Shares*) upon surrender of the certificate representing such shares in accordance with the terms of Section 1.11 (*Exchange/Payment*).

(b) The Company shall give Parent prompt notice of: (A) any written demand received by the Company prior to the Effective Time for appraisal rights pursuant to Section 262 of the DGCL or Chapter 13 of the CCC; (B) any withdrawal of any such demand; and (C) any other demand, notice or instrument delivered to the Company prior to the Effective Time pursuant to the DGCL or the CCC. The Company shall not, except with the prior written consent of Parent (which shall not be unreasonably withheld, conditioned or delayed) make any payment with respect to any such demands or offer to settle or settle any such demands.

(a) In order to efficiently administer certain matters contemplated hereby following the Closing, including any actions that the Securityholders' Representative may, in its sole discretion, determine to be necessary, desirable or appropriate in connection with the matters set forth in this Agreement (including Sections 1.11 (Exchange/Payment), 1.12 (Post Closing Adjustment to Closing Merger Consideration Amount), 1.13 (Post-Closing Distributions), 10.1 (Amendment) and 5.9 (Registration Statement)), the Participating Securityholders, by the adoption of this Agreement, acceptance of consideration under this Agreement or the completion and execution of the Letters of Transmittal shall be deemed to have designated Fortis Advisors LLC as the representative of the Participating Securityholders (the "**Securityholders' Representative**").

(b) The Securityholders' Representative may resign at any time. In the event the Securityholders' Representative dies, becomes unable to perform his, her or its responsibilities hereunder or resigns from such position, the Participating Securityholders who hold at least a majority in interest of the Ownership Percentages at such time shall be authorized to and shall select another representative to fill such vacancy and such substituted representative shall be deemed to be the Securityholders' Representative for all purposes of this Agreement and the documents delivered pursuant hereto.

(c) By their adoption of this Agreement, acceptance of consideration under this Agreement or the delivery of the Letter of Transmittal contemplated by Section 1.11 (Exchange/Payment), the Participating Securityholders shall be deemed to have agreed, in addition to the foregoing, that:

(i) the Securityholders' Representative shall be appointed and constitute the exclusive agent and true and lawful attorney-in-fact of each Participating Securityholder, with full power in his, her or its name and on his, her or its behalf to act according to the terms of this Agreement and in general to do all things and to perform all acts including executing and delivering any agreements, amendments, certificates, receipts, instructions, notices or instruments contemplated by or deemed advisable in connection with this Agreement and the agreements ancillary hereto. The Securityholders' Representative hereby accepts such appointment;

(ii) the Securityholders' Representative shall have full authority to (A) execute, deliver, acknowledge, certify and file on behalf of the Participating Securityholders (in the name of any or all of the Participating Securityholders or otherwise) any and all documents that the Securityholders' Representative may, in its sole discretion, determine to be necessary, desirable or appropriate, in such forms and containing such provisions as the Securityholders' Representative may, in its sole discretion, determine to be appropriate, (B) give and receive notices and other communications relating to this Agreement and the transactions contemplated hereby (except to the extent that this Agreement contemplates that such notice or communication shall be given or received by the Participating Securityholder individually), (C) take or refrain from taking any actions (whether by negotiation, settlement, litigation or otherwise) to resolve or settle all matters and disputes arising out of or related to this Agreement and the transactions contemplated hereby and thereby, including the payment of any Adjustment

Amount solely from, and to the extent of, the Adjustment Escrow Amount pursuant to Section 1.12(g) (*Post Closing Adjustment to Closing Merger Consideration Amount*), and (D) engage attorneys, accountants, financial and other advisors, payment agents and other persons necessary or appropriate in the judgment of the Securityholders' Representative for the accomplishment of the foregoing; *provided, however*, that the Securityholders' Representative shall have no obligation to act on behalf of the Participating Securityholders, except as expressly provided herein and in the Securityholders' Representative Engagement Agreement, and for purposes of clarity, there are no obligations of the Securityholders' Representative in any ancillary agreement, schedule, exhibit or the Disclosure Schedule;

(iii) Parent shall be entitled to rely conclusively on the instructions and decisions given or made by the Securityholders' Representative as to any of the matters described in this Section 1.15 (*Securityholders' Representative*), and no party shall have any cause of action against Parent for any action taken by Parent in reliance upon any such instructions or decisions;

(iv) all actions, decisions and instructions of the Securityholders' Representative shall be conclusive and binding upon each of the Participating Securityholders, and no Participating Securityholders shall have any cause of action against the Securityholders' Representative and the Securityholders' Representative will not be liable for any action taken, decision made or instruction given by the Securityholders' Representative under this Agreement, except for gross negligence, fraud or willful breach of this Agreement on the part of the Securityholders' Representative;

(v) the provisions of this Section 1.15 (*Securityholders' Representative*) and the powers, immunities and rights to indemnification granted to the Securityholders' Representative Group hereunder: (A) are independent and severable, are irrevocable and coupled with an interest, and shall survive the death, incompetence, bankruptcy or liquidation of any Participating Securityholder and shall be binding on any successor thereto; and (B) shall be enforceable notwithstanding any rights or remedies that any Participating Securityholder may have in connection with the transactions contemplated by this Agreement;

(vi) no Participating Securityholders shall have any cause of action against the Securityholders' Representative for any action taken, decision made or instruction given by the Securityholders' Representative under this Agreement, except for fraud or willful breach of this Agreement on the part of the Securityholders' Representative, and all defenses which may be available to any Participating Securityholder to contest, negate or disaffirm the action of the Securityholders' Representative taken in good faith under this Agreement or the Securityholders' Representative Engagement Agreement are waived;

(vii) The Securityholders' Representative shall be entitled to: (x) rely upon the Closing Payment Schedule, (y) rely upon any signature believed by it to be genuine, and (z) reasonably assume that a signatory has proper authorization to sign on behalf of the applicable Participating Securityholder or other party; and

(viii) the provisions of this Section 1.15 (*Securityholders' Representative*) shall be binding upon the executors, heirs, legal representatives, successors and

assigns of each Participating Securityholders, and any references in this Agreement to a Participating Securityholder or the Participating Securityholders shall mean and include the successors to the Participating Securityholders' rights hereunder, whether pursuant to testamentary disposition, the laws of descent and distribution or otherwise.

(d) At the Closing, Parent shall cause to be deposited, in an account designated by the Securityholders' Representative, (i) \$500,000 (the "**Securityholders' Representative Reserve**") and *plus* (ii) the upfront engagement fee of the Securityholders' Representative. The Securityholders' Representative Reserve may be applied as the Securityholders' Representative, in its sole discretion, determines to be appropriate to defray, offset, or pay any charges, fees, costs, liabilities, charges, losses, fines, damages, claims, forfeitures, actions, judgments, amounts paid in settlement or expenses (including fees, disbursements and costs of counsel and other skilled professionals and in connection with seeking recovery from insurers) that the Securityholders' Representative incurred in connection with the transactions contemplated by this Agreement and the Securityholders' Representative Engagement Agreement, including in connection with the matters contemplated by Section 1.11 (Exchange/Payment) and the evaluation or defense of any claim by Parent, Merger Sub or the Surviving Corporation under this Agreement (the "**Securityholders' Representative Expenses**"). The Securityholders' Representative will hold these funds in a non-interest bearing account separate from its corporate funds, will not use these funds for its operating expenses or any other corporate purposes and will not voluntarily make these funds available to its creditors in the event of bankruptcy. The Securityholders' Representative is not providing any investment supervision, recommendations or advice and shall have no responsibility or liability for any loss of principal of the Securityholders' Representative Reserve other than as a result of its gross negligence or willful misconduct. The balance of the Securityholders' Representative Reserve held pursuant to this Section 1.15(d) (Securityholders' Representative), if any, shall, at the sole discretion of the Securityholders' Representative and at such time to be determined in the sole discretion of the Securityholders' Representative, be distributed in the same manner as the distributions set forth in Section 1.13(a) (Post-Closing Distributions), as applicable, to the Participating Securityholders, subject to subsections 5.6(d)(i) and 5.6(d)(ii) of Section 5.6 (Tax Matters). Prior to any such distribution of the Securityholders' Representative Reserve, the Securityholders' Representative shall deliver to Parent and the Payment Agent an updated Closing Payment Schedule (which need not be certified) setting forth the portion of the Securityholders' Representative Reserve payable to each Participating Securityholder.

(e) Certain Participating Securityholders have entered into an engagement agreement (the "**Securityholders' Representative Engagement Agreement**") with the Securityholders' Representative to provide direction to the Securityholders' Representative in connection with its services under this Agreement and the Securityholders' Representative Engagement Agreement (such Participating Securityholders, including their individual representatives, collectively hereinafter referred to as the "**Advisory Group**"). As between the Participating Securityholders and the Securityholders' Representative, neither the Securityholders' Representative nor its members, managers, directors, officers, contractors, agents and employees nor any member of the Advisory Group (collectively, the "**Securityholders' Representative Group**") shall be liable for any act done or omitted hereunder as Securityholders' Representative while acting in good faith, and any act done or omitted to be done pursuant to the advice of counsel shall be conclusive evidence of such good faith. The

Securityholders' Representative Group shall be indemnified, defended and held harmless and reimbursed by the Participating Securityholders against any Securityholders' Representative Expenses incurred without bad faith, gross negligence or willful misconduct on the part of the Securityholders' Representative and arising out of or in connection with the acceptance or administration of its duties hereunder and in connection with any Securityholders' Representative Expenses, at the election of the Securityholders' Representative, at any time first, from the Securityholders' Representative Reserve, to the extent any funds remain in such fund, and second, directly from the Participating Securityholders according to each Participating Securityholder's Ownership Percentage; *provided, however*, that no Participating Securityholder shall be liable to the Securityholders' Representative for any amount in excess of the portion of the Purchase Price actually paid to such Participating Securityholder. The Participating Securityholders acknowledge that the Securityholders' Representative shall not be required to expend or risk its own funds or otherwise incur any financial liability in the exercise or performance of any of its powers, rights, duties or privileges or pursuant to this Agreement or the transactions contemplated hereby. Furthermore, the Securityholders' Representative shall not be required to take any action unless the Securityholders' Representative has been provided with funds, security or indemnities which, in its determination, are sufficient to protect the Securityholders' Representative against the costs, expenses and liabilities which may be incurred by the Securityholders' Representative in performing such actions. The immunities and rights to indemnification shall survive the resignation or removal of the Securityholders' Representative or any member of the Advisory Group and the Closing or any termination of this Agreement.

SECTION 2. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to Parent and Merger Sub, except as set forth in the Disclosure Schedule, as follows:

2.1 Subsidiaries; Due Incorporation; Etc.

(a) The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all necessary corporate power and authority to conduct its business in the manner in which its business is currently being conducted.

(b) The Company is qualified or licensed to do business as a foreign corporation, and is in good standing, under the laws of all states where the property owned, leased or operated by it or the nature of its business requires such qualification, except where the failure to be so qualified or licensed has not had and would not reasonably be expected to have a Company Material Adverse Effect.

(c) Section 2.1(b) of the Disclosure Schedule accurately sets forth each jurisdiction where the Company is qualified, licensed and admitted to do business.

(d) The Company does not have any Subsidiary, other than one wholly-owned Subsidiary in India that is currently neither capitalized nor engaged in any business or operation.

2.2 Certificate of Incorporation and Bylaws

. The Company has delivered or otherwise made available to Parent or its representatives copies of (a) the Company Charter and Company bylaws, including all amendments thereto, as in effect on the date hereof, which organizational documents are in full force and effect as of the date hereof and (b) the minutes of the meetings of the stockholders, the board of directors and all committees of the board of directors of the Company since January 1, 2015; *provided* that to the extent minuted or recorded, any discussion or material regarding discussions, negotiations and transactions related to this Agreement or other potential strategic transactions, or valuations or projections of the Company may be redacted. Except as set forth in Section 2.2 of the Disclosure Schedule, there has been no material violation of any of the provisions of the organizational documents of the Company including the Company Charter that has not been resolved, and the Company has not taken any action that is inconsistent in any material respect with any resolution adopted by the Company's stockholders, board of directors or any committee of the board of directors. The books of account, stock records and minute books of the Company are accurate and complete in all material respects, and have been maintained in accordance with applicable Laws. There are no outstanding powers of attorney executed by or on behalf of the Company.

2.3 Capitalization, Etc

(a) As of the date of this Agreement, the authorized capital of the Company consists of:

(i) (A) 1,752,337 shares of Series A Preferred Stock, all of which are issued and outstanding, (B) 7,138,317 shares of Series B Preferred Stock, of which 6,780,064 shares are issued and outstanding, (C) 928,277 shares of Series C Preferred Stock, all of which are issued and outstanding and (D) 4,612,546 shares of Series D Preferred Stock, of which 3,839,159 shares are issued and outstanding. The rights, preferences, privileges and restrictions of the Company Preferred Stock are as stated in the Company Charter.

(ii) 90,000,000 shares of Company Common Stock, of which 47,642,000 shares are issued and outstanding. (A) 29,581,600 shares of Company Common Stock are reserved for issuance under the Equity Incentive Plans, of which 20,569,396 shares are subject to outstanding Company Options and Company RSUs under the Equity Incentive Plans, (B) 432,468 shares remain available for future grant under the Equity Incentive Plans, and (C) 8,579,736 shares have been issued pursuant to the exercise of Company Options and vesting of Company RSUs and are included in the number of outstanding shares of Company Common Stock set forth above. 358,253 shares of Series B Preferred Stock are subject to or otherwise deliverable in connection with the exercise of the Company Series B Preferred Stock Warrants, and 5,000,000 shares of Company Common Stock are subject to or otherwise deliverable in connection with the exercise of the Company Put Warrants.

(b) Except for (i) the Company Options, Company RSUs and Company Warrants, (ii) the conversion privileges of the Company Preferred Stock and (iii) those rights set forth in Section 2.3(b) of the Disclosure Schedule, (A) there are no other existing options, warrants, calls, rights (including conversion rights, preemptive rights, co-sale rights, rights of first refusal or other similar rights) or agreements to which the Company, or to the Company's Knowledge, any Company Stockholder or holder of the Company Options, Company RSUs and Company Warrants, is a party requiring, and there are no securities of the Company outstanding

which upon conversion or exchange would require, the issuance, sale or transfer of any additional shares of Company Capital Stock or other equity securities of the Company or other securities convertible into, exchangeable for or evidencing the right to subscribe for or purchase shares of Company Capital Stock or other equity securities of the Company, (B) there are no obligations, contingent or otherwise, of the Company to (1) repurchase, redeem or otherwise acquire any shares of Company Capital Stock or (2) to make any material investment in (in the form of a loan, capital contribution or otherwise), or to provide any guarantee (excluding indemnification obligations) with respect to the obligations of, any Person and (C) there are no outstanding stock appreciation, phantom stock, profit participation or similar rights with respect to the Company. As of the Effective Time, there will be no outstanding options, warrants, convertible notes or other rights to purchase or otherwise acquire shares of Company Capital Stock.

(c) Except for those rights set forth in Section 2.3(c) of the Disclosure Schedule, there are no bonds, debentures, notes or other Debt of the Company having the right to vote or consent (or, convertible into, or exchangeable for, securities having the right to vote or consent) on any matters on which the Company Stockholders may vote. Except as set forth in Section 2.3(c) of the Disclosure Schedule, there are no voting trusts, irrevocable proxies or other contracts or understandings to which the Company, or, to the Company's Knowledge, any Company Stockholder or any holder of the Company Options, Company RSUs and Company Warrants is a party or is bound with respect to the voting or consent of any shares of Company Capital Stock.

(d) All of the outstanding shares of Company Capital Stock have been duly authorized and validly issued, and are fully paid and nonassessable and have been issued and granted in all material respects in compliance with all applicable securities Laws. The Company has never declared or paid any dividends on any shares of Company Capital Stock. Section 2.3(d) of the Disclosure Schedule accurately sets forth the names of the Company's stockholders, the addresses of each of the Company's stockholders and the class, series and number of shares of Company Capital Stock owned of record by each of such stockholders as of the date of this Agreement. None of the shares of Company Capital Stock is subject to any repurchase option, forfeiture provision or restriction on transfer (other than restrictions on transfer imposed by virtue of applicable federal and state securities laws).

(e) Section 2.3(e) of the Disclosure Schedule sets forth, with respect to each Company Option and Company RSU that is outstanding as of the date of this Agreement: (i) the name of the holder of such Company Option and Company RSU; (ii) the date which such Company Option and Company RSU was issued and the term of such Company Option; (iii) the total number of shares of Company Common Stock that are subject to such Company Option and Company RSUs; (iv) the vesting schedule for the Company Options and Company RSUs (including the number of shares of Company Common Stock subject to such Company Option or Company RSU that are vested and unvested as of the date of this Agreement); and (v) the exercise price per share of Company Common Stock purchasable under such Company Option. Each Company Option was duly authorized by all requisite corporate action on a date no later than the grant date and has an exercise price per share at least equal to the fair market value of a share of Company Common Stock on the grant date. As of the Effective Time, no former holder of a Company Option will have any rights with respect to such Company Option, other than the

right to receive cash in respect thereof (if any) as contemplated by Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*).

(f) Section 2.3(f) of the Disclosure Schedule sets forth, with respect to each Company Warrant that is outstanding as of the date of this Agreement: (i) the name of the holder of such Company Warrant; (ii) the date on which such Company Warrant was issued and the term of such Company Warrant; (iii) the total number of shares of Series B Preferred Stock that are subject to such Company Series B Preferred Stock Warrant, and the total number of shares of Company Common Stock that are subject to such Company Put Warrant; and (iv) the exercise price per share of Series B Preferred Stock purchasable under such Company Series B Preferred Stock Warrant, and the exercise price per share of Company Common Stock purchasable under such Company Put Warrant. The Company has delivered to Parent accurate and complete copies of each Contract pursuant to which any Company Warrant is outstanding. As of the Effective Time, no former holder of a Company Warrant will have any rights with respect to such Company Warrant, other than the right to receive cash in respect thereof (if any) as contemplated by Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*).

2.4 Financial Statements; Internal Controls; Indebtedness

(a) The Company has delivered to Parent (a) its audited balance sheets as of December 31, 2015, December 31, 2016 and December 31, 2017, (b) its audited statements of operations, statements of Company Preferred Stock and stockholders' deficit, and statements of cash flows for the years ended December 31, 2015, December 31, 2016 and December 31, 2017 ((a) and (b) collectively, the "**Audited Company Financial Statements**") and (c) the unaudited balance sheet of the Company as of March 31, 2018 (the "**Unaudited Balance Sheet**," and such date, the "**Balance Sheet Date**"), unaudited statement of operations and unaudited statement of cash flows for the period ended March 31 (all of the foregoing financial statements of the Company and any notes thereto are hereinafter collectively referred to as the "**Company Financial Statements**"). The Company Financial Statements were prepared in accordance with GAAP applied on a consistent basis throughout the periods covered and fairly present in all material respects the financial condition of the Company at the dates therein indicated and the results of operations of the Company for the periods therein specified in accordance with GAAP, except as may be indicated in the footnotes to such financial statements, subject, in the case of the unaudited Company Financial Statements, to normal year-end adjustments which are not material either individually or in the aggregate and the absence of footnotes.

(b) The books, records and accounts of the Company accurately and fairly reflect in all material respects and in reasonable detail, the transactions in and dispositions of the assets of the Company. The Company has taken and currently take all actions necessary to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; and (iii) access to assets is permitted only in accordance with management's general or specific authorization.

(c) Section 2.4(c) of the Disclosure Schedule sets forth a complete and correct list of each item of Debt as of the date of this Agreement, identifying the creditor to which such

Debt is owed, the address of such creditor, the title of the instrument under which such Debt is owed and the amount of such Debt as of the close of business on the date of this Agreement. The Company has not guaranteed, is not responsible for has and does not have any liability for any Debt of any other Person, and the Company has not guaranteed any other obligation of any other Person.

(d) The Company has not ever effected or otherwise been involved in any “off-balance sheet arrangements” (as defined in Item 303(a)(4)(ii) of Regulation S-K under the Securities Exchange Act of 1934, as amended).

2.5 Absence of Certain Changes

Since December 31, 2017 through the date hereof, (a) there has not occurred any event or series of related events that has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and, (b) except as contemplated by this Agreement and for discussion, negotiations and transactions related to this Agreement or other potential strategic transactions, the Company has operated its business in the ordinary course in all material respects. Since March 31, 2018 through the date hereof, the Company has not taken any action that would have been prohibited or otherwise restricted under Section 4.2 (*Conduct of the Business of the Company*), had such action been taken during the Pre-Closing Period.

2.6 Title to Assets

The Company has good and valid title to all assets owned by it as of the date of this Agreement, other than Intellectual Property which is covered by Section 2.9 (*Intellectual Property*), including all assets (other than capitalized or operating leases) reflected on the Unaudited Balance Sheet (except for assets sold or otherwise disposed of since the date of the Unaudited Balance Sheet in the ordinary course of business). Except as set forth in Section 2.6 of the Disclosure Schedule, all of such assets are owned by the Company, free and clear of any Liens (other than Permitted Encumbrances). Subject to ordinary course maintenance and replacements, such assets of the Company (excluding working capital and assets consumed in the ordinary course of business) constitute all of the properties, rights and interests used in or necessary to enable the Company to conduct its business in the manner in which such business is currently being conducted in all material respects.

2.7 Equipment

. All material items of equipment, fixtures and other tangible assets owned by or leased to the Company are in good condition and repair in all material respects (ordinary wear and tear and ordinary maintenance excepted) and are adequate for the conduct of the Company’s business in the manner in which such business is currently being conducted in all material respects.

2.8 Real Property; Leasehold

. The Company does not own, and has not previously owned, any interest in real property, except for the leaseholds created under the real property leases (including all amendments, extensions, renewals, guarantees and other agreements with respect thereto) identified in Section 2.8 of the Disclosure Schedule (the “***Leased Real Property***”). The

Company is in compliance with such real property leases (the “**Real Property Leases**”), and has a valid and subsisting leasehold interest in all Leased Real Property, in each case free and clear of all Liens, other than Permitted Encumbrances. The Real Property Leases are in full force and effect. The Company has not granted any other Person the right to occupy or use any Leased Real Property. There are no written or oral subleases, licenses, concessions, occupancy agreements or other contracts granting to any other Person the right of use or occupancy of any Leased Real Property. The Company has not received written notice of any eminent domain, condemnation or similar proceeding pending or threatened, against all or any portion of any Leased Real Property. The Company is not in default under the Real Property Leases, nor, to the Knowledge of the Company, are any of the landlords in default under any of the Real Property Leases. The Company does not owe any brokerage commissions with respect to the Leased Real Property or the Real Property Leases. There has been no damage to any portion of the Leased Real Property caused by fire or other casualty which has not been fully repaired and restored.

2.9 Intellectual Property.

(a) Section 2.9(a) of the Disclosure Schedule identifies: (i) each item of Registered IP that constitutes Owned Intellectual Property or that is exclusively licensed to the Company; and (ii) the jurisdiction in which such item of Registered IP has been registered or filed and the applicable registration, application or serial number. Each such item of Registered IP, other than any pending applications, is subsisting, enforceable and, to the Knowledge of the Company, valid. The Company is the owner of record of each item of Registered IP that constitutes Owned Intellectual Property. Section 2.9(a) of the Disclosure Schedule lists all filings, payments and other actions required to be made or taken within 90 days after the Closing Date to maintain each item of Registered IP. The Company has materially complied with all the requirements of all United States and foreign patent offices and all other applicable Governmental Bodies to maintain the patents and patent applications required to be listed in Section 2.9(a) of the Disclosure Schedule (the “**Company Patents**”) in full force and effect, including payment of all required fees when due to such offices or agencies. The Company has complied in all material respects with the duty of disclosure under applicable U.S. Laws, and to the Company’s Knowledge Laws outside the U.S., with respect to Company Patents, the non-compliance with which would reasonably be expected to invalidate the Company Patents or any claim thereof or would reasonably be expected to render the Company Patents or any claim thereof invalid or unenforceable.

(b) The Company has obtained from all parties (including employees) who have created any portion of, or otherwise who would have any rights in or to, the Owned Intellectual Property written assignments of any such Intellectual Property to the Company on the form(s) of such assignments that the Company has made available to Parent. No funds or facilities of any Governmental Body, or any university, college or other academic institution (each, a “**University**”) were used in the development of any Company Patents or other Owned Intellectual Property, and no Governmental Body or University, or employee or staff member thereof has any rights in any Company Patents or other Owned Intellectual Property.

(c) The Company has taken commercially reasonable measures to establish and preserve its ownership of, and rights in, all Owned Intellectual Property, other than such Owned Intellectual Property that the Company in its business judgment elected to abandon or

publicly release. Without limiting the foregoing, the Company has not made any of its material trade secrets or other confidential or proprietary information that it intended to maintain as confidential (including source code with respect to Company Intellectual Property) available to any other Person except pursuant to written agreements requiring such Person to maintain the confidentiality of such information.

(d) To the Company's Knowledge, there is no Intellectual Property owned by any third party that (i) is valid and enforceable, (ii) is required by the Company to conduct its business as currently conducted and (iii) the Company is not currently authorized to use.

(e) Neither the Company nor the conduct of its business as currently conducted, or as previously conducted since January 1, 2016, and to the Knowledge of the Company, since January 1, 2013, infringes or misappropriates any Intellectual Property rights of any third parties. Since January 1, 2016, and to the Knowledge of the Company, since January 1, 2013, no Person has asserted any written claim (or to the Company's Knowledge, made or threatened any other claim) (i) challenging the Company's right, interest or title in any of the Company Intellectual Property or (ii) alleging infringement or misappropriation of any third party Intellectual Property by the Company. None of the Company Intellectual Property is subject to any pending or outstanding injunction, directive, order, judgment, or other disposition of dispute that adversely restricts the use, transfer, registration or licensing of any such Company Intellectual Property by the Company. The representations in clause (d) and this clause (e) are the only representations by the Company with respect to the infringement or alleged infringement by the Company of third party Intellectual Property.

(f) To the Company's Knowledge, no Person has infringed or misappropriated, and no Person is currently infringing or misappropriating, any material Company Intellectual Property.

(g) Section 2.9(g)(i) of the Disclosure Schedule identifies each Contract pursuant to which the Company is a licensee of, or is otherwise granted any rights to use any Intellectual Property by, a third party (other than (A) non-disclosure Contracts, (B) Contracts between the Company and its employees or consultants under which the only grant of rights to the Company is the assignment of Intellectual Property to the Company, (C) licenses to Publicly Available Software and non-exclusive licenses to commercially available third party software for less than \$10,000 annually, (D) non-exclusive licenses with vendors in the ordinary course of business that do not involve rights to technology essential to the Company's business for which functionally equivalent technology rights are not commercially available, and (E) any Contract in connection with purchases of assays or other laboratory consumables). Section 2.9(g)(i) of the Disclosure Schedule identifies each Contract pursuant to which the Company is a licensor or otherwise grants any rights to use any Company Intellectual Property to a third party (other than (A) non-disclosure Contracts and (B) Contracts between Company and its employees or consultants under which the only grant of rights by the Company is a license to such employee or consultant solely to use Intellectual Property to perform such employee's or consultant's obligations in accordance with such Contract). Immediately following the Closing Date, the Surviving Corporation will be permitted to exercise all of the rights of any member of the Company under such Contracts to the same extent the Company would have been able to had the transactions contemplated by this Agreement not occurred and without the payment of any

additional amounts or consideration other than fees, royalties or payments which the Company would otherwise have been required to pay had the transactions contemplated by this Agreement not occurred. No Contract to which the Company is a party confers upon any Person other than the Company any ownership right with respect to any Intellectual Property developed by the Company in connection with such Contract.

(h) The Company has not used Publicly Available Software in a manner that subjects, in whole or in part, the Company Intellectual Property to any Hereditary License. The Company has not received any written notice from a third party that it is or they are in breach of any license with respect to Publicly Available Software. No Company Intellectual Property is subject to any technology or source code escrow arrangement or obligation.

(i) The Company has implemented and maintained (or, where applicable, has required its vendors to maintain), consistent with commercially reasonable and industry practices and complying with its contractual obligations to other Persons, reasonable security measures designed to protect all computers, networks, software and systems used in connection with the operation of the business of the Company (the “**Company Information Systems**”), from viruses and similar malware, and the Company Information Systems and all confidential information, including Personal Data maintained by the Company from unauthorized physical or virtual access, use, modification, acquisition, disclosure or other misuse, including as required by applicable Laws. To the Company’s Knowledge, there has been no unauthorized access to or use of the Company Information Systems, nor has there been any unscheduled downtime or unavailability of the Company Information Systems due to unauthorized access to or use of Company Information Systems either of which resulting in a material disruption of the business of the Company. The Company Information Systems are generally in good working condition. During the past 12 months, there have been no material failures, breakdowns, outages or unavailability of such Company Information Systems other than scheduled maintenance software updates, and the Company’s disaster recovery and business continuity plans (“**DR Plans**”) were not activated other than for testing purposes. On and after the Closing Date, the Company Information Systems will be in the possession, custody or control of the Company, and available for use, as existing immediately prior to the Closing Date. The Company has made available to Parent a true and complete copy of the DR Plans. The DR Plans are materially consistent with generally understood and applied industry standards and applicable Law. The Company has conducted testing of the DR Plans not less frequently than annually (and in any event, upon a material change to the DR Plans) and corrected any material deficiencies in the DR Plans or deficiencies in compliance of the Company with the DR Plans.

2.10 Privacy and Data Security.

(a) Except as set forth on Section 2.10 of the Disclosure Schedule and without limiting the Company’s representations and warranties set forth in Section 2.9 (Intellectual Property), the receipt, collection, handling, processing, sharing, transfer, use, disclosure and storage of any Personal Data by the Company (including such Personal Data collected by or on behalf of the Company from visitors who use the Company’s website) is, and has been at all times since January 1, 2016, and to the Knowledge of the Company, since January 1, 2013, in compliance in all material respects with (i) the respective privacy policies and terms of use of the Company, (ii) generally understood and applied industry standards, and (iii) all applicable Laws

and all Privacy Agreements (as defined in Section 2.10(b) below). No Personal Data is stored or otherwise maintained outside the United States by the Company or by any third party on behalf of the Company except as set forth in Section 2.10 of the Disclosure Schedule. Except as set forth in Section 2.10 of the Disclosure Schedule, to the extent that the Company has engaged in cross-border processing of Personal Data, the Company has taken, including requiring its vendors to take, as applicable, all required steps to ensure an adequate level of protection for the Personal Data, including registration with the relevant data protection authorities, in each to the extent such steps (e.g., registration) are required by applicable Laws. For Personal Data subject to the Laws of countries outside the United States, including countries within the European Union, to the Knowledge of the Company, such Personal Data has only been transferred in compliance with applicable Laws. Since January 1, 2016, and to the Knowledge of the Company, since January 1, 2013, no person has withdrawn his or her consent to the Company of any use or processing of his or her Personal Data or requested erasure of his or her Personal Data by the Company, where the Company has not complied with such request. The Company has taken commercially reasonable steps to comply in all material respects with the requirements of the GDPR, including by requiring its vendors to take such steps, in anticipation of the GDPR taking effect on May 25, 2018.

(b) Without limiting the Company’s representations and warranties set forth in Section 2.11(a) (Regulatory Matters), the Company maintains written policies and procedures regarding data security and privacy and maintains administrative, technical and physical safeguards that are commercially reasonable and, in any event, in material compliance with (i) generally understood and applied industry standards, (ii) all applicable Laws and (iii) all Contracts to which the Company is bound. True and complete copies of all such material policies have been provided to Parent. The Company in the past three years has consistently posted a privacy policy in a clear and conspicuous location on all websites and on any mobile applications owned or operated by the Company. The Company is, and has at all times in the past three years been, in compliance in all material respects with the provisions of (i) all Contracts between the Company and its respective customers relating to data privacy, security or breach notification (including provisions that impose conditions or restrictions on the collection, use, disclosure, transmission, destruction, maintenance, storage, or safeguarding of Personal Data), including BAAs, and (ii) all Contracts between the Company and its respective vendors and other business partners relating to data privacy, security or breach notification (including provisions that impose conditions or restrictions on the collection, use, disclosure, transmission, destruction, maintenance, storage, or safeguarding of Personal Data, including Contracts subject to the Payment Card Data Security Standard (“**PCI-DSS**”)), including BAAs (the contractual provisions referenced in clauses (i) and (ii) collectively referred to as “**Privacy Agreements**”).

(c) During the past three years, there have been no Security Breaches relating to, or violations of any security policy or related law regarding, or any unauthorized access, disclosure, or use of, any data or information used by or behalf of the Company, including Personal Data. During the last three years, no notice has been provided to the Company by a third-party vendor or any other person of any Security Breach relating to Personal Data that has not been resolved or cured. Except as set forth on Section 2.10(c) of the Disclosure Schedule, during the last three years, no Person (including any Governmental Body) has commenced or, to the Knowledge of the Company, threatened any Legal Proceeding relating to the information privacy or data security practices of the Company or made any complaint, investigation or

inquiry relating to such practices. The Company has not notified in the past, either voluntarily or as required by Laws, any affected individual, any patient, any Governmental Body or the media of any breach of Personal Data and the Company is not currently planning to conduct any such notification or investigating whether any such notification is required.

(d) The Company has taken all reasonable steps to limit access to Personal Data to: (i) those of its personnel and third-party vendors providing services to or on behalf of the Company who have a need to know such Personal Data in the execution of their duties to the Company; and (ii) such other Persons as are permitted to access such Personal Data in accordance with all the privacy policies and terms of use, generally accepted industry standards, applicable Laws and all Privacy Agreements.

(e) Without limiting the Company's representations and warranties set forth in Section 2.11(a) (Regulatory Matters), the Company maintains a written technical information security program that contains administrative, technical and physical safeguards (including encryption) compliant with industry standards that are generally understood and material and applicable Laws (each, a "**Security Program**"). Each Security Program is designed to: (i) protect the integrity and confidentiality of Personal Data; (ii) protect against reasonably anticipated threats or hazards to the security of Personal Data; (iii) protect against the unauthorized access, disclosure or use of Personal Data; (iv) address computer and network security; and (v) provide for the secure destruction and disposal of Personal Data. Each Security Program has been updated as required by all applicable Laws. All third-party vendors or persons with access to Personal Data have entered into contracts or written agreements with the Company requiring that such vendors or persons maintain a substantially similar security program.

(f) None of the transactions contemplated under this Agreement (including any transfer of Personal Data resulting from any of the transactions contemplated under this Agreement) will violate any Laws applicable to the Company relating to privacy or security or the privacy policy of the Company as it currently exists or as it existed at any time during which any Personal Data was collected or obtained by or on behalf of the Company. All of the security measures of the Company are designed to be consistent with or exceed U.S. industry standards and the requirements of applicable U.S. Laws, and to the Company's Knowledge Laws outside the U.S., and are designed to (A) ensure that the Computer Information Systems owned or controlled by the Company are secure from unauthorized access and free from any disabling codes or instructions, spyware, Trojan horses, worms, viruses or other software routines that permit or cause unauthorized access to, or disruption, impairment, disablement or destruction of, software, data or other materials; (B) prevent the unauthorized access to, use and/or disclosure of confidential information (including Personal Data) of the patients of the Company; (C) prevent access without express authorization to the networks and information system of the healthcare providers using the Company's tests through the Company's networks; and (D) facilitate identification by the Company of the Person making or attempting to make unauthorized access.

(g) None of the transactions contemplated under this Agreement (including any transfer of Personal Data resulting from any of the transactions contemplated under this Agreement) will violate any applicable Laws. The Closing of this Agreement will not violate any Laws applicable to the Company relating to privacy or security or the privacy policy of the Company as it currently exists or as it existed at any time during which any Personal Data was

collected or obtained by or on behalf of the Company. Following the Effective Time, the Surviving Corporation shall continue to have the right to use such Personal Data on identical and conditions as the Company enjoyed immediately prior to the Effective Time.

2.11 Regulatory Matters.

(a) The Company is, and since January 1, 2016, and to the Knowledge of the Company, since January 1, 2014, has been, in compliance in all material respects with all Health Care Laws applicable to the Company or any of its properties, assets, business or operations. The Company holds all Permits necessary to conduct its business and own, lease and operate its properties and assets, and all such Permits are in full force and effect. The Company is, and at all times has been, in compliance in all material respects, with the terms of all Permits necessary to conduct its business and to own, lease and operate its properties and facilities. Section 2.11(a) of the Disclosure Schedule sets forth a list of all Permits that are held by the Company. The Company has not received notice from any Governmental Body or other Person claiming or alleging that the Company was not in compliance with all Health Care Laws applicable to the Company or its business or operations; the Company has not been assessed a material penalty with respect to any alleged failure by the Company to have or comply with any Permit; and the Company has no Knowledge of a Governmental Body considering the amendment, termination, revocation or cancellation of any Permit held by the Company.

(b) Neither the Company, nor any of its officers, directors, employees, consultants or agents has, in the operation of the Company's business, engaged in any activities that are prohibited by or cause for criminal or civil penalties or mandatory or permissive exclusion from Medicare, Medicaid or any other state or Federal Health Care Program under 42 U.S.C. §§ 1320a-7, 1320a-7a, 1320a-7b or 1395nn, 5 U.S.C. § 8901 et seq. (the Federal Employees Health Benefits program statute), or the regulations, agency guidance or similar legal requirement promulgated pursuant to such statutes or any analogous Health Care Laws.

(c) The term "**Payment Programs**" means both Federal Health Care Programs and private, non-governmental programs. The Company is a participating supplier or provider in good standing in each of the Payment Programs in which it currently participates. No civil, administrative, or criminal proceedings relating to the Company's participation in any Payment Program are pending or, to the Knowledge of the Company, threatened or reasonably foreseeable, nor has the Company been subject to any such proceeding that has since concluded. The Company is not subject to any pre- or post-payment utilization review by any Payment Program. No Payment Program is currently requesting or has requested or, to the Knowledge of the Company, is threatening, any recoupment, refund or set-off from the Company except for recoupments, refunds or set-offs in amounts less than \$50,000 on a claim by claim basis (taking each letter requesting or threatening any recoupment, refund or set-off from the Company as a single "claim"). No Payment Program has imposed any fine, penalty or other sanction on the Company. The Company has not been suspended or excluded and, to the Knowledge of the Company has not otherwise been the subject of adverse actions taken by any Payment Program. The Company has not submitted to any Payment Program any false or fraudulent claims for payment (other than clerical errors made in the ordinary course of business), nor has the Company at any time violated any condition of participation in, or any other rule, regulation, policy or standard of, any Payment Program in any material respect.

(d) The Company does not control, direct, require, or reward, directly or indirectly, referrals for testing ordered by any Person. Neither the Company, nor any of its directors, officers, employees, consultants or agents, has, directly or indirectly, given or agreed to give any illegal gift, contribution, payment or similar benefit to any supplier, customer, governmental official, employee or other Person.

(e) All final data that the Company has made available to Parent with respect to historical test utilization, Current Procedural Terminology (“**CPT**”) codes, payor CPT detail, requisition volumes and cash collections is true, accurate and complete in all material respects.

(f) To the Knowledge of the Company, each employee and individual consultant of the Company required to be licensed by an applicable Governmental Body, professional body and/or medical body (i) has all applicable licenses, (ii) such licenses are in full force and effect, and (iii) there are no facts or circumstances that could reasonably be expected to result in any such licenses being suspended or revoked or to otherwise lapse prematurely.

(g) Neither the Company nor, to the Knowledge of the Company, any of its employees, consultants, other agents, customers or vendors has been excluded, suspended, debarred or otherwise sanctioned by any Governmental Body, including the U.S. Department of Health and Human Services Office of Inspector General or the General Services Administration, and, to the Knowledge of the Company, there are no facts or circumstances that could reasonably be expected to result in any such exclusion, suspension, debarment or sanction.

(h) The Company is, and has at all times since January 1, 2016, and to the Knowledge of the Company, since January 1, 2014, been, in compliance in all material respects with HIPAA and with all applicable Health Care Laws relating to the privacy, security, use and disclosure of health information, including “protected health information” or “PHI” as defined under HIPAA and information related to genetic testing and genetic test results created, used, disclosed or stored in the course of the operations of the Company, including HIPAA and all applicable state and federal Health Care Laws regarding the privacy and security of health information, including genetic testing and results. The Company has the necessary agreements with all of the Company’s “business associates” as such term is defined by and as such agreements are required by HIPAA (“**BAAs**”). True and complete copies of all HIPAA and health information privacy and security policies that have been used by the Company for the past three years have been provided to Parent. The Company has consistently made its “Notice of Privacy Practices” (as defined under HIPAA) available to patients and conspicuously posted its Notice on all websites owned or operated by Company. The Company has at all times complied in all material respects with all rules, policies and procedures established by the Company with respect to privacy, security, data protection or the collection and use of health information and genetic testing information created, used, disclosed or stored in the course of the operations of the Company. No actions have been asserted or, to the Knowledge of the Company, threatened against the Company by any person alleging a violation of such person’s privacy, personal or confidentiality rights under any such rules, policies or procedures. The Company maintains systems, policies and procedures to respond to “Security Incidents” (as defined under HIPAA) and complaints alleging violations of HIPAA and to identify and report all “Breaches” of “Unsecured Protected Health Information” (each as defined under HIPAA) in accordance with Company’s legal and contractual obligations.

(i) All of the Company's tests, assays and other activities offered for patient testing comply in all material respects with all applicable Health Care Laws or standards prescribed or endorsed by the College of American Pathologists.

2.12 Material Contracts.

(a) Section 2.12(a) of the Disclosure Schedule lists each Contract (other than purchase orders) in effect as of the date of this Agreement to which the Company is a party or by which its business or assets are bound in the following categories (other than any (1) nondisclosure agreements entered into (x) in the ordinary course of business or (y) in connection with discussions, negotiations and transactions related to this Agreement or other potential strategic transactions or (2) that is a Company Plan, which shall be governed under Section 2.17 (*Employee Benefit Plans and Employee Matters*)) (the "**Material Contracts**"):

(i) any Contract or series of related Contracts that requires payments by or to the Company in excess of \$250,000 in any calendar year or \$500,000 in the aggregate, including any such Contract for the purchase or sale of assets, raw materials, goods, commodities, utilities, equipment, supplies, products or other personal property, or for the provision or receipt of services;

(ii) any Contract related to an acquisition, divestiture, merger or similar transaction containing representations, covenants, indemnities, purchase price payments, "earn-outs", adjustments or other obligations;

(iii) (A) any guaranty, surety or performance bond or letter of credit issued or posted, as applicable, by the Company; (B) any Contract evidencing Debt of the Company or providing for the creation of or granting any Lien upon any of the property or assets of the Company (excluding Permitted Encumbrances); (C) any Contract (1) relating to any loan or advance to any Person which is outstanding as of the date of the Agreement (other than advances to employees and consultants in the ordinary course of business consistent with past practices) or (2) obligating or committing the Company to make any such loans or advances; and (D) any currency, commodity or other hedging or swap contract or other financial agreement or arrangement entered into for the purpose of limiting or managing interest rate risks;

(iv) any Contract creating or purporting to create any partnership, joint venture, collaboration, strategic alliance or any sharing of profits or losses by the Company with any third party;

(v) any Contract (A) containing covenants restricting or purporting to restrict competition which, in either case, have, would have or purport to have the effect of prohibiting the Company or, after the Closing, Parent or the Surviving Corporation from engaging in any business or activity in any geographic area or other jurisdiction; (B) in which the Company has granted "exclusivity" or that requires the Company to deal exclusively with, or grant exclusive rights or rights of first refusal to, any customer, vendor, supplier, distributor, contractor or other Person; (C) that includes minimum purchase conditions or other similar requirements imposed on the Company, in either case that exceed \$250,000 in any calendar year; or (D) containing a "most-favored-nation", "best pricing" or other similar term or provision by

which another party to such Contract or any other Person is, or could become, entitled to any benefit, right or privilege which, under the terms of such Contract, must be at least as favorable to such party as those offered to another Person;

(vi) any Contract involving commitments to make capital expenditures or to purchase or sell assets involving \$250,000 or more individually or \$500,000 in the aggregate;

(vii) any lease, sublease, rental or occupancy agreement, license, installment, and conditional sale agreement or agreement under which the Company is lessee or lessor of, or owns, uses or operates any leasehold or other interest in any real or personal property;

(viii) any Contract under Section 2.9(g) (*Intellectual Property*);

(ix) any Contract relating to the lease of any material equipment, fixtures or other tangible assets;

(x) any Contract creating or involving any referral or agency relationship, distribution arrangement or franchise relationship that is not in the ordinary course of business;

(xi) any Contract related to the acquisition, issuance or transfer of any securities or affecting or dealing with any securities of the Company, excluding any Contract that has been fully performed;

(xii) any power of attorney granted by the Company, other than any power of attorney granted in the ordinary course of business in connection with tax matters, payroll administration and maintenance of Intellectual Property, including patent application and maintenance; and

(xiii) any Contract not otherwise listed or required to be listed in Section 2.12(a) of the Disclosure Schedule that, if terminated, or if such Contract expired without being renewed, would have a Company Material Adverse Effect.

(b) With respect to each Material Contract listed in Section 2.12(a) of the Disclosure Schedule: (i) as of the date of this Agreement, other than any Contract that is terminable without penalty by any other party thereto on 90 days' or less notice (*provided* that penalty shall not include requirements to pay costs and expenses in connection with the termination of such agreements consisting of reimbursement of expenses incurred and reasonable wind-down costs), such Material Contract is, to the Company's Knowledge, with respect to each party thereto other than the Company, binding and enforceable against such party in accordance with its terms, subject to (A) laws of general application relating to bankruptcy, insolvency and the relief of debtors, and (B) rules of Law governing specific performance, injunctive relief and other equitable remedies; and (ii) the Company is not in material breach or material default of such Material Contract or, with the giving of notice or the giving of notice and passage of time without a cure would be, in material breach or material default of such Material Contract, and to the Company's Knowledge, no other party to such Material Contract is in material breach or

material default of such Material Contract. No event has occurred, and no circumstance or condition exists, that (with or without notice or lapse of time) will, or would reasonably be expected to: (I) result in a material violation or breach of any of the provisions of any Material Contract; (II) give any Person the right to declare a default or exercise any material remedy under any Material Contract; (III) give any Person the right to accelerate the maturity or performance of any Material Contract; or (IV) give any Person the right to cancel, terminate or modify any Material Contract, in each case, that has not been resolved or cured. Since January 1, 2017, the Company has not received any written notice regarding any material violation or breach of, or default under, any Material Contract that has not been resolved or cured. The Company has not waived any of its material rights under any Material Contract. The Company has delivered or otherwise made available to Parent or its counsel true and complete copy of each such Material Contract.

2.13 Liabilities

The Company has no material liabilities of any kind or nature whatsoever required to be reflected in the Company Financial Statements or footnotes thereof under GAAP other than: (i) those which are adequately reflected or reserved against in the Unaudited Balance Sheet as of the Balance Sheet Date; (ii) those which have been incurred in the ordinary course of business since the Balance Sheet Date; (iii) liabilities and obligations incurred in connection with this Agreement or Closing Date Transaction Expenses; and (iv) executory obligations arising from any Contract disclosed in the Disclosure Schedule or not required to be disclosed in the Disclosure Schedule, other than those obligations arising out of a breach of such Contract.

2.14 Compliance with Laws

Since January 1, 2016, and to the Knowledge of the Company, since January 1, 2013, the Company has been in material compliance with applicable Laws, and the Company has not received any written notices of any violation with respect to such Laws, except for violations that are immaterial, have been cured or are no longer being asserted. No event has occurred, and no condition or circumstance exists, that will (with or without notice or lapse of time) constitute or result in a violation by the Company of, or a failure on the part of the Company to comply with, any Laws that has not been resolved or cured. Except as set forth in Section 2.14 of the Disclosure Schedule, since January 1, 2014, the Company has not received any notice from any Person regarding any actual or potential violation of, or failure to comply with, any Law that has not been resolved or cured. The Company has not, since January 1, 2014, conducted any internal investigation, inquiry, or review in connection with which the Company retained outside legal counsel for the purpose of conducting or assisting with such investigation, inquiry, or review with respect to any actual, potential or alleged violation of any Law that has not been resolved or cured. The Company has not received any citation, directive, letter or other written or, to the Knowledge of the Company, oral communication that any Governmental Body has at any time since January 1, 2014 challenged or questioned the legal right of the Company to market, offer, or sell its services in the present manner or style thereof, except as would not be material to the Company.

2.15 Certain Business Practices

Since January 1, 2015, the Company, and to the Company's Knowledge, its employees or other representatives, in each case, to the extent such action or inaction constitutes a violation of applicable Anti-Corruption Laws, (a) has not used and is not using any funds for any unlawful contributions, unlawful gifts, unlawful entertainment or other unlawful expenses; (b) has not made any direct or indirect unlawful payments to any foreign or domestic Government Official; (c) has not violated and is not violating any Anti-Corruption Laws; (d) has not established or maintained, and is not maintaining, any unlawful or unrecorded fund of monies or other properties; (e) has not made, and is not making, any false or fictitious entries on its accounting books and records; (f) has not made, and is not making, any bribe, payoff, influence payment, kickback or other unlawful payment of any nature, and has not paid, and is not paying, any fee, commission or other payment that has not been properly recorded on its accounting books and records as required by the Anti-Corruption Laws; and (g) has not otherwise given or received anything of value to or from a Government Official, an intermediary for payment to any individual including Government Officials, any political party or customer for the purpose of obtaining or retaining business.

2.16 Tax Matters.

(a) For purposes of clauses (a)-(g) of this Section 2.16, the "Company" shall mean the Company and its Subsidiaries. The Company has timely and duly filed all Company Returns that it was required to file under applicable Laws. All such Company Returns are correct and complete in all material respects. All Taxes due and owing by the Company (whether or not shown on any Company Return) have been timely paid in full to the appropriate Governmental Body. There are no Liens for Taxes (other than Liens with respect to current Taxes not yet due and payable) upon any of the assets of the Company. No extension of time with respect to any date on which a Company Return is required to be filed by the Company is in force or was requested by the Company other than pursuant to ordinary extensions of the due date for filing a Company Return. No waiver or agreement by the Company is in force for the extension of time for the payment, collection or assessment of any Taxes (or that otherwise extend any statute of limitations relating to Taxes of the Company), and no request for such waiver, agreement or extension is outstanding.

(b) The Company has not received written notice from any Governmental Body of any audit or other examination of any Company Return (or any other Tax examination, Tax claim or Tax action relating to the Company) that is presently in progress, pending or threatened and has not been resolved in full. There is no Legal Proceeding pending or proposed or threatened in writing in respect to Taxes of the Company.

(c) The Company has not received written notice from any Governmental Body of any Tax deficiency that is outstanding, assessed or proposed against the Company and has not been resolved in full. The Company has never received a written claim from any Governmental Body in a jurisdiction in which the Company does not file Company Returns that the Company is or may be subject to taxation by that jurisdiction.

(d) The Company has withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent

contractor, creditor, stockholder, or other third party. The Company has complied with all record keeping and information reporting requirements applicable to such withholding Taxes.

(e) The Company has not been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

(f) Within the past three years, the Company has not constituted either a “distributing corporation” or a “controlled corporation” in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code. The Company has not engaged in any “reportable transaction” as defined in Section 6707A(c) of the Code or the treasury regulations promulgated thereunder.

(g) Neither the Company nor Parent will be required to include an item of income in, or exclude an item of deduction from, taxable income for any Tax period (or portion thereof) ending after the Closing as a result of any: (i) change in method of accounting for a Tax period ending on or prior to the Closing; (ii) “closing agreement” as described in Section 7121 of the Code (or any comparable or similar provisions of applicable Law) executed on or prior to the Closing; (iii) election pursuant to Section 108(i) of the Code or Section 965 of the Code; (iv) installment sale or open transaction disposition made on or prior to the Closing; or (v) prepaid amount received on or prior to the Closing (other than prepaid amounts received in the ordinary course of business).

(h) The Company has delivered or made available to Parent complete and accurate copies of all U.S. federal income Company Returns for taxable year ending on or after December 31, 2013, and complete and accurate copies of all audit or examination reports and statements of deficiencies assessed against the Company with respect to such Company Returns.

(i) The Company is not a party to any agreement with any third party relating to allocating or sharing the payment of, or liability for, Taxes (other than this Agreement and any contract, such as a loan or a lease, entered into in the ordinary course of business the primary purpose of which is unrelated to Taxes).

(j) The Company has not been a member of an affiliated group filing a U.S. federal income Tax Return. The Company does not have any liability for the Taxes of any other Person (i) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local, or foreign Law); (ii) as a transferee or successor; or (iii) otherwise by operation of Law.

(k) The Company is not a party to and has not otherwise requested any Tax rulings, closing agreements or similar written determinations, rulings or agreements related to Taxes.

(l) The unpaid Taxes of Company and its Subsidiaries (i) did not, as of the most recent fiscal month end, exceed the reserve for Tax liability (rather than any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the face of the most recent balance sheet and (ii) do not exceed that reserve as adjusted for the passage of time through the Closing in accordance with the past custom and practice of filing the Company Returns. Since the date of the most recent balance sheet, neither Company nor any of

its Subsidiaries has incurred any liability for Taxes arising from extraordinary gains or losses, as that term is used in GAAP, outside the ordinary course of business consistent with past custom and practice of the Company and its Subsidiaries, if applicable.

(m) Section 2.16(m) of the Disclosure Schedule sets forth the treatment for U.S. federal income tax purposes and for applicable foreign tax purposes of each Subsidiary of the Company.

(n) The Company has not (i) entered into a gain recognition agreement pursuant to Treasury Regulations Section 1.367(a)-8, nor (ii) transferred an intangible the transfer of which would be subject to the rules of Section 367(d) of the Code.

(o) Neither the Company nor any of its Subsidiaries has a permanent establishment (within the meaning of an applicable Tax treaty) or otherwise has an office or fixed place of business in a country other than the country in which it is organized.

(p) The Company has no liability for the payment of Taxes pursuant to Section 965 of the Code.

(q) Notwithstanding anything to the contrary in this Agreement, the Company makes no representations as to the amount of, or limitations on, any net operating losses, Tax credits, Tax basis or other Tax attributes that it may have after the Closing Date.

2.17 Employee Benefit Plans and Employee Matters.

(a) Section 2.17(a) of the Disclosure Schedule sets forth a list of all material employee benefit plans, programs and arrangements (including any material “employee benefit plan” as defined in Section 3(3) of ERISA) maintained or contributed to by the Company or with respect to which the Company would reasonably be expected to have any material liability (excluding form option notices and notices made in such form, form option grants and grants made in such form, at-will employment offer letters entered into in the ordinary course of business, workers’ compensation, unemployment compensation and other government programs) (the “*Company Plans*”).

(b) With respect to each Company Plan, the Company has delivered or otherwise made available to Parent or its counsel a copy of: (i) each writing constituting a part of any written Company Plan and all amendments thereto, and all trusts or service agreements relating to the administration and recordkeeping of the Company Plan, and written summaries of the material terms of all unwritten Company Plans; (ii) the most recent Annual Report (Form 5500 Series or otherwise in a form in accordance with applicable Law) including all applicable schedules, if any, for each Company Plan that is subject to such reporting requirements; (iii) the current summary plan description and any material modifications thereto, if any, or any written summary provided to participants with respect to any plan for which no summary plan description exists; and (iv) the most recent determination letter (or if applicable, advisory or opinion letter) from the IRS, if any, and any pending applications for a determination or opinion letter.

(c) In all material respects, each Company Plan has been established and maintained in accordance with its terms and applicable Laws, including but not limited to ERISA or the Code. No “prohibited transaction,” within the meaning of Section 4975 of the Code or Sections 406 and 407 of ERISA, and not otherwise exempt under Section 408 of ERISA, has occurred with respect to any Company Plan that would reasonably be expected to result in any material liability. There are no current actions, suits or claims pending, or, to the Company’s Knowledge, threatened in writing (other than routine claims for benefits) against any Company Plan or against the assets of any Company Plan. There are no material audits, inquiries or proceedings pending or, to the Company’s Knowledge, threatened in writing by any Governmental Body with respect to any Company Plan. The Company and each ERISA Affiliate have timely made or otherwise provided for all material contributions and other material payments required by and due under the terms of each Company Plan.

(d) No payment or benefit which will or may be made by the Company in connection with the Merger with respect to any “disqualified individual” (as defined in Code Section 280G and the regulations thereunder) would reasonably be expected to be characterized as a “parachute payment” within the meaning of Code Section 280G(b)(2). There is no contract, agreement, plan or arrangement to which the Company or any ERISA Affiliates is bound to provide a gross up or otherwise reimburse any employee for excise Taxes paid pursuant to Section 4999 of the Code. The execution and delivery of this Agreement and the consummation of the Merger will not materially increase the benefits payable under any Company Plan and will not result in any acceleration of the time of payment or vesting of any material benefits under any Company Plan (other than accelerated vesting of In-the-Money-Options and Company RSUs as provided in Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*)).

(e) Neither the Company nor any Entity with which the Company is or would be considered a single employer under Section 414(b), (c) or (m) of the Code (“**ERISA Affiliates**”) has, within the six years preceding the date of this Agreement, sponsored, contributed to, or had any obligations or incurred any liability under any employee benefit plan that is subject to Title IV of ERISA or Section 412 of the Code (including any “defined benefit plan” within the meaning of Section 3(35) of ERISA), or to a “multiemployer plan” within the meaning of Section 3(37) of ERISA.

(f) Each Company Plan, employment agreement, or other compensation arrangement of the Company that constitutes a “nonqualified deferred compensation plan” subject to Section 409A of the Code has been written, executed, and operated in material compliance with Section 409A of the Code and the regulations thereunder. The Company does not have any obligation to gross up or otherwise reimburse any person for any tax incurred by such person pursuant to Section 409A of the Code. To the Company’s Knowledge, each Company Option has an exercise price that is not less than the fair market value of the underlying Company Common Stock on the date the Company Option was granted and is otherwise exempt from Section 409A.

(g) The Company: (i) is and at all times since January 1, 2016, and to the Knowledge of the Company, since January 1, 2015 has been in material compliance with all applicable Laws, and with any order, ruling, decree, judgment or arbitration award of any

arbitrator or any court or other Governmental Body, respecting employment, employment practices, terms and conditions of employment, wages, hours or other labor-related matters, including Laws, orders, rulings, decrees, judgments and awards relating to discrimination, worker classification (including the proper classification of workers as independent contractors and consultants), wages and hours, labor relations, leave of absence requirements, occupational health and safety, privacy, harassment, retaliation, immigration, wrongful discharge or violation of the personal rights of employees, former employees or prospective employees; (ii) has withheld and reported all amounts required by any Law or contract to be withheld and reported with respect to wages, salaries and other payments to any employee; and (iii) has no liability for any payment to any trust or other fund governed by or maintained by or on behalf of any Governmental Body with respect to unemployment compensation benefits, social security or other benefits or obligations for any employee (other than routine payments to be made in the normal course of business and consistent with past practice), except as has not been, and would not reasonably be expected to be, material to the Company. The Company has not effectuated a “mass layoff,” “plant closing,” partial “plant closing,” “relocation” or “termination” (each as defined in the Worker Adjustment and Retraining Notification Act or any similar Law) affecting any site of employment or one or more facilities or operating units within any site of employment or facility of the Company.

(h) The Company is not and has never been a party to or otherwise bound by any collective bargaining agreement, contract or other agreement or understanding with a labor union or labor organization, or works council or similar body, nor is any such contract or agreement presently being negotiated, nor, to the Company’s Knowledge, is there, nor has there been in the past three years, a representation campaign with respect to any of the employees of the Company. As of the date of this Agreement, there is no pending or, to the Company’s Knowledge, threatened, labor strike, dispute, walkout, work stoppage, slow-down or lockout involving Company. Neither the Company nor any of its representatives or employees has committed or engaged in any material unfair labor practice in connection with the operation of the business of the Company. In the past three years, there have been no Legal Proceedings pending, or, to the Company’s Knowledge, threatened, relating to any collective bargaining obligation or agreement, wages and hours, leave of absence, plant closing notification, employment statute or regulation, privacy right, labor dispute, workers’ compensation policy, safety, retaliation, harassment, immigration or discrimination matter involving any employee, former employee, or prospective employee, including charges of unfair labor practices, discrimination, retaliation or harassment.

(i) Since December 31, 2017, no executive officer of the Company has provided written notice to Company of his or her intent to terminate his or her employment with Company as of the date hereof.

(j) The Company has provided to Parent a complete and correct list, as of the date hereof, of all employees of and consultants to the Company which sets forth the following information with respect to each: (i) name or employee number, (ii) title or position, (iii) the entity or entities by which such individual is employed, (iv) hire date, (v) current annual or hourly base compensation or retention rate, (vi) target bonus or incentive compensation rates for current fiscal year, and similar incentive compensation paid for immediately prior fiscal year, (vii) accrued but unused vacation or paid time off, (viii) active or inactive status and, if

applicable, the reason for inactive status, (ix) accrued but unused sick days, (x) full-time or part-time status, (xi) exempt or non-exempt status, and (xii) employment location.

(k) Each Person who is or has been classified as an independent contractor, or as any other non-employee category, by the Company is and has been correctly so classified, is not a common law employee of the Company, are not entitled to any compensation or benefits to which regular employees are or were at the relevant time entitled, and were and have been engaged in accordance with all applicable Law. The Company does not have any liabilities as a result of the failure to properly classify any current or former independent contractor, consultant, or advisor as an employee of the Company. The Company is, and at all times since January 1, 2015 has been, in material compliance with all Contracts and any other obligations due to or in connection with any current or former employee, independent contractor, consultant, or advisor. There are no sums owing to any current or former employee, independent contractor, consultant, or advisor to the Company, other than reimbursements of expenses and fees for the applicable current work period.

2.18 Environmental Matters

The Company is in material compliance with all applicable Environmental Laws. During the past six year period, the Company has not received any written notices, demand letters or requests for information from any Governmental Body indicating that the Company is or may be in violation of, or be liable under, any Environmental Law, and the Company is not subject to any pending or, to Company's Knowledge, threatened action or investigation by any Governmental Body under any Environmental Law. To the Company's Knowledge, no current or prior owner of any property leased or controlled by the Company has received any written notice from a Governmental Body during the past six years that alleges that such current or prior owner or Company is materially violating any Environmental Law. The Company is in compliance in all material respects with, and has no material liability under, any provisions of leases relating in any way to any Environmental Laws or to the use, management or release of Hazardous Substances under such leases. All Environmental Permits, if any, required to be obtained by the Company under any Environmental Law in connection with its operation as it is currently being conducted, including those relating to the management of Hazardous Substances, have been obtained by the Company, are in full force and effect, and the Company is in material compliance with the terms thereof. The Company has not disposed of or released any Hazardous Substances on, in or under any real property that would reasonably be expected to require remediation under Environmental Laws. The Company has delivered or otherwise made available to Parent or its counsel copies of any environmental investigation, study, test, audit, review or other analysis in its possession in relation to the current or prior business of the Company.

2.19 Insurance

. Section 2.19 of the Disclosure Schedule sets forth a list of all material policies of property, general liability, directors and officers, fiduciary, employment, title, workers' compensation, environmental, product liability, cyber liability and other forms of insurance maintained by the Company and all pending outstanding claims against such insurance policies (the "**Insurance Policies**"). The Company has delivered to Parent complete and correct copies of

all Insurance Policies, together with all endorsements, riders and amendments thereto. The Insurance Policies are in full force and effect and all premiums due and payable under such Insurance Policies have been paid on a timely basis. The Company is in compliance in all material respects with the terms of the Insurance Policies. As of the date of this Agreement, there is no claim pending under any of the Company's Insurance Policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies. To the Company's Knowledge, as of the date of this Agreement, there is no threatened termination of, or material premium increase with respect to, any of such policies. All of the Insurance Policies are and all similar insurance policies maintained by the Company since January 1, 2016, and to the Knowledge of the Company, since January 1, 2014 were, placed with financially sound and reputable insurers, in amounts and with coverages reasonable and customary for Persons engaged in businesses similar to that engaged in by the Company.

2.20 Legal Proceedings; Orders

There is no pending Legal Proceeding, and, to the Company's Knowledge, no Person has threatened to commence any Legal Proceeding: (a) that involves the Company or any of the assets owned or used by the Company or any Person whose liability the Company has retained or assumed, either contractually or by operation of law; (b) that challenges, or that may have the effect of preventing, delaying, making illegal or otherwise interfering with, the Merger or any of the other transactions contemplated by this Agreement; or (c) where the Company is a plaintiff or complainant. Since January 1, 2014, no Legal Proceeding has been commenced by or against, or to the Knowledge of the Company, threatened in writing against, the Company. There is no order, writ, injunction, judgment or decree to which the Company or any of the assets owned or used by the Company is subject. To the Company's Knowledge, no officer or other employee of the Company is subject to any order, writ, injunction, judgment or decree that prohibits such officer or other employee from engaging in or continuing any conduct, activity or practice relating to the Company's business.

2.21 Authority; Binding Nature of Agreement

The Company has all necessary corporate power and authority to enter into and to perform its obligations under this Agreement. As of the date of this Agreement, the Board of Directors of the Company (at a meeting duly called and held) has (a) determined that the Merger is advisable and fair and in the best interests of the Company and its stockholders, (b) authorized and approved the execution, delivery and performance of this Agreement by the Company and approved the Merger, (c) authorized and approved the execution, delivery and performance of each other agreement, document or instrument contemplated by this Agreement to which the Company is or will be a party in connection with the Merger; and (d) recommended the adoption of this Agreement by the Company Stockholders and directed that this Agreement be submitted for consideration by the Company Stockholders by written consent. This Agreement constitutes, and each other agreement, document or instrument contemplated by this Agreement to which the Company is or will be a party in connection with the Merger will constitute upon execution and delivery by the Company, the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to (i) laws of general application relating to bankruptcy, insolvency and the relief of debtors, and (ii) rules of law governing specific performance, injunctive relief and other equitable remedies.

2.22 **Vote Required**

The adoption of this Agreement and approval of the Merger requires the affirmative vote (the “**Required Company Stockholder Vote**”) of: (a) the holders of a majority of the shares of Company Common Stock and Company Preferred Stock outstanding on the applicable record date, consenting or voting (as the case may be) together as a single class, (b) the holders of a 60% of the shares of Company Preferred Stock outstanding on the applicable record date, consenting or voting (as the case may be) as a single class (on an as-converted-to-Company-Common-Stock basis) and (c) the holders of a majority of the shares of Company Common Stock outstanding on the applicable record date, consenting or voting (as the case may be) as a single class. The Required Company Stockholder Vote is the only vote of the holders of any class or series of Company Capital Stock necessary to adopt this Agreement and approve the Merger.

2.23 **Non-Contravention; Consents**

Except as set forth in Section 2.23 of the Disclosure Schedule, the execution and delivery of this Agreement by the Company and the consummation by the Company of the transactions contemplated by this Agreement will not: (a) contravene, conflict with or result in a violation of any of the provisions of the Company Charter or bylaws of the Company; (b) contravene, conflict with or result in a violation by the Company of any Law applicable to the Company; (c) contravene, conflict with or result in a default (or an event that, with or without notice or lapse of time or both would constitute a default) on the part of the Company under, or give to others any rights of termination, acceleration or cancellation of, or result in the creation of a Lien on any of the properties or assets of the Company (other than a Permitted Encumbrance) pursuant to, any Material Contract; or (d) contravene, conflict with or result in a violation of any of the terms or requirements of, or give any Governmental Body the right to revoke, withdraw, suspend, cancel, terminate or modify, any material Permit that is held by the Company or that otherwise relates to the Company’s business or to any of the assets owned or used by the Company. Except as set forth in Section 2.23 of the Disclosure Schedule and except as may be required by the DGCL or the CCC, the HSR Act or any other Antitrust Law or governmental regulation, the Company is not required to obtain any Consent from any Governmental Body or party to a Material Contract or make any filing with a Governmental Body, in each case, at any time prior to the Closing in connection with the execution and delivery of this Agreement or the consummation by the Company of the Merger.

2.24 **Accounts Receivable**

All accounts receivable of the Company have arisen from bona fide transactions by such parties in the ordinary course of the business. All accounts receivable reflected in the Unaudited Balance Sheet represent valid obligations to the Company arising from applicable transactions. To the Knowledge of the Company, other than immaterial claims incurred in the ordinary course of business or which are reserved for on the Company Financial Statements, all accounts receivable are good and collectible in the ordinary course of business at the aggregate recorded amounts thereof, net of any applicable allowance for doubtful accounts reflected in the Unaudited Balance Sheet.

2.25 **Financial Advisor**

Except as set forth in Section 2.25 of the Disclosure Schedule, no broker, finder or investment banker is entitled to any brokerage or finder's fee in connection with the Merger or any of the other transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Company.

2.26 Significant Business Relationships.

(a) Section 2.26(a) of the Disclosure Schedule sets forth an accurate and complete list of the Payment Programs that covered the payments or reimbursements for the Company's screening tests for the year ended December 31, 2017. Since December 31, 2017, no top 30 Payment Programs listed in Section 2.26(a) of the Disclosure Schedule has terminated its relationship with the Company or demanded a material change in the pricing or other terms of its relationship with the Company. The Company is not engaged in any material dispute with any of the top 30 Payment Programs listed in Section 2.26(a) of the Disclosure Schedule and, to the Knowledge of the Company, no such Payment Program intends to terminate, limit or reduce its business relations with the Company, or adversely change the pricing or other terms of its business with the Company.

(b) Section 2.26(b) of the Disclosure Schedule sets forth an accurate and complete list of any vendor or supplier of the Company that received an aggregate amount of payment from the Company for products or services provided, as applicable, in excess of \$100,000 during a period of commencing on May 1, 2017 and ending on the date immediately prior to the date of this Agreement. Since December 31, 2017 through the date of this Agreement, no vendor or supplier listed in Section 2.26(b) of the Disclosure Schedule has terminated its relationship with the Company or demanded a material change in the pricing or other terms of its relationship with the Company. The Company is not engaged in any material dispute with any vendor or supplier listed in Section 2.26(b) of the Disclosure Schedule and, to the Knowledge of the Company, no such vendor or supplier intends to terminate, limit or reduce its business relations with the Company, or adversely change the pricing or other terms of its business with the Company.

2.27 Related Party Transactions

Except as set forth in Section 2.27 of the Disclosure Schedule, (a) there are no material obligations of the Company to a Related Party or employee of the Company and (b) no officer or director of the Company (i) is directly interested in any Material Contract or transaction or has an interest in any material asset of the Company, (ii) is, or has been, indebted to the Company, and (iii) is competing, or has at any time competed, with the Company, and (iv) has any claim or right against the Company, other than (A) for payment of salaries and bonuses for services rendered, (B) reimbursement of customary and reasonable expenses incurred on behalf of the Company, (C) benefits due under Company Plans and fringe benefits not required to be listed on Section 2.17(a) of the Disclosure Schedule, (D) agreements relating to outstanding Company Capital Stock, Company Options, Company RSUs or Company Warrants that have been disclosed on the Disclosure Schedule and (E) as provided in the Company Charter or the bylaws of the Company.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Parent and Merger Sub represent and warrant to the Company as follows:

3.1 Due Incorporation; Subsidiaries

Parent is a corporation duly incorporated, validly existing and in good standing under the laws of Delaware. Merger Sub is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

3.2 Authority; Binding Nature of Agreement

Parent and Merger Sub have all necessary corporate power and authority to enter into and perform their obligations under this Agreement and each other agreement, document or instrument referred to in or contemplated by this Agreement to which Parent or Merger Sub is or will be a party. The execution, delivery and performance by Parent and Merger Sub of this Agreement and each other agreement, document or instrument referred to in or contemplated by this Agreement to which Parent or Merger Sub is or will be a party have been duly authorized by all necessary action on the part of Parent, Merger Sub and their respective boards of directors. This Agreement constitutes, and each other agreement, document or instrument referred to in or contemplated by this Agreement to which Parent or Merger Sub is or will be a party will constitute when executed and delivered by Parent and/or Merger Sub, as applicable, the legal, valid and binding obligation of Parent and/or Merger Sub, as applicable, enforceable against it in accordance with its terms, subject to (a) laws of general application relating to bankruptcy, insolvency and the relief of debtors and (b) rules of law governing specific performance, injunctive relief and other equitable remedies.

3.3 Non-Contravention; Consents

The execution and delivery of this Agreement by Parent and Merger Sub and the consummation by Parent and Merger Sub of the transactions contemplated by this Agreement will not: (a) cause a violation of any of the provisions of the certificate of incorporation or bylaws of Parent or Merger Sub, (b) cause a violation by Parent or Merger Sub of any Law applicable to Parent or Merger Sub or (c) cause a default on the part of Parent or Merger Sub under any material contract of Parent or Merger Sub, except, with respect to clauses (b) and (c) only, for violations and defaults that would not reasonably be expected to materially and adversely impact Parent's or Merger Sub's ability to consummate the transactions contemplated by this Agreement. Except as may be required by the DGCL, the HSR Act or any other Antitrust Law or governmental regulation, neither Parent nor Merger Sub is required to obtain any Consent from any Governmental Body or party to a material contract of Parent or Merger Sub at any time prior to the Closing in connection with the execution and delivery of this Agreement or the consummation of the Merger.

3.4 Litigation

As of the date of this Agreement, there is no Legal Proceeding pending (or, to the knowledge of Parent or Merger Sub, being threatened) against Parent or Merger Sub that would delay, restrain, prevent, enjoin or otherwise prohibit the consummation of the Merger.

3.5 Merger Sub

Merger Sub (a) was formed solely for the purpose of engaging in the transactions contemplated by this Agreement, (b) has engaged in no other business activities and (c) has conducted its operations only as contemplated by this Agreement.

3.6 Reliance.

(a) Neither Parent nor Merger Sub is relying and neither Parent nor Merger Sub has relied on any representations or warranties whatsoever regarding the subject matter of this Agreement, express or implied, except for the representations and warranties expressly set forth in Section 2 (*Representations and Warranties of the Company*) of this Agreement. Such representations and warranties by the Company constitute the sole and exclusive representations and warranties of the Company in connection with the transactions contemplated hereunder and each of Parent and Merger Sub understands, acknowledges and agrees that all other representations and warranties of any kind or nature whether express, implied or statutory are specifically disclaimed by the Company.

(b) In connection with the due diligence investigation of the Company by Parent and its Affiliates, stockholders, directors, officers, employees, agents, representatives or advisors, Parent and its Affiliates, stockholders, directors, officers, employees, agents, representatives and advisors have received and may continue to receive after the date hereof from the Company and its Affiliates, stockholders, directors, officers, employees, consultants, agents, representatives and advisors certain estimates, projections, forecasts and other forward-looking information, as well as certain business plan information, regarding the Company and its business and operations. Parent hereby acknowledges 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, and that Parent will have no claim against the Company, or any of its Affiliates, stockholders, directors, officers, employees, consultants, agents, representatives or advisors, or any other Person, with respect thereto. Accordingly, Parent hereby acknowledges and agrees that, except for the representations and warranties expressly set forth in Section 2 (*Representations and Warranties of the Company*) of this Agreement, neither the Company, nor any of its Affiliates, stockholders, directors, officers, employees, consultants, agents, representatives or advisors has made or is making any express or implied representation or warranty with respect to such estimates, projections, forecasts, forward-looking statements or business plans.

3.7 No Parent Vote Required

No vote or other action of the stockholders of Parent is required by applicable Law, the certificate of incorporation or bylaws (or similar charter or organizational documents) of Parent or otherwise in order for Parent and Merger Sub to consummate the Merger and the transactions contemplated hereby.

3.8 Solvency

Assuming (a) satisfaction of the conditions to Parent's obligation to consummate the Merger, and after giving effect to the transactions contemplated hereby and the payment of the

Payment Amount and any other amount to be paid under this Agreement, (b) any repayment or refinancing of debt contemplated in this Agreement, (c) the accuracy of the representations and warranties of the Company set forth in Section 2 (*Representations and Warranties of the Company*) hereof, (d) payments of all amounts required to be paid in connection with the consummation of the transactions contemplated hereby, and (e) payment of all related fees and expenses, each of Parent and the Company will be Solvent as of the Effective Time and immediately after the consummation of the transactions contemplated hereby. For the purposes of this Agreement, the term “**Solvent**” when used with respect to any Person, means that, as of any date of determination (a) the amount of the “fair saleable value” of the assets of such Person will, as of such date, exceed (i) the value of all “liabilities of such Person, including contingent and other liabilities,” as of such date, as such quoted terms are generally determined in accordance with applicable Laws governing determinations of the insolvency of debtors, and (ii) the amount that will be required to pay the probable liabilities of such Person on its existing debts (including contingent and other liabilities) as such debts become absolute and mature, (b) such Person will not have, as of such date, an “unreasonably small amount of capital” for the operation of the businesses in which it is engaged or proposed to be engaged following such date, and (c) such Person will be able to pay its liabilities, including contingent and other liabilities, as they mature.

3.9 Availability of Funds

Parent has, as of the date of this Agreement, and will have, from and after the Effective Time, sufficient funds on hand and available through existing liquidity facilities (without restrictions on drawdown that would delay payment of the Purchase Price to consummate the transactions contemplated hereby) to (a) pay the Purchase Price, (b) pay any and all fees and expenses in connection with the transactions contemplated hereby and any debt or equity financing, (c) repay or refinance all Debt of the Company to the extent such repayment or refinancing is required in connection with the transactions contemplated hereby and (d) satisfy all of its other payment obligations payable hereunder and under any agreement ancillary hereto.

3.10 Capital Stock

The authorized capital stock of Parent consists of 150,000,000 shares of Parent Stock and 5,000,000 shares of preferred stock, par value \$0.01 per share (“**Parent Preferred Stock**”). As of May 4, 2018, 69,906,818 shares of Parent Stock were issued and outstanding, and no shares of Parent Preferred Stock were issued or outstanding.

3.11 Reports and Financial Statements

(a) Since July 1, 2017, Parent has timely furnished or filed all required reports, schedules, forms, statements and other documents required to be furnished or filed by it with the SEC (together with all exhibits, financial statements and schedules thereto and all information incorporated therein by reference, collectively, the “**Parent SEC Filings**”). As of their respective filing (or furnishing) date or, if amended, as of the date of the last such amendment, each Parent SEC Filings complied in all material respects with the requirements of the Exchange Act, the Securities Act and the Sarbanes-Oxley Act, as the case may be, the rules and regulations of the SEC and the Nasdaq Global Select Market, and none of the Parent SEC

Filings contained (at the time they were furnished or filed or if amended or superseded by a furnishing or a filing then on the date of such furnishing or filing) any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading, except to the extent corrected or amended by a subsequently furnished or filed Parent SEC Filing. Parent is eligible to use Form S-3 to register the shares of Parent Stock issuable pursuant to the Merger for resale on a continuous basis on an automatic shelf registration statement that will become effective immediately upon filing with the SEC under the Securities Act. Parent is a “well known seasoned issuer” as defined in Rule 405 of the rules and regulations of the SEC under the Securities Act, pursuant to Section 1(i)(A) of such definition, including not having been and not being an “ineligible issuer” as defined in such Rule 405. The Parent Financial Statements, which have been derived from the accounting books and records of Parent and its subsidiaries, comply as to form in all material respects with the applicable accounting requirements and the published rules and regulations of the SEC with respect thereto. The Parent Financial Statements present fairly in all material respects, in conformity with GAAP applied on a consistent basis throughout the periods indicated, except that the unaudited consolidated interim financial statements may not contain all footnotes required by GAAP and are subject to normal year-end adjustments, the consolidated financial position of Parent and its subsidiaries as at the respective dates thereof, and the consolidated statements of income, consolidated statements of stockholders’ equity and consolidated statements of cash flows (in each case including the related notes) for the respective periods indicated. Since July 1, 2017, there has not been an adverse effect that would delay, restrain, prevent, enjoin or otherwise prohibit the consummation of the Merger.

(b) There are no outstanding or unresolved comments in comment letters received from the SEC with respect to the Parent SEC Filings. To the knowledge of Parent, none of the Parent SEC Filings is the subject of ongoing SEC review and there are no inquiries or investigations by the SEC or any internal investigations pending or threatened, in each case, regarding any accounting practices of Parent.

(c) Parent maintains, and at all times since July 1, 2017 has maintained, a system of internal controls over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) which is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, and includes those policies and procedures that: (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of Parent; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and that receipts and expenditures are being made only in accordance with authorizations of management and directors of Parent; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets of Parent that could have a material effect on its financial statements. Parent’s management has completed an assessment of the effectiveness of Parent’s system of internal controls over financial reporting in compliance with the requirements of Section 404 of the Sarbanes-Oxley Act for the fiscal year ended June 30, 2017, and such assessment concluded that such controls were effective.

(d) Parent maintains disclosure controls and procedures required by Rule 13a-15 or 15d-15 under the Exchange Act that are designed to ensure that all information required to be disclosed in Parent's reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and that all such information is accumulated and communicated to Parent's management as appropriate to allow timely decisions regarding required disclosure and to enable each of the principal executive officer of Parent and the principal financial officer of Parent to make the certifications required under the Exchange Act with respect to such reports.

3.12 Parent Stock

The issuance, sale and delivery of the shares of Parent Stock issuable pursuant to Section 1.5 (*Conversion of Shares*) and Section 1.6 (*Treatment of Company Options, Company RSUs and Company Warrants*) been duly authorized by all necessary corporate action on the part of Parent and all such shares have been duly reserved for issuance. The shares of Parent Stock, when issued in accordance with the provisions of this Agreement, will be duly authorized, validly issued, fully paid and non-assessable and not subject to or issued in violation of any purchase option, call option, right of first refusal, preemptive right, subscription right or any similar right. Assuming the accuracy and completeness of representations made by the Company Stockholders in their Investor Questionnaires and by the holders of In-the-Money Options RSUs in their Form of Election, the offer, issuance, sale and delivery of the shares of Parent Stock pursuant to the terms of this Agreement are and will be in full compliance with all applicable state and federal securities Laws, exempt from the registration requirements of the Securities Act and exempt from all applicable state securities law registration and qualification requirements.

SECTION 4. CERTAIN COVENANTS OF THE COMPANY

4.1 Access

During the period from the date of this Agreement through the earlier of the Effective Time or the termination of this Agreement pursuant to Section 9.1 (*Termination*) (the "**Pre-Closing Period**"), and upon reasonable advance notice to the Company, the Company shall provide Parent and Parent's representatives with reasonable access during normal business hours to the Company's personnel, facilities and existing books and records for the purpose of enabling Parent to verify the accuracy of the Company's representations and warranties contained in this Agreement and for the purposes of obtaining the Debt Financing; *provided, however*, that any such access shall be conducted at Parent's expense, under the supervision of appropriate personnel of the Company and in such a manner as to maintain the confidentiality of this Agreement and the transactions contemplated hereby in accordance with the terms hereof and not to interfere with the normal operation of the business of the Company. Nothing herein shall require the Company to disclose any information to Parent if such disclosure would, in the Company's sole and absolute discretion (a) jeopardize any attorney-client privilege; *provided* that in such a case, the parties will work in good faith to provide access to or disclose such information in a manner that would not waive such attorney-client privilege or (b) contravene any binding agreement entered into prior to the date of this Agreement (including any confidentiality agreement to which the Company is a party).

During the Pre-Closing Period, except (1) as set forth in Section 4.2 of the Disclosure Schedule, (2) with respect to subclause (i) of this Section 4.2 (*Conduct of the Business of the Company*), to the extent necessary to comply with the Company's obligations under this Agreement or any agreement ancillary hereto or necessary to effectuate the transactions contemplated hereby and thereby, (3) with Parent's consent (which shall not be unreasonably withheld, conditioned or delayed) or (4) to the extent to be reflected in the Closing Date Transaction Expenses (other than those arrangements that would be binding upon the Surviving Corporation after the Effective Time): (i) the Company shall use commercially reasonable efforts to (A) carry on its business in the ordinary course, (B) preserve substantially intact its present business organization, and (C) preserve its relationships with material suppliers, distributors, licensors, licensees and others to whom the Company has contractual obligations; and (ii) the Company shall not:

(a) amend the Company Charter or the bylaws of the Company;

(b) split, combine or reclassify any of its capital stock or (except in connection with the conversion of Company Preferred Stock to Company Common Stock or the exercise of Company Options, the Company Warrants or the vesting of Company RSUs) issue or authorize the issuance of any other securities in respect of, in lieu of or in substitution for shares of its capital stock;

(c) issue any shares of Company Capital Stock or securities convertible into, or subscriptions, rights, warrants or options to acquire, or other agreements or commitments of any character obligating it to issue any such shares or other convertible securities; *provided, however*, that (i) the Company may grant Company Options and Company RSUs under the Equity Incentive Plans, (ii) the Company may issue shares of Company Common Stock in connection with the exercise of Company Options or other rights for Company Common Stock, (iii) the Company may issue shares of Company Common Stock in connection with the conversion of Company Preferred Stock and (iv) the Company may issue shares of Company Preferred Stock in connection with the exercise of Company Warrants, in each case, in accordance with the respective terms of such securities as in effect on the date of this Agreement;

(d) enter into or adopt any plan or agreement of complete or partial liquidation or dissolution, or file a voluntary petition in bankruptcy or commence a voluntary legal procedure for reorganization, arrangement, adjustment, release or composition of indebtedness in bankruptcy or other similar Laws now or hereafter in effect;

(e) make any capital expenditures, capital additions or capital improvements, in excess of \$500,000 in the aggregate (other than in accordance with the budget for capital expenditures previously made available to Parent);

(f) (i) materially reduce the amount of any insurance coverage provided by existing insurance policies other than upon the expiration of any such policy or (ii) fail to maintain in full force and effect insurance coverage materially consistent with past practices;

- (g) acquire or agree to acquire by merging with, or by purchasing a portion of the stock or assets of, or by any other manner, any business or any Entity, other than as permitted in (e) above or in the ordinary course of business;
- (h) other than in the ordinary course of business, sell, lease or exclusively license any properties or assets of the Company which are material to the Company;
- (i) enter into any Contract that is or would constitute a Material Contract; or (ii) materially amend, extend or prematurely terminate, or waive any material right or remedy under, any Contract that is or would constitute a Material Contract, in each case other than in the ordinary course of business;
- (j) make or change or revoke any material election in respect of Taxes, change any accounting method in respect of Taxes, settle any material claim or assessment in respect of Taxes, file any amendment to an income or other material Tax Return or consent to any extension or waiver of the limitation period applicable to any material claim or assessment in respect of Taxes;
- (k) increase the compensation (including bonuses) payable on or after the date hereof to any director or executive officer of the Company, except (i) for increases provided for in any Contracts or Company Plans in effect on the date hereof or in the ordinary course of business consistent with past practices or (ii) that the Company may make bonus and commission payments in accordance with the bonus and commission plans and policies existing on the date of this Agreement, including payments to its officers;
- (l) establish, adopt or materially amend any Company Plan, except with respect to (i) any such action that (A) is in the ordinary course of business consistent with past practices, (B) would not result in more than a *de minimis* increase to the cost to the Company under such Company Plan or (C) is required by applicable Law; and (ii) employment agreements or other compensation arrangements with any existing or future employee who is, or would be, at the vice president level or below, or whose base annual salary is, or would be, \$300,000 or less;
- (m) make any material changes in its methods of accounting or accounting practices (including with respect to reserves), other than as required by GAAP;
- (n) waive, release, assign, compromise, commence, settle or agree to settle any Legal Proceeding, other than waivers, releases, compromises or settlements in the ordinary course of business consistent with past practice that (i) involve only the payment of monetary damages not in excess of \$300,000 in the aggregate and (ii) do not include the imposition of equitable relief on, or the admission of wrongdoing by, the Company;
- (o) (a) amend or modify in any material respect, or terminate, any of the Real Property Leases, or (b) assign, sublease, or encumber any of the Company's interests in the Leased Real Property or the Real Property Leases in any material respect;
- (p) accelerate the collection of any accounts receivable or delay the payment of any accounts payable other than in the ordinary course;

(q) except as required by GAAP or in the ordinary course of business consistent with past practice, write off as uncollectible, or establish any extraordinary reserve with respect to, any account receivable;

(r) make any pledge of any of its assets or otherwise permit any of its assets to become subject to any Lien, except for pledges of immaterial assets made in the ordinary course of business and consistent with the Company's past practices and for Permitted Encumbrances;

(s) (i) lend money to any Person, other than advances to employees and consultants in the ordinary course of business consistent with past practices, or (ii) incur or guarantee any new Debt not pre-payable at par, other than in the ordinary course of business and that would not constitute a liability of the Surviving Corporation after the Closing; and

(t) agree or commit to take any of the actions described in clauses (a) through (s) of this Section 4.2 (*Conduct of the Business of the Company*).

Nothing herein shall require the Company to obtain consent from Parent to do any of the foregoing if obtaining such consent might reasonably be expected to violate applicable Law.

4.3 No Solicitation.

(a) During the Pre-Closing Period, the Company shall not, nor shall it authorize or instruct any of its officers, directors or employees or any investment banker, attorney or other advisor or representative retained by it to (i) solicit, initiate or knowingly encourage the submission of any Takeover Proposal by any Person or (ii) participate in any discussions or negotiations regarding, or furnish to any Person any non-public information with respect to, or take any other action intended or reasonably expected to facilitate the making of any inquiry or proposal to the Company that constitutes, or is reasonably expected to lead to, any Takeover Proposal by any Person. Without limiting the foregoing, it is understood that any violation of the restrictions set forth in the preceding sentence by any officer, director or employee of the Company or any investment banker, attorney or other advisor or representative of the Company, acting on behalf of, and with the authorization of, the Company, shall be deemed to be a breach of this Section 4.3(a) (*No Solicitation*) by the Company.

(b) Neither the Board of Directors of the Company nor any committee thereof shall (i) withdraw or modify in a manner materially adverse to Parent or Merger Sub, the approval or recommendation by such Board of Directors or any such committee of this Agreement or the Merger, (ii) approve or recommend any Takeover Proposal or (iii) cause the Company to enter into any letter of intent, agreement in principle, acquisition agreement or other similar agreement with respect to any Takeover Proposal.

(c) In addition to the obligations of the Company set forth in paragraphs (a) and (b) of this Section 4.3 (*No Solicitation*), the Company promptly (and in all events within 24 hours) shall advise Parent orally and in writing of any request to the Company for nonpublic information that the Company reasonably believes is likely to lead to a Takeover Proposal or of any Takeover Proposal submitted to the Company, or any inquiry directed to the Company with respect to or which the Company reasonably believes is likely to lead to any Takeover Proposal

and the (i) the identity of the Person making or submitting such inquiry, indication of interest, proposal, offer or request, and the terms and conditions thereof; and (ii) an accurate and complete copy of all written materials provided in connection with such inquiry, indication of interest, proposal, offer or request.

SECTION 5. ADDITIONAL COVENANTS OF THE PARTIES

5.1 Stockholder Consent or Approval.

(a) The Company shall, in accordance with the Company Charter and the Company's bylaws and the applicable requirements of the DGCL and the CCC (including Sections 228 and 262 of the DGCL), solicit the written consents of stockholders of the Company for the adoption of this Agreement (the "**Written Consent**").

(b) If applicable, the Company shall (i) use commercially reasonable efforts to secure from any Person who is a "disqualified individual," as defined in Section 280G of the Code, and who has a right to any payments or benefits or potential right to any payments or benefits in connection with the consummation of the Merger that would be deemed to constitute "parachute payments" pursuant to Section 280G of the Code, a waiver of such Person's rights to any such payments or benefits applicable to such Person to the extent that all remaining payments or benefits applicable to such Person shall not be deemed to be "parachute payments" pursuant to Section 280G of the Code (the "**Waived 280G Benefits**") and (ii) submit for approval by the Company Stockholders the Waived 280G Benefits, to the extent and in the manner required under Sections 280G(b)(5)(A)(ii) and 280G(b)(5)(B) of the Code (the "**280G Stockholder Vote**"). The Company shall not pay any of the Waived 280G Benefits if such payment is not approved by the Company Stockholders as contemplated above. If applicable, prior to the Closing Date, the Company shall deliver to Parent evidence satisfactory to Parent that a vote of the Company Stockholders was received in conformance with Section 280G of the Code and the regulations thereunder, or that such requisite stockholder approval has not been obtained with respect to the Waived 280G Benefits, and, as a consequence, the Waived 280G Benefits have not been and shall not be made or provided. Within a reasonable period of time before taking such actions, the Company shall deliver to Parent for review and comment copies of any documents or agreements necessary to effect this Section 5.1(b), including, but not limited to, any stockholder consent form, disclosure statement or waiver, and the Company shall consider in good faith all comments received from Parent on such documents or agreements.

5.2 Regulatory Filings; Reasonable Best Efforts.

(a) Subject to the terms and conditions set forth in this Agreement, each of the parties hereto shall use their respective reasonable best efforts to take, or cause to be taken, all actions, to file, or cause to be filed, all documents and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable under applicable Antitrust Laws to consummate and make effective the Merger as soon as reasonably practicable, including (i) the obtaining of all necessary actions or nonactions, waivers, consents, clearances, decisions, declarations, approvals and, expirations or terminations of waiting periods from Governmental Bodies and the making of all necessary registrations and filings and the taking of all steps as may be necessary to obtain any such consent, decision, declaration,

approval, clearance or waiver, or expiration or termination of a waiting period by or from, or to avoid an action or proceeding by, any Governmental Body in connection with any Antitrust Law, (ii) the obtaining of all necessary consents, authorizations, approvals or waivers from third parties and (iii) the execution and delivery of any additional instruments necessary to consummate the Merger.

(b) By way of illustration and not limitation, the parties hereto agree to promptly take, and cause their Affiliates to take, all actions and steps requested or required by any Governmental Body as a condition to granting any consent, permit, authorization, waiver, clearance and approvals, and to cause the prompt expiration or termination of any applicable waiting period and to resolve objections, if any, as the FTC, DO, or other Governmental Bodies of any other jurisdiction for which consents, permits, authorizations, waivers, clearances, approvals and expirations or terminations of waiting periods are sought with respect to the Merger, so as to obtain such consents, permits, authorizations, waivers, clearances, approvals or termination of the waiting period under the HSR Act or other Antitrust Laws, and to avoid the commencement of a lawsuit by the FTC, the DOJ or other Governmental Bodies under Antitrust Laws, and to avoid the entry of, or to effect the dissolution of, any injunction, temporary restraining order or other order in any suit or proceeding which would otherwise have the effect of preventing or materially delaying the Closing; *provided, however*, Parent and its Affiliates shall not be required to, and without the prior written consent of Parent, the Company shall not, before or after the Effective Time, sell, license, divest or dispose of or hold separate (through the establishment of a trust or otherwise), or agree to any other structural, behavioral or conduct remedy with respect to, any entities, businesses, divisions, operations, products or product lines, assets, Intellectual Property or businesses of Parent, the Company (or any of their respective Subsidiaries or other Affiliates) or agree to any restriction on the conduct of such businesses. Nothing in this Section 5.2 (*Regulatory Filings; Reasonable Best Efforts*) shall require Parent or the Company to take or agree to take any action unless the effectiveness of such action is conditioned upon Closing. Notwithstanding the foregoing and any other provision of this Agreement to the contrary, in no event shall Parent, the Company or any of their respective Subsidiaries be obligated to litigate or participate in the litigation of any action, whether judicial or administrative, brought by any Governmental Body challenging or seeking to restrain, prohibit or place conditions on the consummation of the transactions contemplated by this Agreement.

(c) Subject to the terms and conditions of this Agreement, each of the parties hereto shall (and shall cause their respective Affiliates, if applicable, to): (i) promptly, but in no event later than 10 business days after the date hereof, make an appropriate filing of all Notification and Report forms as required by the HSR Act with respect to the transactions contemplated hereby; (ii) promptly, but in no event later than 10 business days after the date hereof, make all other filings, notifications or other consents as may be required to be made or obtained by such party under foreign Antitrust Laws in those jurisdictions identified in Section 5.2(c) of the Disclosure Schedule, which contains the list of the only jurisdictions where filing, notification, expiration of a waiting period or consent or approval is a condition to Closing; and (iii) cooperate with each other in determining whether, and promptly preparing and making, any other filings or notifications or other consents required to be made with, or obtained from, any other Governmental Bodies in connection with the transactions contemplated hereby.

(d) Without limiting the generality of anything contained in this Section 5.2 (Regulatory Filings; Reasonable Best Efforts), during the Pre-Closing Period, each party hereto shall use its reasonable best efforts to (i) cooperate in all respects and consult with each other in connection with any filing or submission in connection with any investigation or other inquiry, including allowing the other party to have a reasonable opportunity to review in advance and comment on drafts of filings and submissions, (ii) give the other parties prompt notice of the making or commencement of any request, inquiry, investigation, action or Legal Proceeding brought by a Governmental Body or brought by a third party before any Governmental Body, in each case, with respect to the transactions contemplated hereby, (iii) keep the other parties informed as to the status of any such request, inquiry, investigation, action or Legal Proceeding, (iv) promptly inform the other parties of any material communication to or from the U.S. Federal Trade Commission (“*FTC*”), the Antitrust Division of the U.S. Department of Justice (“*DOJ*”) or any other Governmental Body in connection with any such request, inquiry, investigation, action or Legal Proceeding, (v) upon request, promptly furnish to the other party, subject to an appropriate confidentiality agreement to limit disclosure to outside counsel and consultants retained by such counsel, with copies of documents provided to or received from any Governmental Body in connection with any such request, inquiry, investigation, action or Legal Proceeding (documents provided pursuant to this provision may be redacted (1) to remove references concerning the valuation of the business of the Company and its Affiliates, (2) as necessary to comply with contractual arrangements and (3) as necessary to address reasonable privilege or confidentiality concerns), (vi) subject to an appropriate confidentiality agreement to limit disclosure to counsel and outside consultants retained by such counsel, and to the extent reasonably practicable, consult in advance and cooperate with the other parties and consider in good faith the views of the other parties in connection with any substantive communication, analysis, appearance, presentation, memorandum, brief, argument, opinion or proposal to be made or submitted in connection with any such request, inquiry, investigation, action or Legal Proceeding and (vii) except as may be prohibited by any Governmental Body or by any Law, in connection with any such request, inquiry, investigation, action or Legal Proceeding in respect of the transactions contemplated hereby, each party hereto shall provide advance notice of and permit authorized representatives of the other party to be present at each meeting or conference relating to such request, inquiry, investigation, action or Legal Proceeding and to have access to and be consulted in advance in connection with any argument, opinion or proposal to be made or submitted to any Governmental Body in connection with such request, inquiry, investigation, action or Legal Proceeding; *provided, however*, Parent shall, on behalf of the parties, control and direct all aspects of the parties’ efforts to obtain the required approvals under the Antitrust Laws, including having principal responsibility for devising, implementing and making the final determination as to the appropriate strategy relating to any matters relating to the Antitrust Laws, including with respect to any filings, notifications, submissions and communications with or to any Governmental Body, and shall have the right, in its sole discretion, to determine the nature and timing of any divestitures or other remedial undertakings made for the purpose of securing any required approvals under the Antitrust Laws to the extent any such divestitures or other remedial undertakings would be conditioned upon and only be effective after the Closing. Each party hereto shall supply as promptly as practicable such information, documentation, other material or testimony that may be reasonably requested by any Governmental Body, including by complying at the earliest reasonably practicable date with any reasonable request for additional information, documents or other materials received by any party or any of their respective Subsidiaries from any Governmental Body in connection with such applications or filings for the transactions contemplated by this Agreement. Parent shall pay all filing fees under the HSR Act and for any filings required under foreign Antitrust Laws, but the Company shall bear its own costs for the preparation of any such filings. Neither party shall commit to or agree with any Governmental Body to stay, toll or extend any applicable waiting period under the HSR Act, or pull and refile under the HSR Act, or other applicable Antitrust Laws, without the prior written consent of the other.

(e) Parent further agrees that it shall not, and shall not permit any of its Affiliates to, directly or indirectly, acquire or agree to acquire any assets, business or any Person, whether by merger, consolidation, purchasing a substantial portion of the assets of or equity in any Person or by any other manner or engage in any other transaction or take any other action, if the entering into of an agreement relating to or the consummation of such acquisition, merger, consolidation or purchase or other transaction or action would reasonably be expected to (i) impose any delay in the expiration or termination of any applicable waiting period or impose any delay in the obtaining of, or increase the risk of not obtaining, any authorization, consent, clearance, approval or order of a Governmental Body necessary to consummate the Merger and the other transactions contemplated hereby, including any approvals and expiration of waiting periods pursuant to the HSR Act or any other applicable Law, (ii) increase the risk of any Governmental Body entering, or increase the risk of not being able to remove or successfully challenge, any permanent, preliminary or temporary injunction or other order, decree, decision, determination or judgment that would delay, restrain, prevent, enjoin or otherwise prohibit consummation of the Merger and the other transactions contemplated hereby or (iii) otherwise delay or impede the consummation of the Merger and the other transactions contemplated hereby.

(f) Subject to the terms and conditions set forth in this Agreement, each of the parties hereto shall use its commercially reasonable efforts to take, or cause to be taken, all actions, to file, or cause to be filed, all documents and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary to (i) effectuate the transfer of, all changes to, or the termination of any Permits held by the Company (such Permits being set forth in Section 2.11(a) of the Disclosure Schedule), as required under all applicable Laws or as advised by any Governmental Body as being necessary for the continued conduct of Company’s business after the Closing and (ii) obtain consents of the counterparties to the Contracts set forth in Section 2.11(a) of the Disclosure Schedule, *it being understood* that for all purposes of this Agreement, in no event shall any failure to effectuate such transfer, changes or termination or to obtain such consent constitute a breach of this Agreement.

5.3 Employee Benefits.

(a) Parent agrees that from and after the Effective Time, Parent and its Affiliates shall assume and honor all Company severance, retention and change of control plans, arrangements and agreements in accordance with

their terms as in effect immediately before the Effective Time. Parent shall provide or shall cause to be provided, to each employee of the Company who continues in the employ of Parent or any of its Subsidiaries (including the Surviving Corporation) following the Effective Time (each, a “***Continuing Employee***”) (a) base salary and a target incentive compensation opportunity, each of which is no less favorable than

the base salary and target incentive compensation opportunity provided to such Continuing Employee immediately before the Effective Time during the period from the Effective Time to June 30, 2019 and (b) other employee benefit and compensation programs that are no less favorable in the aggregate than those provided to such Continuing Employee immediately before the Effective Time during the period from the Effective Time to December 31, 2018; *provided, however*, that the foregoing shall not diminish any obligation of the Surviving Corporation pursuant to any employment or other agreement between the Company and any of its employees in existence as of the Closing Date.

(b) For all purposes under the employee benefit plans of Parent and its Affiliates providing benefits to any Continuing Employees after the Effective Time (the “**New Plans**”), each Continuing Employee shall be credited with his or her years of service with the Company before the Effective Time, to the same extent as such Continuing Employee was entitled, before the Effective Time, to credit for such service under any similar Company Plans (other than with respect to equity-based New Plans or severance New Plans). In addition, and without limiting the generality of the foregoing, for purposes of each New Plan providing medical, dental, pharmaceutical or vision benefits to any Continuing Employee, Parent shall make commercially reasonable efforts to cause (i) all pre-existing condition exclusions, waiting periods and actively-at-work requirements of such New Plan to be waived for such employee and his or her covered dependents, and (ii) any eligible expenses incurred by such employee and his or her covered dependents during the portion of the plan year of the Company Plan in which such Continuing Employee participated immediately before the Effective Time ending on the date such employee’s participation in the corresponding New Plan begins to be taken into account under such New Plan for purposes of satisfying all deductible, coinsurance and maximum out-of-pocket requirements applicable to such employee and his or her covered dependents for the applicable plan year as if such amounts had been paid in accordance with such New Plan.

(c) Parent hereby acknowledges that the transactions contemplated by this Agreement shall constitute a “change of control” or “change in control” (as applicable) under the Company Plans and the terms of employment-related agreements, as applicable.

(d) Nothing contained herein, express implied, is intended to confer upon any individual (including employees, retirees or dependents or beneficiaries or employees or retirees) any right as a third party beneficiary of this Agreement. No provision of this Agreement shall be construed as a guarantee of continued employment of any employee of the Company, including the Continuing Employees, and this Agreement shall not be construed so as to prohibit Parent or any of its Subsidiaries (including the Surviving Corporation) from having the right to terminate the employment of any employee of the Company, including the Continuing Employees, provided that any such termination is effected in accordance with applicable law.

5.4 Indemnification of Officers and Directors.

(a) All rights to indemnification by the Company existing in favor of those Persons who are or were directors and officers of the Company as of the date of this Agreement (the “**D&O Indemnified Persons**”) for their acts and omissions occurring prior to the Effective Time, as provided in the Company Charter and the Company’s bylaws (as in effect as of the date

of this Agreement) and as provided in the indemnification agreements between the Company and such D&O Indemnified Persons in the forms made available by the Company to Parent prior to the date of this Agreement, shall survive the Merger and shall not be amended, repealed or otherwise modified, and shall be observed by the Surviving Corporation to the fullest extent available under applicable Law, and any claim made requesting indemnification pursuant to such indemnification rights shall continue to be subject to this Section 5.4 (Indemnification of Officers and Directors) and the indemnification rights provided under this Section 5.4 (Indemnification of Officers and Directors) until disposition of such claim.

(b) Prior to the Effective Time, the Company shall, at its own expense, purchase an extended reporting period endorsement under the Company's existing directors' and officers' liability insurance coverage (the "**D&O Tail Policy**") for the Company's directors and officers, which shall provide such directors and officers with coverage for six years following the Effective Time of not less than the existing coverage under, and have other terms not materially less favorable to, the insured persons than the directors' and officers' liability insurance coverage presently maintained by the Company.

(c) In the event that Parent, the Company or the Surviving Corporation or any of their respective successors or assigns (i) 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 (ii) transfers all or substantially all of its properties and assets to any Person, then, and in each such case, Parent shall ensure that the successors and assigns of Parent, the Company or the Surviving Corporation, as the case may be, shall assume the obligations set forth in this Section 5.4 (Indemnification of Officers and Directors).

(d) The provisions of this Section 5.4 (Indemnification of Officers and Directors) shall survive the consummation of the Merger and are (i) intended to be for the benefit of, and will be enforceable by, each of the D&O Indemnified Persons and their successors, assigns and heirs and (ii) in addition to, and not in substitution for, any other rights to indemnification or contribution that any such D&O Indemnified Person may have by contract or otherwise. This Section 5.4 (Indemnification of Officers and Directors) may not be amended, altered or repealed after the Effective Time without the prior written consent of the affected D&O Indemnified Person.

5.5 Disclosure

. During the Pre-Closing Period, neither the Company, on the one hand, nor Parent, on the other hand, shall issue any press release or make any public statement regarding this Agreement or the Merger, or regarding any of the other transactions contemplated by this Agreement, without the prior written consent of the other party; *provided, however*, that (i) each party hereto may, without such consent, make any public statement in response to questions from investors, customers or vendors, or make internal announcements to employees, so long as such statements are consistent with previous press releases, public disclosures or public statements made jointly by the parties, or individually, if approved by the other party and (ii) a party may issue a press release or public announcement related to this Agreement or the transactions contemplated herein that does not disclose the material terms thereof after the Closing without the consent of the other party.

(a) Parent and the Surviving Corporation, on the one hand, and the Securityholders' Representative, on the other hand, shall cooperate as and to the extent reasonably requested by the other party, in connection with the preparation and filing of Company Returns and any proceeding, investigation, audit or review by a Governmental Body with respect to Taxes. Such cooperation shall include signing any Company Returns, amended Company Returns, claims or other documents necessary to settle any Tax controversy, executing powers of attorney, the retention and (upon the other party's request) the provision of records and information in such party's control which are reasonably relevant to any such proceeding, investigation, audit or review, making employees available on a mutually convenient basis to provide additional information and explanation of any material provided under this Agreement, and making available to the other and to any taxing authority as reasonably requested all information, records and documents in such party's possession relating to Taxes of the Company including any ownership information in such party's possession necessary to determine the presence or absence of an "ownership change" within the meaning of Section 382 of the Code.

(b) Parent shall pay all sales, use, value added, transfer, stamp, registration, documentary or similar Taxes incurred as a result of the transactions contemplated in this Agreement and shall file all related Tax Returns, and the Securityholders' Representative and the Participating Securityholders shall cooperate with Parent in connection with any such filings.

(c) Parent and the Securityholders' Representative further agree, upon request, to use commercially reasonable efforts to obtain any certificate or other document from any Governmental Body or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed in connection with the transactions contemplated hereby. Parent shall file all related Tax Returns, and the Securityholders' Representative and the Participating Securityholders shall cooperate with Parent in connection with any such filings.

(d) all applicable Tax purposes, Parent and the Company agree to, and shall not take any action or filing position inconsistent with, the following Tax treatment of the items specified below:

(i) The Adjustment Escrow Amount and the Securityholders' Representative Reserve shall be treated as having been received and voluntarily set aside by the Participating Securityholders on the Closing Date.

(ii) Any payments made in respect of In-the-Money-Options and Company RSUs pursuant to this Agreement (A) shall be treated as compensation paid by the Company as and when received by the holder or the recipient, as applicable, thereof to whom such payment is due (which, for the avoidance of doubt, shall be the Closing Date with respect to the Adjustment Escrow Amount and the Securityholders' Representative Reserve), (B) shall be net of any Taxes withheld pursuant to Section 1.11(k) (*Exchange/Payment*), and (C) shall, in respect of payments attributable to Employee Options and Employee RSUs only, be made through the Surviving Corporation's standard payroll procedures in accordance with Section 1.11(h) (*Exchange/Payment*) (*provided, however*, that payments of the Adjustment Escrow Amount and Securityholders' Representative Reserve in respect of Employee Options and

Employee RSUs shall be made directly by the Surviving Corporation (and not through its payroll)). Any applicable withholding Taxes in respect of the portion of the Adjustment Escrow Amount and the Securityholders' Representative Reserve borne by Participating Securityholders in respect of Employee Options and Employee RSUs shall be withheld from their aggregate Closing Options Payout Amount or Closing RSUs Payout Amount, as applicable.

5.7 Notification of Certain Events

During the Pre-Closing Period, each party hereto shall promptly notify the other party of, and furnish such other party with any information it may reasonably request with respect to, the occurrence of any event or condition or the existence of any fact that may reasonably be expected to cause, in the case Parent is such notified party, any of the conditions to the obligations of Parent to consummate the Merger set forth in Section 6 (*Conditions Precedent to Obligations of Parent and Merger Sub*) or, in the case the Company is such notified party, any of the conditions to the obligations of the Company to consummate the Merger set forth in Section 7 (*Conditions Precedent to Obligation of the Company*), not to be satisfied. A party's satisfaction of its obligations in the foregoing sentence shall not relieve such party of any of its other obligations under this Agreement.

5.8 Commercially Reasonable Efforts

Prior to the Closing: (a) the Company shall use commercially reasonable efforts to cause the conditions set forth in Section 6 (*Conditions Precedent to Obligations of Parent and Merger Sub*) to be satisfied on a timely basis; and (b) Parent and Merger Sub shall use commercially reasonable efforts to cause the conditions set forth in Section 7 (*Conditions Precedent to Obligation of the Company*) to be satisfied on a timely basis.

5.9 Registration Statement.

(a) Promptly upon the Closing Date (but no later than five Business Days following the Closing Date), Parent shall file (the date of such filing, the "**Filing Date**") with the SEC a registration statement under Rule 415(a)(1)(i) promulgated under the Securities Act on Form S-3, or if Parent is not then eligible to use Form S-3 for a secondary offering, on any appropriate form under the Securities Act (including any amendment, supplement or new registration statement contemplated herein, the "**Registration Statement**") providing for the offering and sale or other disposition of the shares of Parent Stock to be issued to the Company Stockholders, holders of In-the-Money Options and holders of RSUs in the Merger (the "**Registrable Shares**"). The Registration Statement and each registration statement filed pursuant to the next sentence shall become effective automatically upon filing with the SEC. If the actual number of shares issued in respect of the Payment Amount exceeds the number of shares registered under the Registration Statement, Parent shall file, within five Business Days after Parent has notice that the shares to be issued in respect of the Payment Amount exceeds the number of shares registered under the Registration Statement, an amendment to the Registration Statement or file a new registration statement on any appropriate form under the Securities Act covering the resale to the public by the Company Stockholders of all such excess shares. The holders of Registrable Shares (the "**Selling Company Stockholders**") agree to cooperate with and provide such assistance to Parent, as Parent may reasonably request, in connection with any

registration and sale of the shares of Parent Stock, including accurately completing and executing selling stockholder questionnaires.

(b) Parent shall pay the expenses incurred by it in complying with its obligations under this Section 5.9, including all preparation, registration, filing fees, costs and expenses, all exchange listing fees, all fees, costs and expenses of counsel for Parent, accountant for Parent and other advisors or persons retained by Parent in connection with the filing. Parent agrees that it will (i) prepare and file with the SEC any amendments or supplements to the Registration Statement or prospectus which may be necessary to keep the Registration Statement continuously effective and to comply with the provisions of the Securities Act with respect to the offer of the Registrable Shares until the earlier of (A) the date upon which the sale of all shares registered thereby is completed and (B) until the date upon which all such shares may be sold to the public in accordance with Rule 144 under the Act by a person that is not an “affiliate” (as defined in Rule 144 under the Act) of Parent without regard to any of the conditions specified therein (other than the holding period requirement in paragraph (d) of Rule 144 so long as such holding period requirement is satisfied at such time of determination) or any rule of similar effect; (ii) prepare and promptly file with the SEC and promptly notify the Selling Company Stockholders of the filing of such amendment or supplement to the Registration Statement or prospectus as may be necessary to correct any statement therein or omission therefrom if, at any time when a prospectus relating to the shares of Parent Stock is required to be delivered under the Securities Act, any event with respect to Parent shall have occurred as a result of which any prospectus would include an untrue statement of material fact or omit to state any material fact necessary to make the statements therein not misleading; (iii) in case the Selling Company Stockholders are required to deliver a prospectus, prepare promptly such amendment or amendments to the Registration Statement and such prospectus or prospectuses as may be necessary to permit compliance with the requirements of Section 10(a)(3) of the Securities Act; and (iv) advise the Selling Company Stockholders promptly after Parent shall receive notice or obtain knowledge of the issuance of any stop order by the SEC suspending the effectiveness of the Registration Statement or amendment thereto or of the initiation or threatening of any proceedings for that purpose. Parent shall use commercially reasonable efforts to prevent the issuance of, and if issued, to obtain the withdrawal of any order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto, and to lift any suspension of the qualification of any of the Registrable Shares for sale in any jurisdiction in which they have been qualified for sale, in each case at the earliest practicable date.

(c) At least three Business Days prior to the filing of the Registration Statement or any prospectus or any amendments or supplements thereto, or comparable statements under securities or state “blue sky” laws of any jurisdiction, or any free writing prospectus related thereto, or before sending a response to an SEC comment letter related to the Registration Statement, Parent shall furnish to the Securityholders’ Representative copies of reasonably complete drafts of all such documents proposed to be filed (including all exhibits thereto and each document incorporated by reference therein to the extent then required by the rules and regulations of the SEC), which documents will be subject to the review and comment of the Securityholders’ Representative, and Parent shall consider in good faith the changes reasonably requested by the Securityholders’ Representative prior to making any such filing.

(d) Each of the Selling Company Stockholders shall furnish information to Parent concerning their holdings of securities of Parent and the proposed method of sale or other disposition of the shares of Parent Stock and such other information and undertakings as shall be required in connection with the preparation and filing of the Registration Statement and any amendments thereto covering all or part of the shares of Parent Stock in order to assist Parent in complying with the Securities Act and the Exchange Act, and it shall be a condition precedent of Parent's obligations under this Section 5.9 that each Selling Shareholder furnish to Parent such information. Each such holder shall further agree to enter into such undertakings and take such other action relating to the conduct of the proposed offering which Parent may reasonably request as being necessary to assist Parent in complying with the federal and state securities laws and the rules or other requirements of the Financial Industry Regulatory Authority, Inc. or otherwise to effectuate the offering. Among other things, each of the Selling Company Stockholders will be required to agree that upon receipt by the Selling Company Stockholders of any notice (a "***Suspension Notice***") from Parent of the happening of any event of the kind described in Section 5.9(b), the Selling Company Stockholders will forthwith discontinue the disposition of the shares of Parent Stock until they have received copies of the supplemented or amended prospectus contemplated by Section 5.9(b), or until such holders are advised in writing by Parent that the use of the prospectus may be resumed, and have received copies of any additional or supplemental filings that are incorporated by reference in the prospectus, and, if so directed by Parent, such holders will deliver to Parent all copies then in such holders' possession of the prospectus covering the shares of Parent Stock current at the time of receipt of such notice. Parent shall be entitled to exercise its rights pursuant to this Section 5.9(d) to suspend the availability of the Registration Statement for no more than 30 consecutive days and an aggregate of 60 days in any 180-day period. Parent shall promptly notify the Securityholders' Representative upon the receipt of any comment letter or request by the SEC, state securities authority or other Governmental Entity for amendments or supplements to any Registration Statement or the prospectus related thereto or for additional information.

5.10 Financing Cooperation

(a) The Company shall use its commercially reasonable efforts to provide, and shall use commercially reasonable efforts to cause its officers, directors, employees, accountants, consultants, legal counsel, agents and other representatives ("***Representatives***") (of appropriate seniority and expertise) to provide, at Parent's sole expense, cooperation reasonably requested by Parent in order to obtain the Debt Financing that is customary in connection with comparable debt financing, including by (i) furnishing Parent, its representatives and the Financing Sources as promptly as practicable with financial and other information regarding the Company and its Subsidiaries as may be reasonably requested by Parent and customarily delivered by businesses that are similar to the Company in connection with the preparation of customary offering documents, private placement memoranda, bank information memoranda, rating agency presentations and similar documents for any portion of the Debt Financing which are used to market, syndicate and consummate the Debt Financing (collectively, the "***Required Marketing Information***"); *provided, however*, that the Required Marketing Information shall not include, and the Company shall not be responsible for the preparation of, projections, risk factors and forward-looking statements relating to all or any component of the Debt Financing and pro-forma financial information, including pro-forma cost savings, synergies, capitalization, or other pro-forma adjustments desired to be incorporated into any pro-forma financial information,

(ii) cooperating with Parent’s legal counsel in connection with any legal opinions that such legal counsel may be required to deliver in connection with the Debt Financing, (iii) providing customary authorization and representation letters to the Financing Sources authorizing the distribution of information to other prospective Financing Sources; provided that the Company shall not be required to make any representations as to the information contained in the Required Marketing Information, (iv) giving Parent and its representatives reasonable access to the offices, properties, books, records and other information of the Company and its Subsidiaries, including, if and to the extent required to facilitate (A) the grant by Parent at or after the Closing Date of security in any collateral as may be required by the Debt Commitment and (B) the satisfaction by Parent of closing conditions set forth in the Debt Commitment, (v) providing all financial information contemplated by and in accordance with this Agreement, (vi) executing and delivering at the Closing any guarantees, pledge and security documents, credit agreements, notes, other definitive financing documents, or other certificates or documents as may be reasonably requested by Parent and, in each case, required by the Debt Commitment, (vii) facilitating the pledging, or the reaffirmation of the pledge, of collateral effective on or after the Closing Date (including cooperation in connection with the payoff of any existing indebtedness of the Company (if requested by Parent) and causing the release at the Closing of all Liens on the equity interests and assets of the Company to the extent required by the Debt Commitment), (viii) furnishing Parent and the Financing Sources promptly with all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the PATRIOT Act, at least five (5) calendar days prior to the Closing Date, and (ix) facilitating the provision of the insurance certificates and endorsements required by the Debt Commitment; *provided, however*, in each case, that (A) the Company shall not be required to waive or amend any terms of this Agreement or prior to the Closing Date, agree to pay any commitment, give any indemnities, or incur any liability or obligation in connection with the Debt Financing, (B) the Company shall not be required to enter into any binding agreement or commitment in connection with the Debt Financing that is not conditioned on the occurrence of the Closing Date and does not terminate without liability to the Company upon termination of this Agreement, and (C) the Company and its representatives shall not be required to take any action that would (x) unreasonably interfere with the business or ongoing operation of the Company, (y) conflict in with any Laws or the Company’s Charter or bylaws, or (z) require the Company to provide access to or disclose information that the Company determines would jeopardize any attorney-client privilege of any person in the Company or that the Company would be entitled to assert to be undermined with respect to such information and such undermining of such privilege could, in the Company’s good faith judgment, adversely affect in any material respect the Company’s position in any pending or, what the Company believes in good faith could be, future litigation. Notwithstanding anything contained in this Agreement to the contrary, no officer or director of the Company shall incur any personal liability with respect to the Debt Financing and no action, liability or obligation (including any obligation to pay any commitment or other fees or reimburse any expenses) of the Company or any of its Representatives under any certificate, agreement, arrangement, document or instrument relating to the Debt Financing (other than a customary authorization letter) shall be effective until (or that is not contingent upon) the Effective Time. The Company hereby consents to the use of its logos in connection with the Debt Financing; *provided, however*, that such logos are used solely in a manner that is not intended to nor reasonably likely to harm or disparage the Company or the reputation or

goodwill of the Company and solely in conformance with the Company's trademark usage guidelines and *provided, further*, that the Financing Sources and each of their Affiliates in connection with the Debt Financing shall obtain no rights in such logos. In addition, all non-public information regarding the Company provided to Parent, its Affiliates or its Representatives pursuant to this Section 5.10 (Financing Cooperation) shall be kept confidential by them in accordance with the Confidentiality Agreement, provided that the Company hereby consents to the disclosure of information relating to the Company and its Subsidiaries to the Financing Sources, subject to the Financing Sources' compliance with the confidentiality provisions set forth in the Debt Commitment. Parent shall promptly, upon request by the Company, reimburse the Company for all costs and expenses (including attorneys' fees) incurred by the Company in connection with the cooperation contemplated by this Section 5.10 (Financing Cooperation). Parent shall indemnify, defend and hold harmless the Company's Representatives from and against any and all damages suffered or incurred by any of the Company's Representatives, to the extent arising out of: (1) any action taken by a Company's Representatives at the request of Parent pursuant to this Section 5.10 (Financing Cooperation) or in connection with the arrangement of the Debt Financing or (2) any information utilized in connection therewith (other than historical information related to the Company provided to Parent in writing by the Company specifically for use in the Debt Financing offering materials), and this indemnification shall survive termination of this Agreement.

(b) Parent acknowledges and agrees that obtaining the Debt Financing is not a condition to the Closing. For the avoidance of doubt, if the Debt Financing has not been obtained, Parent shall continue to be obligated, subject to the fulfillment or waiver of the conditions set forth in Section 6 and 7, to complete the transactions contemplated hereby on the terms contemplated by this Agreement.

5.11 Disclosure Schedules

The Company shall revise Section 2.12(a) of the Disclosure Schedule to list the Material Contracts in accordance with the categories set forth in clauses (i)-(xiii) of Section 2.12(a) and deliver such updated section to Parent by Friday June 1, 2018 or as soon thereafter as possible through the application of reasonable diligence.

SECTION 6. CONDITIONS PRECEDENT TO OBLIGATIONS OF PARENT AND MERGER SUB

The obligations of Parent and Merger Sub to effect the Merger are subject to the satisfaction (or waiver by Parent), at or prior to the Closing, of each of the following conditions; *provided* that if the Closing occurs, all Closing conditions set forth in this Section 6 (Conditions Precedent to Obligations of Parent and Merger Sub) that have not been fully satisfied as of the Closing shall be deemed to have been waived by Parent and the Merger Sub:

6.1 Accuracy of Representations and Warranties

. The Specified Representations (other than the representations and warranties set forth in subsections 2.3(d), 2.3(e) and 2.3(f) of Section 2.3 (Capitalization, Etc.)) shall be true and correct as of the date hereof and as of the Closing Date with the same effect as though made on and as of the Closing (except to the extent expressly made as of an earlier date, in which case

such representations and warranties shall be so true and correct as of such earlier date). The other representations and warranties of the Company set forth in Section 2 (*Representations and Warranties of the Company*) (including the representations and warranties set forth in subsections 2.3(d), 2.3(e) and 2.3(f) of Section 2.3 (*Capitalization, Etc.*)) shall be true and correct (without giving effect to any limitation as to materiality or Company Material Adverse Effect set forth therein, except (i) in the case of the standard for what constitutes a defined term hereunder and the use of such defined term herein and (ii) in the case of Disclosure Schedule requiring lists of “material” items as of the date hereof) as of the Closing Date with the same effect as though made on and as of the Closing (except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be so true and correct as of such earlier date), except where the failure of such representations and warranties to be so true and correct would not, individually or in the aggregate, have a Company Material Adverse Effect.

6.2 Performance of Covenants

The Company shall have performed and complied with, in all material respects, all of its covenants contained in this Agreement at or before the Closing (to the extent that such covenants require performance by the Company at or before the Closing).

6.3 Stockholder Approval

This Agreement shall have been duly adopted by the Required Company Stockholder Vote.

6.4 Antitrust Clearances

The waiting period applicable to the consummation of the transactions contemplated by this Agreement under the HSR Act shall have expired or been terminated.

6.5 No Restraints

. No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the Merger by Parent shall have been issued by any court of competent jurisdiction and remain in effect, and no material Law shall have been enacted since the date of this Agreement that makes consummation of the Merger by Parent illegal or otherwise prevents the consummation of the Merger.

6.6 No Litigation

No Governmental Body shall have commenced any Legal Proceeding that is pending: (i) challenging the Merger; (ii) seeking to prohibit or materially limit the exercise by Parent of any material right pertaining to its ownership of stock of the Surviving Corporation, (iii) that may have the effect of preventing or making illegal the Merger or (iv) seeking to compel the Company, Parent or any Affiliate of Parent to dispose of or hold separate any material assets as a result of the Merger or any of the other transactions contemplated by this Agreement.

6.7 Deliveries

The Company shall have made the deliveries contemplated by Section 1.11(m) (*Exchange/Payment/Deliveries*).

6.8 Estimated Closing Statement

Parent shall have received the Estimated Closing Statement from the Company.

6.9 Closing Certificate

The Chief Executive Officer or Chief Financial Officer of the Company shall have delivered to Parent a certificate to the effect that each of the conditions specified above in Sections 6.1 (*Accuracy of Representations and Warranties*) and 6.2 (*Performance of Covenants*) is satisfied in all respects.

6.10 Company Material Adverse Effect.

Since the date of this Agreement, there shall not have been a Company Material Adverse Effect.

6.11 Dissenting Shares.

The number of shares of Company Capital Stock that constitute (or that are eligible to become as a result of such holder's delivery of a written demand for appraisal in accordance with Section 262 of the DGCL) Dissenting Shares shall be less than ten percent (10%) of the Company Capital Stock outstanding immediately prior to the Closing.

6.12 Additional Conditions.

The conditions set forth on Section 6.12 of the Disclosure Schedules shall have been satisfied.

SECTION 7. CONDITIONS PRECEDENT TO OBLIGATION OF THE COMPANY

The obligation of the Company to effect the Merger is subject to the satisfaction (or waiver by the Company), at or prior to the Closing, of the following conditions, *provided* that if the Closing occurs, all Closing conditions set forth in this Section 7 (*Conditions Precedent to Obligations of the Company*) that have not been fully satisfied as of the Closing shall be deemed to have been waived by the Company:

7.1 Accuracy of Representations and Warranties

The representations and warranties of Parent and Merger Sub set forth in Section 3 (*Representations and Warranties of Parent and Merger Sub*) shall be true and correct as of the date hereof and as of the Closing Date with the same effect as though made on and as of the Closing (except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be so true and correct as of such earlier date), except where the failure of the representations and warranties of Parent or Merger Sub to be true and correct would not reasonably be expected to result, individually or in the aggregate, in a material adverse

effect on the ability of Parent or Merger Sub to consummate the transactions contemplated by this agreement; *provided, however*, that for purposes of determining the accuracy of such representations and warranties, all materiality and similar qualifications limiting the scope of such representations and warranties shall be disregarded.

7.2 Performance of Covenants

Parent and Merger Sub shall have performed and complied with, in all material respects, all of their covenants contained in herein at or before the Closing (to the extent that such covenants require performance by Parent or Merger Sub at or before the Closing).

7.3 Stockholder Approval

This Agreement shall have been duly adopted by the Required Company Stockholder Vote.

7.4 Antitrust Clearances

The waiting period applicable to the consummation of the transactions contemplated by this Agreement under the HSR Act shall have expired or been terminated.

7.5 No Restraints

No temporary restraining order, preliminary or permanent injunction or other order preventing the consummation of the Merger by the Company shall have been issued by any court of competent jurisdiction and remain in effect, and no material Law shall have been enacted since the date of this Agreement that makes consummation of the Merger by the Company illegal.

7.6 Closing Certificate

An authorized officer of Parent and Merger Sub shall have delivered to Company a certificate to the effect that each of the conditions specified above in Sections 7.1 (*Accuracy of Representations and Warranties*) and 7.2 (*Performance of Covenants*) is satisfied in all respects.

7.7 Deliveries

Parent shall have made the payments and deliveries contemplated by Section 1.11(n) (*Exchange/Payment/Deliveries*).

SECTION 8.SURVIVAL; LIMITATIONS

8.1 Survival of Representations and Warranties

Other than for the purpose of, and as set forth in, R&W Insurance, none of the representations and warranties or pre-closing covenants contained in this Agreement or in any certificate or schedule or other document delivered pursuant to this Agreement shall survive the Merger.

8.2 Sole and Exclusive Remedy; Limitations.

(a) In no event shall any Participating Securityholder's liability exceed the portion of the Purchase Price actually received by such Participating Securityholder except to the extent such Participating Securityholder committed common law fraud.

(b) Other than for any claim of common law fraud, from and after the Closing, Parent and the Surviving Corporation may not avoid the limitations on liability set forth in this Section 8 (*Survival; Limitations*) by (i) seeking damages for breach of contract, tort or pursuant to any other theory of liability, all of which are hereby waived, or (ii) asserting or threatening any claim against any Person that is not a party for breaches of the representations, warranties and pre-Closing covenants and agreements contained in this Agreement. The parties hereto agree that the limits imposed on the remedies with respect to this Agreement and the transactions contemplated hereby were specifically bargained for between sophisticated parties and were specifically taken into account in the determination of the amounts to be paid to the Participating Securityholders hereunder.

(c) From and after the Closing, except (i) for the right to pursue specific performance pursuant to Section 10.15 (*Specific Performance*), (ii) any claim of common law fraud and (iii) pursuant to Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*) (but otherwise subject to the limitations therein with recourse solely and exclusively against the Adjustment Escrow), the sole and exclusive source of recovery in respect of any claim by Parent or the Surviving Corporation for (A) any and all damages or other claims relating to or arising from this Agreement, including breach of the Company's covenants or other agreements, or in connection with the transactions contemplated hereby, including in any exhibit, schedule or certificate delivered hereunder, (B) any other matter relating to the Company, the operation of its business, or any other transaction or state of facts relating to the Company (including any common law or statutory rights or remedies for environmental, health or safety matters) or (C) breach of the Company's representations and warranties and pre-Closing covenants set forth herein shall be the R&W Insurance, and in no event shall (1) any Participating Securityholder or any Affiliate thereof or any other Person have any direct or indirect liability or obligation in respect of any such claim, or (2) Parent or the Surviving Corporation be entitled to recover any damages in respect of any claim by Parent or the Surviving Corporation from any source other than the R&W Insurance, *it being expressly agreed* that on the date R&W Insurance is no longer effective or coverage thereunder is unavailable for any reason, Parent and the Surviving Corporation shall have no further remedies under this Agreement or otherwise (other than for common law fraud).

(d) Other than for any claim of common law fraud asserted against the Person who committed such common law fraud, no current or former stockholder, director, officer, employee, Affiliate or advisor of the Company or any Affiliate of the Company shall have any liability of any nature to Parent or the Surviving Corporation with respect to the breach by the Company of any representation, warranty, covenant or agreement contained in this Agreement or any other matter relating to the Merger or the other transactions contemplated by this Agreement. The parties acknowledge that (i) no current or former stockholder, director, officer, employee, Affiliate or advisor of the Company has made or is making any representations or warranties whatsoever regarding the Company or the subject matter of this Agreement, express or implied, (ii) except as expressly provided in Section 2 (*Representations and Warranties of the Company*), the Company has not made and is not making, and Parent is not relying upon, any

representations or warranties whatsoever regarding the Company or the subject matter of this Agreement, express or implied and (iii) there shall not be any multiple recovery for any damages.

8.3 R&W Insurance

Parent shall secure a representation and warranties insurance policy to be effective as of the Closing Date and shall bear all premiums, fees, costs and expenses associated with procuring such representations and warranties insurance policy (the “**R&W Insurance**”).

SECTION 9. TERMINATION

9.1 Termination

This Agreement may be terminated prior to the Effective Time (whether before or after the adoption of this Agreement by the Required Company Stockholder Vote):

(a) by mutual written consent of Parent and the Company;

(b) by either Parent or the Company if the Merger shall not have been consummated by the End Date; *provided, however*, that a party shall not be permitted to terminate this Agreement pursuant to this Section 9.1(b) (*Termination*) if the failure to consummate the Merger by the End Date is attributable to a failure on the part of such party to perform any covenant in this Agreement required to be performed by such party at or prior to the Effective Time;

(c) by either Parent or the Company if a court of competent jurisdiction shall have issued a final and nonappealable order having the effect of permanently restraining, enjoining or otherwise prohibiting the Merger; *provided, however*, that a party shall not be permitted to terminate this Agreement pursuant to this Section 9.1(c) (*Termination*) (i) if such party did not use reasonable best efforts to have such order vacated prior to its becoming final and nonappealable or (ii) whose failure to fulfill any obligation under this Agreement shall have been a material cause of, or resulted in, the occurrence of such order;

(d) by Parent, if the Company shall have materially breached or materially failed to perform any of its representations, warranties, covenants or agreements contained in this Agreement, which material breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 6.1 (*Accuracy of Representations and Warranties*) or Section 6.2 (*Performance of Covenants*) and (ii) cannot be or has not been cured within 20 days following receipt by the Company of written notice of such material breach or failure to perform; *provided, however*, that Parent shall not have the right to terminate this Agreement pursuant to this Section 9.1(d) (*Termination*) if Parent or Merger Sub is then in material breach of this Agreement;

(e) by the Company, if Parent or Merger Sub shall have materially breached or materially failed to perform any of their respective representations, warranties, covenants or agreements contained in this Agreement, which material breach or failure to perform (i) would give rise to the failure of a condition set forth in Section 7.1 (*Accuracy of Representations and Warranties*) or Section 7.2 (*Performance of Covenants*) and (ii) cannot be or has not been cured

within 20 days following receipt by Parent of written notice of such material breach or failure to perform; *provided, however*, that the Company shall not have the right to terminate this Agreement pursuant to this Section 9.1(e) (*Termination*) if the Company is then in material breach of this Agreement; or

(f) by Parent if the Required Company Stockholder Vote is not obtained within twenty-four (24) hours after the execution of this Agreement.

9.2 Effect of Termination

In the event of the termination of this Agreement as provided in Section 9.1 (*Termination*), this Agreement shall be of no further force or effect; *provided, however*, that (i) this Section 9.2 (*Effect of Termination*) and Section 10 (*Miscellaneous Provisions*) shall survive the termination of this Agreement and shall remain in full force and effect and (ii) nothing herein shall relieve any party from any liability for common law fraud or for a material breach of any covenant or agreement set forth in this Agreement that is the consequence of an action or failure to act by the breaching party with the knowledge that such action or failure to act would result in such material breach.

SECTION 10. MISCELLANEOUS PROVISIONS

10.1 Amendment

This Agreement may be amended with the approval of the respective boards of directors of the Company (or the Securityholders' Representative following the Closing) and Parent at any time (whether before or after the adoption of this Agreement by the Required Company Stockholder Vote); *provided, however*, that after any such adoption of this Agreement by the Required Company Stockholder Vote, no amendment shall be made which by Law requires further approval of the Company Stockholders without the further approval of such Company Stockholders. This Agreement may not be amended except by an instrument in writing signed on behalf of the Company and Parent (prior to the Closing) or Parent and the Securityholders' Representative (after the Closing).

10.2 Expenses

All fees and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the party incurring such expenses, whether or not the Merger is consummated, except that all fees and expenses of the Payment Agent shall be paid by Parent.

10.3 Waiver.

(a) No failure on the part of any party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of any party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy.

(b) No party shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

10.4 Entire Agreement; Counterparts

This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among or between any of the parties with respect to the subject matter hereof and thereof; *provided, however*, that the Confidentiality Agreement shall not be superseded and shall remain in full force and effect until the Effective Time. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. This Agreement may be executed by facsimile or electronic transmission, each of which shall be deemed an original.

10.5 Applicable Law; Jurisdiction

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof. **EXCEPT AS SET FORTH IN SECTION 1.12 (POST CLOSING ADJUSTMENT TO CLOSING MERGER CONSIDERATION AMOUNT), IN ANY ACTION BETWEEN ANY OF THE PARTIES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT: (A) EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY CONSENTS AND SUBMITS TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE STATE AND FEDERAL COURTS LOCATED IN DELAWARE; (B) IF ANY SUCH ACTION IS COMMENCED IN A STATE COURT, THEN, SUBJECT TO APPLICABLE LAW, NO PARTY SHALL OBJECT TO THE REMOVAL OF SUCH ACTION TO ANY FEDERAL COURT LOCATED IN DELAWARE; AND (C) EACH OF THE PARTIES IRREVOCABLY WAIVES THE RIGHT TO TRIAL BY JURY.**

10.6 Attorneys' Fees

In any action at law or suit in equity to enforce this Agreement or the rights of any of the parties hereunder, the prevailing party in such action or suit shall be entitled to receive a reasonable sum for its attorneys' fees and all other reasonable costs and expenses incurred in such action or suit.

10.7 Assignability

This Agreement shall be binding upon, and shall be enforceable by and inure solely to the benefit of, the parties hereto and their respective successors and assigns; *provided, however*, that, neither this Agreement nor any of the rights hereunder may be assigned (whether by merger, consolidation, sale or otherwise) by the Company (prior to the Effective Time) or Parent without the prior written consent of the other party, and any attempted assignment of this Agreement or any of such rights without such consent shall be void and of no effect (except that Parent may

assign this Agreement or any such rights to an Affiliate without the prior written consent of the Company (prior to the Effective Time) or the Securityholders' Representative (at or after the Effective Time)); *provided, further, however*, that Parent and the Surviving Corporation may assign this Agreement as a whole without such consent in connection with the acquisition (whether by merger, consolidation, sale or otherwise) of Parent or the Surviving Corporation or of that part of Parent's or the Surviving Corporation's business to which this Agreement relates, as long as Parent provides written notice to the Company (prior to the Effective Time) or the Securityholders' Representative (at or after the Effective Time) of such assignment and the assignee thereof agrees in writing to assume and be bound as Parent and the Surviving Corporation hereunder; *provided, further, however*, notwithstanding the foregoing, Parent, Merger Sub and the Surviving Corporation may assign their rights and interests hereunder to any of their debt financing sources from time to time.

10.8 Third Party Beneficiaries; No Recourse.

(a) Except as provided in Sections 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), 5.4 (*Indemnification of Officers and Directors*), 5.5 (*Disclosure*) and 10.12 (*Conflict of Interest*) and, following the Closing with respect to all Persons that held Company Capital Stock, Company Options, Company RSUs or Company Warrants immediately prior to the Closing, Section 1 (*Description of Transaction*), nothing in this Agreement, express or implied, is intended to or shall confer upon any Person (other than the parties hereto) any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(b) Notwithstanding any provision of this Agreement or otherwise, the parties to this Agreement agree on their own behalf and on behalf of their respective Subsidiaries and Affiliates that this Agreement may only be enforced against, and any action for breach of this Agreement may only be made against, the parties to this Agreement, and no Non-Recourse Party of a party to this Agreement and none of the Financing Sources shall have any liability relating to this Agreement or any of the transactions contemplated herein.

10.9 Notices

Any notice or other communication required or permitted to be delivered to any party under this Agreement shall be in writing and shall be deemed properly delivered, given and received (a) upon receipt when delivered by hand, (b) upon transmission, if sent by facsimile or electronic transmission (in each case with receipt verified by electronic confirmation), or (c) one Business Day after being sent by courier or express delivery service; *provided* that in each case the notice or other communication is sent to the address or facsimile telephone number set forth beneath the name of such party below (or to such other address or facsimile telephone number as such party shall have specified in a written notice given to the other parties hereto); *provided* that with respect to notices delivered to the Securityholders' Representative, such notices must be delivered solely via facsimile or electronic transmission:

if to Parent, Merger Sub or, after the Closing, the Surviving Corporation:

Myriad Genetics, Inc.
320 Wakara Way

Salt Lake City, Utah 84108
Attention: General Counsel
Facsimile: (801) 584-3640
Email: rmarsh@myriad.com

and with a copy (which shall not constitute notice) to:

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Attention: Jonathan L. Kravetz
Facsimile: (617) 542-2241
Email: jlkraetz@mintz.com

if to the Company (prior to Closing):

Counsyl, Inc.
180 Kimball Way
South San Francisco, California 94080
Attention: Peter Soparkar, Chief Legal Officer and Secretary
Email: psoparkar@counsyl.com

or the Securityholders' Representative (after the Closing):

Fortis Advisors LLC
Attention: Notice Department
Facsimile: (858) 408-1843
E-mail: notices@fortisrep.com

in the case of notices to the Company (prior to Closing) or to the Securityholders' Representative (after the Closing), with a copy to (which shall not constitute notice):

Cooley LLP
4401 Eastgate Mall
San Diego, CA 92121
Attention: Barbara Borden; Michael Tenta
Facsimile: (858) 550-6420
E-mail: bordenbl@cooley.com; mtenta@cooley.com

10.10 Severability

Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If the final judgment of a court of competent jurisdiction declares that any term or provision hereof is invalid or unenforceable, the parties hereto agree that the court making such determination shall have the power to limit the term or provision, to

delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term.

10.11 Knowledge

“**Knowledge**” of the Company shall mean the actual knowledge of a fact or other matter, after reasonable inquiry, of the Knowledge Individuals. With respect to matters involving Intellectual Property, Knowledge does not require that the Knowledge Individuals have conducted, obtain or have obtained any freedom-to-operate opinions or similar opinions of counsel or any Intellectual Property clearance searches, and no knowledge of any third-party Intellectual Property that would have been revealed by such inquiries, opinions or searches will be imputed to the Knowledge Individuals or the direct reports of any of the foregoing; *provided* that any such opinions or searches that have been conducted or obtained prior to the date of this Agreement will not be excluded from the term “Knowledge” as a result of this sentence.

10.12 Conflict of Interest

If the Securityholders’ Representative so desires, acting on behalf of the Participating Securityholders and without the need for any consent or waiver by the Company or Parent, Cooley LLP (“**Cooley**”) shall be permitted to represent the Participating Securityholders after the Closing in connection with any matter, including without limitation, anything related to the transactions contemplated by this Agreement, any other agreements referenced herein or any disagreement or dispute relating thereto. Without limiting the generality of the foregoing, after the Closing, Cooley shall be permitted to represent the Participating Securityholders, any of their agents and Affiliates, or any one or more of them, in connection with any negotiation, transaction or dispute (including any litigation, arbitration or other adversary proceeding) with Parent, the Company or any of their agents or Affiliates under or relating to this Agreement, any transaction contemplated by this Agreement, and any related matter, such as claims or disputes arising under other agreements entered into in connection with this Agreement, including with respect to any indemnification claims. Upon and after the Closing, the Company shall cease to have any attorney-client relationship with Cooley, unless and to the extent Cooley is specifically engaged in writing by the Company to represent the Company after the Closing and either such engagement involves no conflict of interest with respect to the Participating Securityholders or the Securityholders’ Representative consents in writing at the time to such engagement. Any such representation of the Company by Cooley after the Closing shall not affect the foregoing provisions hereof.

10.13 Attorney-Client Privilege

Parent and the Company agree that any attorney-client privilege, attorney work-product protection, and the expectation of client confidence attaching as a result of counsel’s (whether external or internal) representation of the Company in connection with the transactions

contemplated by this Agreement, including the Merger, and all information and documents covered by such privilege or protection (the “**Covered Materials**”), shall belong to and be controlled by the Securityholders’ Representative, and not by the Surviving Corporation, following the Closing, and may be waived only by the Securityholders’ Representative, and not the Surviving Corporation, and shall not pass to or be claimed or used by Parent or the Surviving Corporation. Absent the consent of the Securityholders’ Representative, neither Parent nor the Surviving Corporation shall have a right to access the Covered Materials following the Closing and, in the event Parent or the Surviving Corporation accesses Covered Materials in violation of this sentence, such access will not waive or otherwise affect the rights of the Securityholders’ Representative with respect to the related privilege or protection. Notwithstanding the foregoing, if a dispute arises between Parent or the Surviving Corporation, on the one hand, and a third party other than (and unaffiliated with) the Participating Securityholders and the Securityholders’ Representative, on the other hand, after the Closing, then the Surviving Corporation may assert such attorney-client privilege to prevent disclosure to such Covered Materials; and *provided, further*, that Parent and the Surviving Corporation may not waive such privilege without the prior written consent of the Securityholders’ Representative.

10.14 No Implied Representations

The parties acknowledge that, except as expressly provided in Section 2 (*Representations and Warranties of the Company*) and Section 3 (*Representations and Warranties of Parent and Merger Sub*), none of the parties hereto has made or is making any representations or warranties whatsoever, implied or otherwise. The Company, the Participating Securityholders and their respective Affiliates and representatives each have not made any representation or warranty, express or implied, as to the accuracy or completeness of any information concerning the Company or the Participating Securityholders contained herein or made available in connection with Parent’s investigation of the Company, except as expressly set forth in Section 2 (*Representations and Warranties of the Company*), and there shall be no liability that may be based on such information or errors therein or omissions therefrom.

10.15 Specific Performance

Each of the parties hereto agrees that this Agreement is intended to be legally binding and specifically enforceable pursuant to its terms and that Parent and the Company would be irreparably harmed if any of the provisions of this Agreement are not performed in accordance with their specific terms and that monetary damages would not provide adequate remedy in such event. Accordingly, in addition to any other remedy to which a non-breaching party may be entitled at law, a non-breaching party shall be entitled to seek injunctive relief to prevent breaches of this Agreement and to specifically enforce the terms and provisions hereof, in each case without posting a bond or undertaking, this being in addition to any other remedy to which they are entitled at law or in equity.

10.16 Construction.

(a) For purposes of this Agreement, whenever the context requires: the singular number shall include the plural, and vice versa; the masculine gender shall include the

feminine and neuter genders; the feminine gender shall include the masculine and neuter genders; and the neuter gender shall include masculine and feminine genders.

(b) The parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation.”

(d) Except as otherwise indicated, all references in this Agreement to “Sections,” “Exhibits” and “Schedules” are intended to refer to Sections of this Agreement and Exhibits or Schedules to this Agreement.

(e) The bold-faced headings contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement.

(f) Any document uploaded to the online data room utilized for the transactions contemplated by this Agreement on or prior to the date of this Agreement shall be considered “made available”, “furnished”, “delivered” or “provided” for purposes of this Agreement.

(g) Unless the context requires otherwise, the word “or” shall be inclusive such that for example, “A or B” shall be deemed to mean “A or B or both A and B.”

10.17 Disclosure Schedule

The Disclosure Schedule has been arranged, for purposes of convenience only, as separate Parts corresponding to the subsections of Section 2 (*Representations and Warranties of the Company*) of this Agreement. The representations and warranties contained in Section 2 (*Representations and Warranties of the Company*) of this Agreement are subject to (a) the exceptions and disclosures set forth in the part of the Disclosure Schedule corresponding to the particular subsection of Section 2 (*Representations and Warranties of the Company*) in which such representation and warranty appears; (b) any exceptions or disclosures explicitly cross-referenced in such part of the Disclosure Schedule by reference to another part of the Disclosure Schedule; and (c) any exception or disclosure set forth in any other part of the Disclosure Schedule to the extent it is reasonably apparent that such exception or disclosure is intended to qualify such representation and warranty. No reference to or disclosure of any item or other matter in the Disclosure Schedule shall be construed as an admission or indication that such item or other matter is material (nor shall it establish a standard of materiality for any purpose whatsoever) or that such item or other matter is required to be referred to or disclosed in the Disclosure Schedule. The information set forth in the Disclosure Schedule is disclosed solely for the purposes of this Agreement, and no information set forth therein shall be deemed to be an admission by any party hereto to any third party of any matter whatsoever, including of any violation of Law or breach of any agreement. The Disclosure Schedule and the information and disclosures contained therein are intended only to qualify and limit the representations,

warranties and covenants of the Company contained in this Agreement. Nothing in the Disclosure Schedule is intended to broaden the scope of any representation or warranty contained in this Agreement or create any covenant. Matters reflected in the Disclosure Schedule are not necessarily limited to matters required by the Agreement to be reflected in the Disclosure Schedule. Such additional matters are set forth for informational purposes and do not necessarily include other matters of a similar nature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

MYRIAD GENETICS, INC.

By: _____
Name:
Title:

CINNAMON MERGER SUB, INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

COUNSYL, INC.

By: _____
Name:
Title:

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF MERGER]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

FORTIS ADVISORS LLC

By: _____
Name: Ryan Simkin
Title: Managing Director

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF MERGER]

[SIGNATURE PAGE TO AGREEMENT AND PLAN OF MERGER]

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EXHIBIT A

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EXHIBIT A
CERTAIN DEFINITIONS

For purposes of the Agreement (including this Exhibit A):

“280G Stockholder Vote” shall have the meaning set forth in Section 5.1(b) (*Stockholder Consent or Approval*).

“Accounting Principles” shall mean GAAP as in effect at the date of the financial statement to which it refers, or if there is no such financial statement, then as of the Closing Date, using and applying the same accounting principles, practices, procedures, policies and methods (with consistent classifications, judgments, elections, inclusions, exclusions and valuation and estimation methodologies) used and applied by the Company in the preparation of the Unaudited Balance Sheet to the extent consistent with GAAP; *provided* that Accounting Principles (i) shall not include any purchase accounting or other adjustment arising out of the consummation of the transactions contemplated by this Agreement, (ii) shall be based on facts and circumstances as they exist prior to the Closing and shall exclude the effect of any act, decision or event occurring on or after the Closing, (iii) shall follow the defined terms contained in this Agreement and (iv) shall calculate any reserves, accruals or other non-cash expense items on a pro rata (as opposed to monthly accrual) basis to account for a Closing that occurs on any date other than the last day of a calendar month.

“Accounts Receivable” shall mean (i) all trade accounts receivable and other rights to payment owed to the Company, and (ii) all other accounts receivable or notes receivable of the Company, in each case, as calculated in accordance with the Accounting Principles.

“Adjustment Amount” shall have the meaning set forth in Section 1.12(b) (*Post Closing Adjustment to Closing Merger Consideration Amount*).

“Adjustment Escrow” shall have the meaning set forth in Section 1.11(l) (*Exchange/Payment*).

“Adjustment Escrow Amount” shall mean \$5,000,000.

“Advisory Group” shall have the meaning set forth in Section 1.15(e) (*Securityholders’ Representative*).

“Affiliate” shall mean, with respect to any specified Person, any other Person that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified Person (but excluding, with respect to the Company, any portfolio companies of venture capital or investment funds that are, or otherwise affiliated with, Company Stockholders, which portfolio companies may otherwise be deemed to be “under common control with” the Company).

“Aggregate Exercise Amount” shall mean the aggregate exercise price of all In-the-Money-Options and Company Warrants, in each case, outstanding as of immediately prior to the

Effective Time (other than the Excluded Company Warrants), as set forth on the Estimated Closing Statement.

“Aggregate Liquidation Preference” shall mean the *sum* of (i) the product of (A) aggregate number of outstanding shares of Series A Preferred Stock held by the Participating Securityholders immediately prior to the Effective Time *multiplied by* (B) \$4.2800 *plus* (ii) the product of (A) aggregate number of outstanding shares of Series B Preferred Stock held by the Participating Securityholders immediately prior to the Effective Time (including the aggregate number of shares of Series B Preferred Stock issuable upon exercise of the Company Series B Preferred Stock Warrants) *multiplied by* (B) \$5.0518 *plus* (iii) the product of (A) aggregate number of outstanding shares of Series C Preferred Stock held by the Participating Securityholders immediately prior to the Effective Time *multiplied by* (B) \$8.84 *plus* (iv) the product of (A) the aggregate number of outstanding shares of Series D Preferred Stock held by the Participating Securityholders immediately prior to the Effective Time *multiplied by* (B) \$10.84.

“Agreement” shall have the meaning set forth in the preamble of this Agreement.

“Anti-Corruption Laws” shall mean the Foreign Corrupt Practices Act of 1977, as amended, and the related regulations and published interpretations thereunder.

“Anti-Kickback Statute” means the Federal Health Care Program Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b), and all regulations promulgated thereunder.

“Antitrust Laws” shall mean the Sherman Act, as amended, the Clayton Act, as amended, the HSR Act, as amended, and all other federal, state and foreign statutes, rules, regulations, orders, decrees, and other Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or competition.

“Audited Company Financial Statements” shall have the meaning set forth in Section 2.4 (*Financial Statements*).

“BAAs” shall have the meaning set forth in Section 2.11(h).

“Balance Sheet Date” shall have the meaning set forth in Section 2.4 (*Financial Statements*).

“Book-Entry” shall have the meaning set forth in Section 1.10 (*Closing of the Company Transfer Books*).

“Business Day” shall mean any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by Law to be closed in the City of San Francisco.

“Cash and Cash Equivalents” shall mean, with respect to the Company, as of the Reference Time (but before taking into account the consummation of the transactions contemplated hereby), the aggregate amount of cash, cash equivalents and marketable securities held by the Company, as determined in accordance with the Accounting Principles, whether or not kept “on site” or held in deposit, checking, savings, brokerage or other accounts of or in any

safety deposit box or other storage device, *less* (a) the aggregate amount of outstanding checks or drafts of the Company that have not posted, *plus* (b) checks received by the Company that have not been posted (after reducing Accounts Receivable or any other related current asset by the amount of such unposted check).

“**CCC**” shall have the meaning set forth in Section 1.14(a) (*Appraisal and Dissenters’ Rights*).

“**Certificate of Merger**” shall have the meaning set forth in Section 1.3 (*Closing; Effective Time*).

“**Closing**” shall have the meaning set forth in Section 1.3 (*Closing; Effective Time*).

“**Closing Assets**” shall mean the current assets of the Company in accordance with the Accounting Principles, including Accounts Receivable, prepaid expenses, deferred bank fees, prepaid software licenses, prepaid insurances, long-term deposits, including deposits held by the Company’s primary landlord (not included in Cash and Cash Equivalents), credit card prepayments and work-in-progress and finished goods inventory, but excluding Cash and Cash Equivalents and deferred tax assets.

“**Closing Company Share Number**” shall mean the *sum* of (a) the aggregate number of outstanding shares of Company Common Stock held by the Participating Securityholders and Dissenting Stockholders immediately prior to the Effective Time, (b) aggregate number of shares of Company Common Stock issuable upon the exercise of the Company Put Warrants, in each case, held by the Participating Securityholders as of immediately prior to the Effective Time (other than the Excluded Company Warrants) and (c) the aggregate number of shares of Company Common Stock issuable upon the exercise of In-the-Money-Options or settlement of Company RSUs outstanding as of immediately prior to cancellation immediately prior to the Effective Time.

“**Closing Date**” shall have the meaning set forth in Section 1.3 (*Closing; Effective Time*).

“**Closing Date Balance Sheet**” shall mean a balance sheet of the Company as of the Reference Time prepared (i) from and in accordance with the books and records of the Company and (ii) in accordance with the Accounting Principles.

“**Closing Date Cash Amount**” shall mean the Cash and Cash Equivalents of the Company as of the Reference Time determined in accordance with the Accounting Principles.

“**Closing Date Indebtedness**” shall mean the Debt of the Company, including the Put Option Payout Amount, as of the Reference Time determined in accordance with the Accounting Principles.

“**Closing Date Net Working Capital**” shall mean an amount (which may be positive or negative) equal to (a) the Closing Assets *minus* (b) the Closing Liabilities, in each case, as of the Reference Time, determined and calculated in accordance with the Accounting Principles.

“Closing Date Transaction Expenses” shall mean, without duplication, (a) the aggregate expenses, fees and disbursements of all attorneys, accountants, investment bankers and Securityholders’ Representative of the Company in connection with the negotiation, execution, delivery and performance of this Agreement through the Effective Time and in connection with the Company’s preparation of documents, including a registration statement on Form S-1, for an initial public offering, (b) the upfront engagement fee of the Securityholders’ Representative, (c) the amount of any transaction, discretionary or retention bonuses, made or provided, or required to be made or provided, by the Company as a result of or in connection with the Merger or any of the other transactions contemplated by the Agreement, (d) severance or change of control payments or benefits (or similar payment obligations) to be made concurrently with the Closing by the Company, (e) any forgiveness by the Company of any Debt owed to the Company by a Related Party, (f) the Securityholders’ Representative Reserve, and (g) Transaction Payroll Taxes, in each case (i) determined in accordance with the Accounting Principles and (ii) to the extent that such fees, expenses and disbursements have not been paid by the Company prior to the determination of the Company’s Estimated Closing Date Net Working Capital set forth on the Estimated Closing Statement; *provided* that to the extent any Closing Date Transaction Expenses become due and payable, Parent shall promptly pay such amounts to the applicable third party on behalf of the Surviving Corporation and provide to the Securityholders’ Representative evidence of such payment; *provided, further*, that Closing Date Transaction Expenses shall not include Taxes.

“Closing Liabilities” shall mean the current liabilities of the Company in accordance with the Accounting Principles, including accounts payable, accrued vacation, accrued expenses, unearned revenue, accrued expense reports, accrued payable for data, benefits payable and the current portion of capital lease obligations (other than, for the avoidance of doubt, (i) any Put Option Payout Amount and (ii) any double trigger payments payable pursuant to a second trigger occurring following the Closing), but excluding (a) deferred rent, (b) any liability included in the Closing Date Indebtedness and Closing Date Transaction Expenses, in each case of (a) and (b), to the extent actually deducted from the calculation of the Closing Merger Consideration Amount, (c) any Transaction Payroll Taxes and (d) capital leases (other than the current portion).

“Closing Merger Consideration Amount” shall mean cash in an amount equal to:

(a) the Purchase Price;

(b) *plus* the Estimated Closing Date Cash Amount, subject to adjustment as provided in Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*);

(c) *minus* the Estimated Closing Date Indebtedness, subject to adjustment as provided in Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*);

(d) *plus* the Estimated Net Working Capital Adjustment (which may be positive or negative), subject to adjustment as provided in Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*);

(e) *minus* the Estimated Closing Date Transaction Expenses, subject to adjustment as provided in Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*);

(f) *plus* the Aggregate Exercise Amount;

(g) *minus* the Adjustment Escrow Amount; and

(h) *minus* the Aggregate Liquidation Preference.

“Closing Options Payout Amount” shall have the meaning set forth in Section 1.6(a) (*Treatment of Company Options, Company RSUs and Company Warrants*).

“Closing Payment Schedule” shall have the meaning set forth in Section 1.11(m)(iv) (*Exchange/Payment/Deliveries*).

“Closing RSUs Payout Amount” shall have the meaning set forth in Section 1.6(b) (*Treatment of Company Options, Company RSUs and Company Warrants*).

“Closing Statement” shall have the meaning set forth in Section 1.12(b) (*Post Closing Adjustment to Closing Merger Consideration Amount*).

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

“Company” shall have the meaning set forth in the preamble to this Agreement.

“Company Capital Stock” shall mean, collectively, the Company Common Stock and the Company Preferred Stock.

“Company Charter” shall mean the Company’s Amended and Restated Certificate of Incorporation, as filed with the Secretary of the State of Delaware on May 5, 2014, as amended or restated, and in effect immediately prior to the Effective Time.

“Company Common Stock” shall mean the Common Stock, \$0.001 par value per share, of the Company.

“Company Financial Statements” shall have the meaning set forth in Section 2.4 (*Financial Statements*).

“Company Information Systems” shall have the meaning set forth in Section 2.9(i) (*Intellectual Property*).

“Company Intellectual Property” shall mean all Intellectual Property used, necessary for the conduct of the business as currently conducted, or owned or purported to be owned by the Company.

“Company Material Adverse Effect” shall mean any change, event, effect, claim, circumstance or matter (each, an **“adverse effect”**) that (considered individually or together with all other adverse effects) has, or would reasonably be expected to have, a material adverse effect

on the business, financial condition, assets, capitalization, business operations, results of operations or financial performance of the Company; *provided, however*, that none of the following (individually or in combination) shall be deemed to constitute, or shall be taken into account in determining whether there has been, a Company Material Adverse Effect: (a) any adverse effect resulting directly or indirectly from general business or economic conditions, except to the extent such general business or economic conditions have a disproportionate effect on the Company as compared to any of the other companies in the Company's industry; (b) any adverse effect resulting directly or indirectly from conditions generally affecting any industry or industry sector in which the Company operates or competes, except to the extent such adverse effect has a disproportionate effect on the Company as compared to any of the other companies in such industry or industry sector; (c) any adverse effect resulting directly or indirectly from hurricanes, earthquakes, floods, tsunamis, tornadoes, mudslides, fires or other disasters and other force majeure events; (d) any adverse effect resulting directly or indirectly from the announcement, execution or delivery of this Agreement or the pendency or consummation of the Merger, including any disruption in (or loss of) supplier, service provider, partner or similar relationships or any loss of employees; (e) any adverse effect resulting directly or indirectly from any change in accounting requirements or principles or any change in applicable Laws or the interpretation thereof; (f) any adverse effect resulting directly or indirectly from (i) any action taken by the Company at Parent's direction, or (ii) any action referred to in Section 4.2 (*Conduct of the Business of the Company*) taken by the Company with Parent's consent; (g) the failure of the Company to meet internal expectations or projections (it being understood and agreed that the facts and circumstances giving rise to such failure that are not otherwise excluded from the definition of a Company Material Adverse Effect may be taken into account in determining whether there has been a Company Material Adverse Effect); or (h) any adverse effect resulting directly or indirectly from any breach by Parent or Merger Sub of any provision of this Agreement or the taking of any other action by Parent or Merger Sub.

"Company Options" shall mean options to purchase shares of Company Common Stock.

"Company Plans" shall have the meaning set forth in Section 2.17(a) (*Employee Benefit Plans and Employee Matters*).

"Company Preferred Stock" shall mean collectively the Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock.

"Company Put Warrants" shall mean warrants set forth on Section 1.6(c)(i) of the Disclosure Schedule.

"Company Returns" shall mean any Tax Return required to be filed by the Company.

"Company RSUs" shall mean restricted stock units with respect to Company Common Stock.

"Company Series B Preferred Stock Warrant" shall mean warrants set forth on Section 1.6(c)(ii) of the Disclosure Schedule.

"Company Stock Certificate" shall have the meaning set forth in Section 1.10 (*Closing of the Company's Transfer Books*).

“Company Stockholders” shall mean the holders of Company Capital Stock.

“Company Warrants” shall mean the Company Put Warrants and the Company Series B Preferred Stock Warrants.

“Confidentiality Agreement” shall mean that certain Mutual Confidential Disclosure Agreement, dated as of February 12, 2018, by and between Parent and the Company.

“Consent(s)” shall mean any consent, approval or waiver.

“Continuing Employees” shall have the meaning set forth in Section 5.3 (*Employee Benefits*).

“Contract” shall mean any contract, plan, undertaking, arrangement, concession, understanding, agreement, agreement in principle, franchise, permit, instrument, license, lease, sublease, note, bond, indenture, deed of trust, mortgage, loan agreement or other binding commitment, whether written or oral.

“Cooley” shall have the meaning set forth in Section 10.12 (*Conflict of Interest*).

“Covered Materials” shall have the meaning set forth in Section 10.13 (*Attorney-Client Privilege*).

“CPT” shall have the meaning set forth in Section 2.11(e) (*Regulatory Matters*).

“D&O Indemnified Persons” shall have the meaning set forth in Section 5.4(a) (*Indemnification of Officers and Directors*).

“D&O Tail Policy” has the meaning set forth in Section 5.4(b) (*Indemnification of Officers and Directors*) of this Agreement.

“Debt” shall mean the outstanding principal amount of, and all interest and other amounts accrued in respect of and all amounts payable at retirement of, (a) any indebtedness for borrowed money of the Company whether or not represented by bonds, debentures, notes or other securities, (b) any obligation of the Company evidenced by bonds, debentures, notes or other similar instruments, (c) any reimbursement obligation of the Company with respect to letters of credit (including standby letters of credit to the extent drawn upon), bankers’ acceptances or similar facilities issued for the account of the Company, (d) all deferred indebtedness of the Company for the payment of the purchase price of property or assets purchased, including any earn-out payment or contingent consideration payment obligations (other than accounts payable incurred in the ordinary course of business that are not more than thirty (30) days past due), (e) all obligations of the Company under any interest rate swap agreement, forward rate agreement, interest rate cap or collar agreement or other financial agreement or arrangement entered into for the purpose of limiting or managing interest rate risks, (f) all premiums, penalties, fees, expenses, breakage costs and change of control payments required to be paid or offered in respect of any of the foregoing on prepayment, as a result of the consummation of the transactions contemplated by the Agreement, (g) any obligation of the type referred to in clauses (a) through (f) of another Person the payment of which the Company has guaranteed or for which the Company is

responsible or liable, directly or indirectly, jointly or severally, as obligor or guarantor and (h) the Put Option Payout Amount. Notwithstanding the foregoing, “**Debt**” shall not include (i) any letters of credit to the extent not drawn upon, (ii) non-cancellable purchase commitments in the ordinary course of business, (iii) surety bonds and performance bonds, (iv) trade payables or other current liabilities in the ordinary course of business or (v) any capital leases reflected in the Company Financial Statements. For purposes of Section 1 (*Description of Transaction*), “**Debt**” shall mean Debt, as defined above, outstanding as of the Reference Time (but before taking into account the consummation of the transactions contemplated by this Agreement). For the avoidance of doubt, Debt shall not include any Taxes.

“**Debt Commitment**” means the debt financing commitments received and accepted by Parent, pursuant to a credit agreement and related commitment letter.

“**Debt Financing**” means the debt financing contemplated by Parent to be provided by the Financing Sources pursuant to the Debt Commitment.

“**DGCL**” shall have the meaning set forth in the recitals of this Agreement.

“**Disclosure Schedule**” shall mean the disclosure schedule that has been prepared by the Company and delivered to Parent and Merger Sub on the date of the Agreement.

“**Dispute Auditor**” shall have the meaning set forth in Section 1.12(d) (*Post Closing Adjustment to Closing Merger Consideration Amount*).

“**Dispute Notice**” shall have the meaning set forth in Section 1.12(c) (*Post Closing Adjustment to Closing Merger Consideration Amount*).

“**Dissenting Shares**” shall have the meaning set forth in Section 1.14(a) (*Appraisal and Dissenters’ Rights*).

“**Dissenting Stockholder**” shall have the meaning set forth in Section 1.14(a) (*Appraisal and Dissenters’ Rights*).

“**DOJ**” shall have the meaning set forth in Section 5.2 (*Regulatory Filings; Reasonable Best Efforts*).

“**Effective Time**” shall have the meaning set forth in Section 1.3 (*Closing; Effective Time*).

“**Election**” shall have the meaning set forth in Section 1.7(a)(i) (*Parent Stock Election*).

“**Election Deadline**” shall have the meaning set forth in Section 1.7(a)(ii) (*Parent Stock Election*).

“**Election Form**” shall have the meaning set forth in Section 1.11(b) (*Exchange/Payment/Deliveries*).

“Employee Option” shall mean an In-the-Money-Option granted to an Employee Option Holder in the holder’s capacity as an employee of the Company for applicable employment Tax purposes.

“Employee Option Holder” shall mean each holder of an In-the-Money-Option who is an employee of the Company or was an employee of the Company when such Company Option was granted.

“Employee RSU” shall mean a Company RSU granted to an Employee RSU Holder in the holder’s capacity as an employee of the Company for applicable employment Tax purposes.

“Employee RSU Holder” shall mean each holder of a Company RSU who is an employee of the Company or was an employee of the Company when the Company RSU was granted.

“End Date” shall mean the date that is three months from the date of this Agreement, *provided, however*, that each party shall have the right to extend the End Date by up to 45 days if any of the conditions set forth in Section 6.4 (Antitrust Clearance) or Section 7.4 (Antitrust Clearance) of the Agreement shall not have been satisfied or waived on or prior to such date.

“Entity” shall mean any corporation (including any nonprofit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization or entity.

“Environmental Law” shall mean any Law or governmental regulation relating to (a) the protection, preservation or restoration of the environment (including, air, water vapor, surface water, groundwater, drinking water supply, surface land, subsurface land, plant and animal life or any other natural resource); (b) the exposure to, or the use, storage, recycling, treatment, generation, transportation, processing, handling, labeling, production, release or disposal of, any Hazardous Substances; or (c) safety issues (including human and occupational safety and health), in each case as amended and as in effect on the date hereof.

“Environmental Permit” shall mean any permit, license, review, certification, approval, registration, consent or other authorization issued pursuant to any Environmental Laws.

“Equity Incentive Plans” shall mean the Company’s 2007 Equity Incentive Plan and 2014 Equity Incentive Plan, in each case, as amended or restated.

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

“ERISA Affiliate” shall have the meaning set forth in Section 2.17(e) (*Employee Benefit Plans and Employee Matters*).

“Escrow Agent” shall mean JPMorgan Chase Bank, N.A. or another escrow agent mutually acceptable to Parent and the Company.

“Escrow Agreement” shall have the meaning set forth in Section 1.11(l)(Exchange/Payment).

“Estimated Closing Date Cash Amount” shall have the meaning set forth in the definition of **“Estimated Closing Statement”** in this Exhibit A.

“Estimated Closing Date Indebtedness” shall have the meaning set forth in the definition of **“Estimated Closing Statement”** in this Exhibit A.

“Estimated Closing Date Net Working Capital” shall have the meaning set forth in the definition of **“Estimated Closing Statement”** in this Exhibit A.

“Estimated Closing Date Transaction Expenses” shall have the meaning set forth in the definition of **“Estimated Closing Statement”** in this Exhibit A.

“Estimated Closing Statement” shall mean a written statement setting forth (a) an estimated Closing Date Balance Sheet and (b) in reasonable detail (i) the Aggregate Exercise Amount; and (ii) the Company’s good faith estimate of (1) the Closing Date Net Working Capital (the **“Estimated Closing Date Net Working Capital”**), (2) the Closing Date Cash Amount (the **“Estimated Closing Date Cash Amount”**), (3) the Closing Date Indebtedness (the **“Estimated Closing Date Indebtedness”**) and (4) the Closing Date Transaction Expenses (the **“Estimated Closing Date Transaction Expenses”**).

“Estimated Net Working Capital Adjustment” shall mean, as applicable: (a) the amount by which the Estimated Closing Date Net Working Capital is less than the Target Net Working Capital (expressed as a negative amount), (b) the amount by which the Estimated Closing Date Net Working Capital is greater than the Target Net Working Capital (expressed as a positive amount), or (c) if the Estimated Closing Date Net Working Capital is equal to the Target Net Working Capital, \$0.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Excluded Company Warrants” shall mean (a) any Company Warrant to the extent the holder thereof has elected to exercise such Company Warrant at or prior to the Effective Time or that expires by its terms as of the Effective Time and (b) any Company Put Warrant to the extent the holder thereof exercises the Put Option (as defined in the Company Put Warrant) at or prior to the Effective Time.

“False Claims Act” means the Federal False Claims Act, 31 U.S.C. § 3729 et seq., and all regulations promulgated thereunder.

“Federal Health Care Program” shall mean any plan or program that provides health care benefits, whether directly, through insurance, or otherwise, that is funded directly, in whole or in part, by the government of the United States of America (other than the Federal Employees Health Benefits Program), including the Medicare, Medicaid and TRICARE programs (described in Title XVIII of the SSA, Title XIX of the SSA, and Title 10, Chapter 55 of the U.S.C., respectively), or any state health care program (as defined in Section 1128(h) of the SSA).

“Filing Date” shall have the meaning set forth in Section 5.9(a) (*Registration Statement*).

“Final Net Working Capital Adjustment” shall mean, as applicable: (a) the amount by which the Closing Date Net Working Capital is less than the Target Net Working Capital (expressed as a negative amount), (b) the amount by which the Closing Date Net Working Capital is greater than the Target Net Working Capital (expressed as a positive amount) or (c) if the Closing Date Net Working Capital is equal to the Target Net Working Capital, \$0.

“Financing Sources” means the Lenders, any lender or prospective lender, lead arranger, agent or representative of or to Parent, and their respective Affiliates, their respective past, present and future officers, directors, managers, employees, agents and representatives involved in the Debt Financing and their respective successors and assigns.

“FTC” shall have the meaning set forth in Section 5.2 (*Regulatory Filings; Reasonable Best Efforts*).

“GAAP” shall mean United States generally accepted accounting principles. With respect to the computations pursuant to Section 1.12 (*Post Closing Adjustment to Closing Merger Consideration Amount*), GAAP shall mean such principles as in effect as of the Reference Time.

“GDPR” shall mean means the EU General Data Protection Regulation 2016/679.

“Government Official” shall mean (a) any officer or employee of any Governmental Body, (b) any Person acting in an official capacity on behalf of a Governmental Body, (c) any officer or employee of a Person that is majority or wholly owned by a Governmental Body, (d) any officer or employee of a public international organization, such as the World Bank or the United Nations, (e) any officer or employee of a political party or any Person acting in an official capacity on behalf of a political party or (f) any candidate for political office.

“Governmental Body” shall mean any national, federal, regional, state, provincial, local, or foreign or other governmental authority or instrumentality, legislative body, court, administrative agency, regulatory body or regulatory authority, commission or instrumentality, including any multinational authority having governmental or quasi-governmental powers, or any other industry self-regulatory authority.

“Hazardous Substance” shall mean any substance listed, defined, designated or classified as hazardous, toxic, radioactive, dangerous, or a “pollutant” or “contaminant” or otherwise regulated, under any Environmental Law. “Hazardous Substance” shall include any substance for which exposure is regulated by any Governmental Body or any Environmental Law, including any toxic waste, pollutant, contaminant, hazardous substance, toxic substance, hazardous waste, special waste, petroleum or any derivative or by-product thereof, radon, radioactive material, asbestos, or asbestos containing material, urea formaldehyde foam insulation, lead, mold, mold spores and mycotoxins or polychlorinated biphenyls or other similar substances.

“Health Care Laws” means any Laws relating to health care regulatory and reimbursement matters, including, without limitation, (i) the Stark Law, (ii) the Anti-Kickback Statute, (iii) the False Claims Act, (iv) the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §

321 et seq. and all regulations, agency guidance or similar legal requirement promulgated thereunder, (v) the Clinical Laboratory Improvement Amendments, 42 U.S.C. § 263a, and all regulations, agency guidance or similar legal requirements promulgated thereunder, (vi) applicable Laws of the United States Drug Enforcement Administration, (vii) the Medicare Act, 42 U.S.C. § 1395 et seq. and all regulations, agency guidance or similar legal requirement promulgated thereunder, (viii) federal laws governing Medicaid programs, 42 U.S.C. § 1396 et seq., and all regulations, agency guidance, or similar legal requirement promulgated thereunder, (x) state self-referral, anti-kickback, fee-splitting and patient brokering Laws, (x) Laws applicable to genetic testing and the privacy of genetic testing results, including, without limitation, HIPAA, and (xi) state Laws governing the licensure and operation of clinical laboratories and billing for clinical laboratory services.

“**Hereditary Licenses**” shall have the meaning set forth the definition of Publicly Available Software in this Exhibit A.

“**HIPAA**” means, collectively, Health Insurance Portability and Accountability Act of 1996 as amended by the Health Information Technology for Economic and Clinical Health Act, implementing regulations promulgated thereunder and related guidance issued from time to time.

“**HSR Act**” shall mean the Hart-Scott-Rodino Anti-Trust Improvements Act of 1976, as amended.

“**Insurance Policies**” shall have the meaning set forth in Section 2.19 (Insurance).

“**Intellectual Property**” shall mean the following items of intangible property:

- (a) patents, utility models, industrial designs and all registrations and applications for registration of the same;
- (b) trademarks, service marks, and trade dress, whether or not registered, and all pending applications for registration of the same, other than regulatory filings;
- (c) copyrights, whether or not registered, and all pending applications for registration of the same;
- (d) domain names and URLs;
- (e) inventions (whether or not patentable), trade secrets and other rights in know-how and confidential or proprietary information; and
- (f) computer programs and databases, whether in object or source code form.

“**In-the-Money-Option**” shall mean a Company Option that has a per share exercise price less than the Per Share Closing Merger Consideration applicable to a share of Company Common Stock.

“**Investor Questionnaire**” shall have the meaning set forth in Section 1.7(d) (Parent Stock Elections).

“**IRS**” shall mean the Internal Revenue Service.

“**Knowledge**” shall have the meaning set forth in Section 10.11 (*Knowledge*).

“**Knowledge Individuals**” shall mean the following Persons: Eric Evans, Joel Jung, Peter Soparkar, Ramji Srinivasan and Rishi Kacker.

“**Law**” shall mean any federal, state, local, municipal, foreign or other law, statute, constitution, principle of common law, ordinance, code, edict, decree, rule, regulation, ruling or requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body and shall include, without limitation, the Health Care Laws.

“**Leased Real Property**” shall have the meaning set forth in Section 2.8 (*Real Property; Leasehold*).

“**Legal Proceeding**” shall mean any action, suit, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding), hearing, inquiry, audit, examination or investigation commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Body or any arbitrator or arbitration panel.

“**Lender**” means any lender, prospective lender, lead arranger, arranger, agent or other representative of or to Parent, including any party to the Debt Commitment.

“**Letter of Transmittal**” shall have the meaning set forth in Section 1.11(b) (*Exchange/Payment*).

“**Lien**” or “**Liens**” shall mean all mortgages, encumbrances, security interests, claims, charges or pledges.

“**Material Contract**” shall have the meaning set forth in Section 2.12 (*Material Contracts*).

“**Merger**” shall have the meaning set forth in the recitals of this Agreement.

“**Merger Sub**” shall have the meaning set forth in the preamble of this Agreement.

“**New Plans**” shall have the meaning set forth in Section 5.3(b) (*Employee Benefits*).

“**Non-Dissenting Stockholder**” shall mean each Company Stockholder that does not perfect or otherwise loses such stockholder’s appraisal or dissenters’ rights under the DGCL and is otherwise entitled to receive consideration pursuant to Section 1.5 (*Conversion of Shares*).

“**Non-Employee Option Holder**” shall mean each holder of an In-the-Money-Option who is not an Employee Option Holder.

“Non-Employee Options” shall mean In-the-Money-Options held by Non-Employee Option Holders.

“Non-Employee RSU Holder” shall mean each holder of a Company RSU who is not an Employee RSU Holder.

“Non-Employee RSUs” shall mean Company RSUs held by Non-Employee RSU Holders.

“Non-Recourse Party” shall mean, with respect to a party to this Agreement, any of such party’s former, current and future equity holders, controlling persons, directors, officers, employees, agents, representatives, Affiliates, members, managers, general or limited partners, or assignees (or any former, current or future equity holder, controlling person, director, officer, employee, agent, representative, Affiliate, member, manager, general or limited partner, or assignee of any of the foregoing); *provided that*, for the avoidance of doubt, no party to this Agreement will be considered a Non-Recourse Party.

“Out-of-the-Money-Option” shall mean a Company Option that has a per share exercise price greater than or equal to the Per Share Closing Merger Consideration applicable to a share of Company Common Stock.

“Owned Intellectual Property” shall mean all Intellectual Property owned or purported to be owned by the Company.

“Ownership Percentage” shall, with respect to a Participating Securityholder, be equal to the quotient obtained by *dividing* (a) the aggregate number of shares of Company Common Stock held by such Participating Securityholder as of immediately prior to the Effective Time (including, for purposes of this definition, the aggregate number of shares of Company Common Stock issuable upon the exercise of the Company Put Warrants, in each case, outstanding as of immediately prior to the Effective Time (other than the Excluded Company Warrants) and the aggregate number of shares of Company Common Stock underlying In-the-Money-Options and Company RSUs outstanding as of immediately prior to cancellation immediately prior to the Effective Time) by (b) the Closing Company Share Number.

“Parent” shall have the meaning set forth in the preamble of this Agreement.

“Parent Financial Statements” means the consolidated financial statements of Parent and its subsidiaries included in the Parent SEC Filings together, in the case of year-end statements, with reports thereon by Ernst & Young LLP, the independent auditors of Parent, for the periods included therein, including in each case a consolidated balance sheet, a consolidated statement of income, a consolidated statement of stockholders’ equity and a consolidated statement of cash flows, and accompanying notes.

“Parent SEC Filings” shall have the meaning set forth in Section 3.11 (Reports and Financial Statements).

“Parent Stock” shall mean shares of common stock, par value \$0.01, of Parent.

“Parent Stock Price” shall mean \$31.31.

“Participating Securityholders” shall mean each Non-Dissenting Stockholder holding Company Common Stock and each holder of In-the-Money-Options, Company RSUs and Company Put Warrants (other than Excluded Company Warrants), each as of immediately prior to the Effective Time.

“Payment Agent” shall have the meaning set forth in Section 1.11(a) (*Exchange/Payment*).

“Payment Agent Agreement” means a payment agent agreement in customary form reasonably acceptable to Parent and the Company to be entered into by and among Parent, Merger Sub and the Payment Agent prior to the Closing Date.

“Payment Amount” shall mean:

- (a) the Closing Merger Consideration Amount;
- (b) *minus* the aggregate Closing Options Payout Amount payable to Employee Option Holders in respect of Employee Options;
- (c) *minus* the aggregate Closing RSUs Payout Amount payable to Employee RSU Holders in respect of Employee RSUs.

“Payment Fund” shall have the meaning set forth in Section 1.11(a) (*Exchange/Payment/Deliveries*).

“Payoff Letters” means: (a) one or more payoff letters and other evidence regarding the discharge of Debt of the Company and termination and release of Liens related thereto, each dated no more than two Business Days prior to the Closing Date, to (i) satisfy such Debt as of the Closing and (ii) terminate and release any Liens related thereto; and (b) an invoice or an email confirmation from each advisor or other service provider to the Company, dated no more than two Business Days prior to the Closing Date, with respect to all unpaid Closing Date Transaction Expenses estimated to be due and payable to such advisor or other service provider, as the case may be, as of the Closing Date.

“Payment Program” shall have the meaning set forth in Section 2.11(c) (*Regulatory Matters*).

“PCI-DSS” shall have the meaning set forth in Section 2.10(c) (*Privacy and Data Security*).

“Per Share Merger Consideration” shall mean the *quotient* of (a) the Closing Merger Consideration Amount, *divided by* (b) the Closing Company Share Number.

“Permit” means any material permit, license, franchise, certificate, accreditation approval, registration, notification or authorization from any Governmental Body, or required by any Governmental Body to be obtained, maintained or filed.

“Permitted Encumbrances” shall mean: (a) statutory liens for current Taxes or other governmental charges (i) not yet delinquent or (ii) the amount or validity of which is being contested in good faith by appropriate proceedings by the Company and for which appropriate reserves have been established in accordance with GAAP; (b) mechanics’, carriers’, workers’, repairers’ and similar statutory liens arising or incurred in the ordinary course of business for amounts that are not delinquent and that are not, individually or in the aggregate, significant, unless being contested in good faith by appropriate proceedings and for which adequate accruals or reserves have been established; (c) zoning, entitlement, building and other land use regulations or ordinances imposed by Governmental Bodies having jurisdiction over the Leased Real Property that are not violated by the current use and operation of the Leased Real Property; (d) covenants, conditions, restrictions, easements and other similar matters of record affecting title to the Leased Real Property that do not materially impair the occupancy or use of the Leased Real Property for the purposes for which it is currently used or proposed to be used in connection with the Company’s business; (e) matters that would be disclosed by an inspection, a current title commitment, or accurate survey of each parcel of real property that do not and are not reasonably expected to adversely affect the value, use or current occupancy of the Leased Real Property; and (f) title to any portion of the premises lying within the right of way or boundary of any public road or private road which, individually or in the aggregate, do not materially adversely affect the value or the continued use of the Leased Real Property; (g) leases or subleases and licenses or sublicenses granted to others in the ordinary course of business.

“Person” shall mean any individual, Entity or Governmental Body.

“Personal Data” means (a) any information or data that, alone or together with any other information or data (i) can be used to identify, directly or indirectly, an individual, or (ii) can be used to authenticate such individual; and (b) any other information pertaining to an individual that is regulated or protected by applicable Laws but excluding anonymized information and aggregated information that cannot reasonably be used to identify an individual; *provided* that Personal Data shall be limited to information regarding patients in the U.S. or information of patients outside of the U.S. only to the extent it has been transmitted to the U.S.

“Privacy Agreements” has the meaning set forth in Section 2.10(a) (*Privacy and Data Security*).

“Publicly Available Software” shall mean each of: (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, “copyleft,” open source software (*e.g.* Linux), or similar licensing and distribution models; and (ii) any software that requires as a condition of use, modification, or distribution of such software that such software or other software or technology incorporated into, derived from, or distributed with such software: (a) be disclosed or distributed in source code form; (b) be licensed for the purpose of making derivative works; or (c) be redistributable at no or minimal charge (such licenses under this clause (ii) being **“Hereditary Licenses”**). Publicly Available Software includes software licensed or distributed under any of the following licenses or distribution models similar to any of the following: (a) GNU General Public License (GPL) or Lesser/Library GPL (LGPL), (b) the Artistic License (*e.g.* PERL), (c) the Mozilla Public License, (d) the Netscape Public License, (e) the Sun Community Source License (SCSL), the Sun Industry Source License (SISL), and the Apache Server License.

“Purchase Price” shall mean \$375,000,000.

“Put Option Payout Amount” shall mean the aggregate amount payable to the holders of the Company Put Warrants that exercise the Put Option (as defined in the Company Put Warrant), including, for the avoidance of doubt, the Put Purchase Price and any Top-Up Fee, each as defined in the Company Put Warrant, and net of any applicable exercise price, in accordance with the Company Put Warrant.

“Reference Time” shall mean 12:01 a.m., San Francisco time, on the Closing Date; provided that the Reference Time for purposes of calculating Tax assets and Tax liabilities included in Closing Date Net Working Capital shall be 11:59 p.m., San Francisco time, on the Closing Date.

“Registered IP” shall mean all Intellectual Property that is registered, filed, or issued under the authority of any Governmental Body to Company, including all patents, registered copyrights, registered mask works, registered trademarks, and all applications for any of the foregoing.

“Registrable Shares” shall have the meaning set forth in Section 5.9(a) (*Registration Statement*).

“Registration Statement” shall have the meaning set forth in Section 5.9(a) (*Registration Statement*).

“Related Party” shall mean (a) each stockholder of the Company; (b) each individual who is, or who has at any time since inception been, an officer or director of any of the Company; (c) to the extent of the Knowledge of the Company, each member of the immediate family of each of the individuals referred to in clauses “(a),” and “(b)” above; and (d) to the extent of the Knowledge of the Company, any trust or other entity (other than the Company) in which any one of the Persons referred to in clauses “(a),” “(b)” and “(c)” above holds (or in which more than one of such Persons collectively hold), beneficially or otherwise, a material voting, proprietary or equity interest.

“Required Company Stockholder Vote” shall have the meaning set forth in Section 2.22 (*Vote Required*).

“Required Marketing Information” shall have the meaning set forth in Section 5.10 (*Financing Cooperation*).

“R&W Insurance” shall have the meaning set forth in Section 8.3 (*R&W Insurance*).

“Satisfaction Date” shall have the meaning set forth in Section 1.3 (*Closing; Effective Time*).

“SEC” means the United States Securities and Exchange Commission.

“Securities Act” means the Securities Act of 1933, as amended.

“Security Breach” shall mean an actual unauthorized access, destruction, loss, alteration, acquisition or disclosure of any Personal Data controlled by the Company.

“Securityholders’ Representative” shall have the meaning set forth in Section 1.15(a) (*Securityholders’ Representative*).

“Securityholders’ Representative Engagement Agreement” shall have the meaning set forth in Section 1.15(c) (*Securityholders’ Representative*).

“Securityholders’ Representative Expenses” shall have the meaning set forth in Section 1.15(d) (*Securityholders’ Representative*).

“Securityholders’ Representative Group” shall have the meaning set forth in Section 1.15(e) (*Securityholders’ Representative*).

“Securityholders’ Representative Reserve” shall have the meaning set forth in Section 1.15(d) (*Securityholders’ Representative*).

“Selling Company Stockholders” shall have the meaning set forth in Section 5.9(a) (*Registration Statement*).

“Series A Preferred Stock” shall mean the Series A Preferred Stock, \$0.001 par value per share, of the Company.

“Series B Preferred Stock” shall mean the Series B Preferred Stock, \$0.001 par value per share, of the Company.

“Series C Preferred Stock” shall mean the Series C Preferred Stock, \$0.001 par value per share, of the Company.

“Series D Preferred Stock” shall mean the Series D Preferred Stock, \$0.001 par value per share, of the Company.

“Specified Representations” shall mean the representations and warranties set forth in Sections 2.1(a) and 2.1(b) (*Subsidiaries; Due Incorporation; Etc.*), Section 2.3 (*Capitalization, Etc.*), Section 2.21 (*Authority; Binding Nature of Agreement*) and Section 2.25 (*Financial Advisor*).

“Stark Law” means the Federal Ethics in Patient Referrals Act, 42 U.S.C. § 1395nn, and all regulations promulgated thereunder.

“Subsidiary” shall mean, with respect to any Person, any partnership, limited liability company, corporation or other business entity of which (a) if a corporation, a majority of the total voting power of shares of capital stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a partnership, limited liability company or other business entity, a majority of the partnership or other similar ownership

interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof.

“Surviving Corporation” shall have the meaning set forth in Section 1.1 (*Merger of Merger Sub into the Company*).

“Suspension Notice” shall have the meaning set forth in Section 5.95.9(c) (*Registration Statement*).

“Takeover Proposal” shall mean any proposal or offer from any Person (other than Parent or its Affiliates or their respective representatives) for any acquisition by such Person of a substantial amount of assets of the Company (other than an acquisition of assets of the Company in the ordinary course of business or as permitted under the terms of this Agreement) having a fair market value (as determined by the Board of Directors of the Company in good faith) in excess of 20% of the fair market value of all the assets of the Company immediately prior to such acquisition or more than a 20% interest in the total voting securities of the Company or any tender offer or exchange offer that if consummated would result in any Person beneficially owning 20% or more of any class of equity securities of the Company or any merger, consolidation, or business combination of the Company with any unaffiliated third party, other than the transactions contemplated by this Agreement.

“Target Net Working Capital” shall mean an amount equal to \$12,500,000.

“Tax” or **“Taxes”** shall mean all federal, state or local and all foreign taxes of any kind whatsoever, including income, gross receipts, windfall profits, value added, severance, property, production, sales, use, duty, license, excise, franchise, employment, withholding or similar taxes, together with any interest, additions or penalties with respect thereto and any interest with respect to such additions or penalties.

“Tax Returns” shall mean any return, statement, report, tax filing or form (including estimated Tax returns and reports, withholding Tax returns and reports, any schedule or attachment, and information returns and reports), including any amendments, filed or required to be filed with a Governmental Body.

“Transaction Payroll Taxes” shall mean the employer portion under the Federal Insurance Contribution Act for (i) Medicare taxes payable with respect to any bonuses, option exercises, payments in respect of Employee Options and Employee RSUs, severance or other compensatory payments made in connection with the transactions contemplated by this Agreement, in each case, that are made on, around or before the Closing (**“Transaction Compensation”**) and (ii) Social Security taxes payable on the Transaction Compensation with respect to any Company employee who based on compensation payable through the date of this Agreement and projected by the Company to be paid through December 31, 2018 would not be paid \$128,400 in annual compensation (without taking into account the Transaction Compensation).

“Unaccredited Investors” shall have the meaning set forth in Section 1.7(d) (*Parent Stock Elections*).

“Unaudited Balance Sheet” shall have the meaning set forth in Section 2.4 (*Financial Statements*).

“University” shall have the meaning set forth in Section 2.9(b) (*Intellectual Property*).

“Waived 280G Benefits” shall have the meaning set forth in Section 5.1(b) (*Stockholder Consent or Approval*).

“Withholding Agent” shall have the meaning set forth in Section 1.11(k) (*Exchange/Payment*).

“Written Consent” shall have the meaning set forth in Section 5.1(a) (*Stockholder Consent or Approval*).

Exhibit 21.1

LIST OF SUBSIDIARIES OF MYRIAD GENETICS, INC.

Company Name	Jurisdiction of Incorporation
Myriad Genetic Laboratories, Inc. ¹	Delaware
Assurex Health, Inc. ¹	Delaware
Myriad RBM, Inc. ¹	Delaware
Crescendo Bioscience, Inc. ¹	Delaware
Myriad GmbH ³	Germany
Myriad Services GmbH ²	Germany
Myriad Genetics Espana SL ¹	Spain
Myriad Genetics SAS ²	France
Myriad Genetics S.r.l. ¹	Italy
Myriad Genetics GmbH ²	Switzerland
Myriad Genetics LTD ²	Great Britain
Myriad Genetics Canada Corp ²	Canada
Myriad Genetics B.V. ¹	Netherlands
Myriad Genetics Australia PTY LTD ²	Australia
Privatklinik Dr. Robert Schindlbeck GmbH & Co. KG ³	Germany
Myriad International GmbH ³	Germany
MVZ Fur Molekulardiagnostik GmbH ⁴	Germany
AssureRx Canada, Ltd ⁵	Canada

1 – A wholly-owned subsidiary of Myriad Genetics, Inc., a Delaware corporation.

2 – A wholly-owned subsidiary of Myriad Genetics B.V.

3 – A wholly-owned subsidiary of Myriad Services GmbH

4 – A wholly-owned subsidiary of Privatklinik Dr. Robert Schindlbeck GmbH & Co. KG

5 – A majority owned subsidiary of Assurex Health, Inc.

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements of Myriad Genetics, Inc.:

1. Registration Statement on Form S-3 (File No. 333-226492) pertaining to the Myriad Genetics, Inc. shelf registration statement for the sale of common stock,
2. Registration Statement on Form S-8 (File No. 333-222913) pertaining to the Myriad Genetics, Inc. 2017 Employee, Director and Consultant Equity Incentive Plan,
3. Registration Statement on Form S-8 (File No. 333-185325) pertaining to the Myriad Genetics, Inc. 2012 Employee Stock Purchase Plan,
4. Registration Statements on Form S-8 (File No.'s 333-171994, 333-179281, 333-185325, 333-193767 and 333-209354, 333-215959) pertaining to the Myriad Genetics, Inc. 2010 Employee, Director and Consultant Equity Incentive Plan, as amended, and
5. Registration Statements on Form S-8 (File No.'s 333-115409, 333-120398, 333-131653, 333-140830, 333-150792, 333-157130 and 333-164670) pertaining to the Myriad Genetics, Inc. 2003 Employee, Director and Consultant Stock Option Plan, as amended;

of our reports dated August 24, 2018, with respect to the consolidated financial statements and schedule of Myriad Genetics, Inc. and the effectiveness of internal control over financial reporting of Myriad Genetics, Inc. included in this Annual Report (Form 10-K) of Myriad Genetics, Inc. for the year ended June 30, 2018.

/s/ Ernst & Young LLP

Salt Lake City, Utah
August 24, 2018

SARBANES-OXLEY SECTION 302 CERTIFICATION

I, Mark C. Capone, certify that:

1. I have reviewed this annual report on Form 10-K of Myriad Genetics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 24, 2018

/s/ Mark C. Capone

Mark C. Capone

President and Chief Executive Officer

SARBANES-OXLEY SECTION 302 CERTIFICATION

I, R. Bryan Riggsbee, certify that:

1. I have reviewed this annual report on Form 10-K of Myriad Genetics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 24, 2018

/s/ R. Bryan Riggsbee

R. Bryan Riggsbee
Chief Financial Officer

Certification
Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
(Subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code)

Pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code), each of the undersigned officers of Myriad Genetics, Inc., a Delaware corporation (the “Company”), does hereby certify, to such officer’s knowledge, that:

The Annual Report on Form 10-K for the year ended June 30, 2018 (the “Form 10-K”) of the Company fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and the information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 24, 2018

/s/ Mark C. Capone

Mark C. Capone
President and Chief Executive Officer

Date: August 24, 2018

/s/ R. Bryan Riggsbee

R. Bryan Riggsbee
Chief Financial Officer