

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2022

OR

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

For the transition period from _____ to _____

Commission File Number: **001-39149**

BILL.COM HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

Delaware

83-2661725

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification Number)

6220 America Center Drive, Suite 100, San Jose, CA

95002

(Address of principal executive offices)

(Zip Code)

(650) 621-7700

(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if
changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.00001 par value	BILL	The New York Stock Exchange

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

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

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

Large accelerated filer	☒ Accelerated filer	☐
Non-accelerated filer	☐ Smaller reporting company	☐
Emerging growth company	☐	

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

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

As of October 28, 2022, the registrant had 105,671,639 shares of common stock, \$0.00001 par value per share, outstanding.

BILL.COM HOLDINGS, INC.
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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements. All statements contained in this Quarterly Report on Form 10-Q other than statements of historical fact, including statements regarding our future operating results and financial position, our business strategy and plans, market growth, and our objectives for future operations, are forward-looking statements. The words “believe,” “may,” “will,” “potentially,” “estimate,” “continue,” “anticipate,” “intend,” “could,” “would,” “project,” “target,” “plan,” “expect,” and similar expressions are intended to identify forward-looking statements.

Forward-looking statements contained in this Quarterly Report on Form 10-Q include, but are not limited to, statements about:

- our future financial performance, including our expectations regarding our revenue, cost of revenue, gross profit, operating expenses, including changes in research and development, sales and marketing and general and administrative expenses (including any components of the foregoing), and our ability to achieve, and maintain, future profitability;
- our business plan and our ability to effectively manage our growth;
- our market opportunity, including our total addressable market;
- our international expansion plans and ability to expand internationally;
- anticipated trends, growth rates, and challenges in our business and in the markets in which we operate;
- beliefs and objectives for future operations;
- our ability to further attract, retain, and expand our customer base;
- our ability to develop new products and services and bring them to market in a timely manner;
- the effects of seasonal trends on our results of operations;
- our expectations concerning relationships with third parties, including partners;
- our ability to maintain, protect, and enhance our intellectual property;
- the effects of increased competition in our markets and our ability to compete effectively;
- the COVID-19 pandemic, economic downturns or recessions, inflation, foreign currency rate and interest rate fluctuations and supply chain shortages, and their impact on our customers, partners, vendors, employees, results of operations, liquidity, and financial condition;
- future acquisitions or investments in complementary companies, products, services, or technologies;
- our ability to stay in compliance with laws and regulations that currently apply or become applicable to our business;
- economic and industry trends, projected growth, or trend analysis;
- our ability to attract and retain qualified talent;
- the increased expenses associated with being a public company; and
- the future market prices of our common stock.

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

These forward-looking statements are subject to a number of risks, uncertainties, and assumptions, including those described in the section titled “Risk Factors” in Part I, Item 1A of this Quarterly Report on Form 10-Q. Moreover, we operate in a very competitive and rapidly changing environment, and new risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties, and assumptions, the future events and trends discussed in this Quarterly Report on Form 10-Q

may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. The events and circumstances reflected in the forward-looking statements may not be achieved or occur. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, performance, or achievements. We undertake no obligation to update any of these forward-looking statements for any reason after the date of this Quarterly Report on Form 10-Q or to conform these statements to actual results or to changes in our expectations, except as required by law.

In addition, statements that "we believe" and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Quarterly Report on Form 10-Q, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information.

You should read this Quarterly Report on Form 10-Q and the documents that we reference herein, that we have filed with the SEC as exhibits, with the understanding that our actual future results, performance, and events and circumstances may be materially different from what we expect.

In this Quarterly Report on Form 10-Q, the words "we," "us," and "our" refer to Bill.com Holdings, Inc. and its wholly owned subsidiaries, including Bill.com, LLC (BILL), DivvyPay, LLC (Divvy), Invoice2go, LLC (Invoice2go), and Cimrid Pty, Ltd (Cimrid), unless the context requires otherwise.

PART I. FINANCIAL INFORMATION
ITEM 1. FINANCIAL STATEMENTS

BILL.COM HOLDINGS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited, in thousands, except per share amounts)

	September 30, 2022	June 30, 2022
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 1,608,966	\$ 1,596,542
Short-term investments	1,034,537	1,108,493
Accounts receivable, net	29,060	24,045
Acquired card receivables, net	357,741	256,392
Prepaid expenses and other current assets	140,019	151,258
Funds held for customers	3,121,654	3,142,660
Total current assets	6,291,977	6,279,390
Non-current assets:		
Operating lease right-of-use assets, net	75,106	76,445
Property and equipment, net	62,025	56,985
Intangible assets, net	412,814	432,583
Goodwill	2,362,330	2,362,893
Other assets	48,847	47,730
Total assets	\$ 9,253,099	\$ 9,256,026
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 11,508	\$ 9,948
Accrued compensation and benefits	20,649	29,004
Deferred revenue	30,401	31,868
Other accruals and current liabilities	141,806	120,080
Borrowings from revolving credit facility, net	—	75,097
Customer fund deposits	3,121,654	3,142,660
Total current liabilities	3,326,018	3,408,657
Non-current liabilities:		
Deferred revenue	2,323	2,159
Operating lease liabilities	80,440	82,728
Borrowings from revolving credit facility, net	75,083	—
Convertible senior notes, net	1,699,690	1,697,985
Other long-term liabilities	22,014	20,803
Total liabilities	5,205,568	5,212,332
Commitments and contingencies (Note 13)		
Stockholders' equity:		
Common stock	2	2
Additional paid-in capital	4,684,484	4,598,737
Accumulated other comprehensive loss	(10,487)	(10,217)
Accumulated deficit	(626,468)	(544,828)
Total stockholders' equity	4,047,531	4,043,694
Total liabilities and stockholders' equity	\$ 9,253,099	\$ 9,256,026

See accompanying notes to condensed consolidated financial statements.

BILL.COM HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited, in thousands, except per share amounts)

	Three Months Ended September 30,	
	2022	2021
Revenue	\$ 229,924	\$ 118,349
Cost of revenue		
Service costs	34,820	20,713
Depreciation and amortization of intangible assets ⁽¹⁾	10,287	9,122
Total cost of revenue	45,107	29,835
Gross profit	184,817	88,514
Operating expenses		
Research and development	75,121	41,884
Sales and marketing	118,633	53,629
General and administrative	66,738	57,515
Depreciation and amortization of intangible assets ⁽¹⁾	12,019	9,691
Total operating expenses	272,511	162,719
Loss from operations	(87,694)	(74,205)
Other income (expenses), net	5,947	(3,475)
Loss before benefit from income taxes	(81,747)	(77,680)
Benefit from income taxes	(107)	(3,421)
Net loss	\$ (81,640)	\$ (74,259)
Net loss per share attributable to common stockholders:		
Basic and diluted	\$ (0.78)	\$ (0.78)
Weighted-average number of common shares used to compute net loss per share attributable to common stockholders:		
Basic and diluted	105,086	95,892

⁽¹⁾ Depreciation expense does not include amortization of capitalized internal-use software costs.

See accompanying notes to condensed consolidated financial statements.

BILL.COM HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(Unaudited, in thousands)

	Three Months Ended September 30,	
	2022	2021
Net loss	\$ (81,640)	\$ (74,259)
Other comprehensive loss:		
Net unrealized loss on investments in available-for-sale securities	(270)	(39)
Comprehensive loss	<u>\$ (81,910)</u>	<u>\$ (74,298)</u>

See accompanying notes to condensed consolidated financial statements.

BILL.COM HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(Unaudited, in thousands)

Three months ended September 30, 2022							
	Common stock			Additional paid-in capital	Accumulated other comprehensive loss	Accumulated deficit	Total stockholders' equity
	Shares	Amount					
Balance at June 30, 2022	104,731	\$ 2	\$	4,598,737	\$ (10,217)	\$ (544,828)	\$ 4,043,694
Issuance of common stock upon exercise of stock options and release of restricted stock units	835	—		8,494	—	—	8,494
Issuance of common stock under the employee stock purchase plan	67	—		3,901	—	—	3,901
Stock-based compensation	—	—		73,352	—	—	73,352
Other comprehensive loss	—	—		—	(270)	—	(270)
Net loss	—	—		—	—	(81,640)	(81,640)
Balance at September 30, 2022	105,633	\$ 2	\$	4,684,484	\$ (10,487)	\$ (626,468)	\$ 4,047,531

Three Months Ended September 30, 2021							
	Common stock			Additional paid-in capital	Accumulated other comprehensive income	Accumulated deficit	Total stockholders' deficit
	Shares	Amount					
Balance at June 30, 2021	94,504	\$ 2	\$	2,777,155	\$ (100)	\$ (247,467)	\$ 2,529,590
Cumulative effect of the accounting change upon the adoption of ASU 2020-06	—	—		(245,066)	—	29,000	(216,066)
Issuance of common stock upon public offering, net of underwriting discounts and other offering costs	5,074	—		1,341,122	—	—	1,341,122
Issuance of common stock as consideration for an acquisition, net of issuance costs	1,788	—		488,263	—	—	488,263
Fair value of replacement awards	—	—		26,710	—	—	26,710
Issuance of common stock upon exercise of stock options and release of restricted stock units	1,033	—		8,644	—	—	8,644
Issuance of common stock under the employee stock purchase plan	40	—		5,726	—	—	5,726
Purchase of capped calls	—	—		(37,893)	—	—	(37,893)
Stock-based compensation	—	—		38,839	—	—	38,839
Other comprehensive loss	—	—		—	(39)	—	(39)
Net loss	—	—		—	—	(74,259)	(74,259)
Balance at September 30, 2021	102,439	\$ 2	\$	4,403,500	\$ (139)	\$ (292,726)	\$ 4,110,637

See accompanying notes to condensed consolidated financial statements.

BILL.COM HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited, in thousands)

	Three months ended September 30,	
	2022	2021
Cash flows from operating activities:		
Net loss	\$ (81,640)	\$ (74,259)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation	72,620	37,887
Amortization of intangible assets	19,769	16,672
Depreciation of property and equipment	2,546	2,129
Amortization of capitalized internal-use software costs	924	259
Amortization of debt discount (accretion of debt premium) and issuance costs	1,712	556
Amortization of premium (accretion of discount) on investments in marketable debt securities	(2,215)	2,857
Provision for losses on acquired card receivables	6,611	4,049
Non-cash operating lease expense	2,342	1,960
Deferred income taxes	(299)	(3,423)
Other	930	—
Changes in assets and liabilities:		
Accounts receivable	(4,774)	1,198
Prepaid expenses and other current assets	(1,339)	6,321
Other assets	(1,138)	(1,385)
Accounts payable	1,511	(732)
Other accruals and current liabilities	4,247	(17,930)
Operating lease liabilities	(2,386)	(792)
Other long-term liabilities	34	(121)
Deferred revenue	(1,303)	3,620
Net cash provided by (used in) operating activities	18,152	(21,134)
Cash flows from investing activities:		
Cash paid for acquisition, net of acquired cash and cash equivalents	—	(144,452)
Purchases of corporate and customer fund short-term investments	(859,911)	(608,552)
Proceeds from maturities of corporate and customer fund short-term investments	838,099	318,907
Proceeds from sale of corporate and customer fund short-term investments	—	17,234
Increase in acquired card receivables and other	(107,443)	(32,663)
Purchases of property and equipment	(1,376)	(1,404)
Capitalization of internal-use software costs	(4,764)	(2,942)
Proceeds from beneficial interest	2,080	—
Net cash used in investing activities	(133,315)	(453,872)
Cash flows from financing activities:		
Proceeds from issuance of common stock upon public offering, net of underwriting discounts and other offering costs	—	1,341,597
Proceeds from issuance of convertible senior notes, net of discounts and issuance costs	—	562,704
Purchase of capped calls	—	(37,893)
Increase (decrease) in customer fund deposits liability and other	(14,549)	223,641
Proceeds from exercise of stock options	3,901	8,336
Proceeds from issuance of common stock under the employee stock purchase plan	8,494	5,726
Net cash provided by (used in) financing activities	(2,154)	2,104,111
Effect of exchange rate changes on cash, cash equivalents, restricted cash and restricted cash equivalents	(277)	(172)
Net increase (decrease) in cash, cash equivalents, restricted cash, and restricted cash equivalents	(117,594)	1,628,933
Cash, cash equivalents, restricted cash, and restricted cash equivalents, beginning of period	3,542,715	1,809,692
Cash, cash equivalents, restricted cash, and restricted cash equivalents, end of period	\$ 3,425,121	\$ 3,438,625
Reconciliation of cash, cash equivalents, restricted cash, and restricted cash equivalents within the condensed consolidated balance sheets to the amounts shown in the condensed consolidated statements of cash flows above:		
Cash and cash equivalents	\$ 1,608,966	\$ 2,013,433
Restricted cash included in other current assets	71,629	16,619
Restricted cash included in other assets	6,724	6,724
Restricted cash and restricted cash equivalents included in funds held for customers	1,737,802	1,401,849
Total cash, cash equivalents, restricted cash, and restricted cash equivalents, end of period	\$ 3,425,121	\$ 3,438,625

See accompanying notes to condensed consolidated financial statements.

BILL.COM HOLDINGS, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

NOTE 1 – THE COMPANY AND ITS SIGNIFICANT ACCOUNTING POLICIES

Bill.com, Inc. was incorporated in the State of Delaware in April 2006. In November 2018, Bill.com, Inc. consummated a reorganization with Bill.com Holdings, Inc., which resulted in the latter becoming the parent entity of Bill.com, Inc. Bill.com, Inc. was subsequently converted into a limited liability company and renamed Bill.com, LLC. Bill.com Holdings, Inc., which was incorporated in the State of Delaware in August 2018, and its subsidiaries are collectively referred to as the “Company.”

The Company is a provider of software-as-a-service, cloud-based payments, spend, and expense management products, which allow users to automate accounts payable and accounts receivable transactions, enable businesses to easily connect with their suppliers and/or customers to do business, eliminate expense reports, manage cash flows, and improve back office efficiency.

Basis of Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements include the accounts of the Company and were prepared in conformity with U.S. generally accepted accounting principles (U.S. GAAP) and applicable rules and regulations of the SEC regarding interim financial reporting. The unaudited condensed consolidated financial statements have been prepared on the same basis as the annual consolidated financial statements and reflect all normal and recurring adjustments that are, in the opinion of management, necessary to present fairly the Company's financial position, results of operations, comprehensive loss, changes in stockholders' equity, and cash flows for the periods presented. The results of operations for the three months ended September 30, 2022 are not necessarily indicative of the results to be expected for the fiscal year ending June 30, 2023 or for any other future annual or interim period. The unaudited condensed consolidated balance sheet as of June 30, 2022 included herein was derived from the audited financial statements as of that date, but does not include all disclosures including certain notes required by U.S. GAAP on an annual reporting basis. All intercompany accounts and transactions have been eliminated.

These condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and notes included in the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2022.

Segment Reporting

The Company operates as one operating segment because its chief operating decision maker, who is the Chief Executive Officer, reviews its financial information on a consolidated basis for purposes of making decisions regarding allocating resources and assessing performance. The Company's long-lived assets are mainly located in the United States (U.S.) and revenue is mainly generated in the U.S. Long-lived assets and revenue generated outside the U.S. are not material.

Reclassification

Certain accounts in the prior period condensed consolidated statements of operation were reclassified to conform with the current year presentation.

Use of Estimates

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make various estimates and assumptions that affect the amounts reported and disclosed in the condensed consolidated financial statements and the accompanying notes. Management regularly assesses these estimates, including, but not limited to useful lives of long-lived assets; capitalization of internal-use software costs; incremental borrowing rates for right-of-use operating lease assets and operating lease liabilities; the estimate of credit losses on accounts receivable, acquired card receivables, and other financial assets; accrual for rewards; variable consideration used in revenue recognition for certain contracts; benefit periods used to amortize deferred commissions; reserve for losses on funds held for customers; inputs used to

value certain stock-based compensation awards; inputs used to estimate beneficial interest derivative on card receivables sold; and valuation of income taxes. The Company evaluates these estimates and assumptions and adjusts them accordingly. Actual results could differ from those estimates, and such differences may be material to the consolidated financial statements.

Cash, cash equivalents, restricted cash and restricted cash equivalents

Cash and cash equivalents consist of cash in banks, highly liquid investments with maturities of three months or less at the time of purchase, and securities purchased under overnight reverse repurchase agreements.

Restricted cash consists of (i) amounts restricted under deposit account control agreements, (ii) minimum cash balances that are required to be maintained by certain banks, (iii) cash collateral required by the Company's lessors to satisfy letter of credit requirements under its lease agreements, (iv) cash collateral required by a bank in connection with the Company's money transmission activities, and (v) cash in bank and cash deposits held by payment processing companies included in funds held for customers.

Restricted cash equivalents consist of highly liquid investments with maturities of three months or less at the time of purchase that are included in funds held for customers.

Except for the restricted cash included in funds held for customers, the current and non-current portion of the restricted cash is included in prepaid expenses and other current assets and in other assets, respectively, in the accompanying condensed consolidated balance sheets.

Concentrations of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist principally of cash, cash equivalents, restricted cash, restricted cash equivalents, short-term investments, accounts receivable, and acquired card receivables (collectively referred to as Financial Assets). The Company maintains its cash, cash equivalents, restricted cash, restricted cash equivalents, and short-term investments with major financial institutions that may at times exceed federally insured limits. Management believes that these financial institutions are financially sound with minimal credit risk.

The Company performs credit evaluations to verify the credit quality of its financial assets and determine any at-risk receivables. An allowance for potential credit losses on Financial Assets is recognized, if material. As of September 30, 2022 and June 30, 2022, the allowance for potential credit losses related to accounts receivable and acquired card receivables totaled approximately \$8.0 million and \$5.8 million, respectively. These amounts do not include the immaterial allowance for potential credit losses on purchase of card receivables that have been authorized but not cleared at the end of the periods (see Note 13).

There were no customers that exceeded 10% of the Company's total revenue during the three months ended September 30, 2022 and 2021.

Foreign Currency

The Company has two foreign subsidiaries whose functional currency is the U.S. dollar, which is the Company's reporting currency. Gains and losses from the remeasurement of transactions denominated in foreign currencies other than the functional currency of the foreign subsidiary are included in other income (expense), net in the accompanying condensed consolidated statements of operations.

Significant Accounting Policies

There have been no changes to the Company's significant accounting policies described in the Annual Report on Form 10-K for the fiscal year ended June 30, 2022, other than those new accounting policies that were implemented as a result of the adoption of new accounting standards as described below.

Recently Adopted Accounting Pronouncements

In March 2022 the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) 2022-02, *Financial Instruments—Credit Losses (Topic 326): Troubled Debt Restructurings and Vintage*

Disclosures. This ASU eliminates the accounting guidance for Troubled Debt Restructurings (TDRs) by creditors in Subtopic 310-40, *Receivables—Troubled Debt Restructurings by Creditors*, while enhancing disclosure requirements for certain loan refinancings and restructurings by creditors when a borrower is experiencing financial difficulty. Additionally, this ASU requires a company to disclose current-period gross write-offs by year of origination for financing receivables and net investments in leases within the scope of Subtopic 326-20, *Financial Instruments—Credit Losses—Measured at Amortized Cost*. The Company early adopted this ASU on a prospective basis beginning July 1, 2022. See Note 7 for additional disclosures resulting from the adoption of this ASU.

NOTE 2 – REVENUE

The Company generates revenue primarily from subscription and transaction fees. The Company serves small and midsize businesses (SMB), accounting firms, and financial institutions. The table below shows the Company's revenue from subscription and transaction fees, which are disaggregated by sales channel, and revenue from interest on funds held for customers (in thousands).

	Three Months Ended September 30,	
	2022	2021
Small-to-midsize businesses, accounting firms and other	\$ 204,821	\$ 113,602
Financial institutions	9,790	3,956
Total subscription and transaction fees	214,611	117,558
Interest on funds held for customers	15,313	791
Total revenue	\$ 229,924	\$ 118,349

Deferred revenue

Fees from customers with which the Company has annual or multi-year contracts are generally billed in advance. These fees are initially recorded as deferred revenue and subsequently recognized as revenue as the performance obligation is satisfied.

During the three months ended September 30, 2022, the Company recognized \$14.3 million of revenue that was included in the deferred revenue balance as of June 30, 2022.

Remaining performance obligations

The Company has performance obligations associated with commitments in customer contracts for future services that have not yet been recognized as revenue. As of September 30, 2022, the aggregate amount of transaction price allocated to performance obligations that are unsatisfied (or partially unsatisfied), including deferred revenue, was approximately \$143.1 million. Of the total remaining performance obligations, the Company expects to recognize approximately 70% within two years and 30% over the next three to five years thereafter. The Company determines remaining performance obligations at a point of time. Actual amounts and timing of revenue recognized may differ due to subsequent contract modifications, renewals and/or terminations.

Unbilled revenue

Unbilled revenue, which is included in prepaid expenses and other current assets in the accompanying condensed consolidated balance sheets, consists of revenue recognized that has not been billed to the customers yet. The unbilled revenue amounted to \$11.9 million and \$11.4 million as of September 30, 2022 and June 30, 2022, respectively.

NOTE 3 – BUSINESS COMBINATION**Acquisition of Invoice2go**

On September 1, 2021, the Company acquired 100% of the outstanding equity interests of Invoice2go for a total consideration (equity and cash) of \$674.3 million. Following the acquisition of Invoice2go, the Company had a period of not more than 12 months to finalize the fair values of assets acquired and liabilities assumed. As a result of ASU 2021-08 adoption on October 1, 2021, retrospectively to September 1, 2021, the Company recorded adjustments of \$8.0 million to increase goodwill and deferred revenue, and an immaterial amount to deferred income tax liability. There were no other material adjustments made during the 12-month measurement period related to the acquisition of Invoice2go, and the fair values of assets acquired and liabilities assumed were finalized in the current fiscal quarter.

Unaudited Pro Forma Financial Information

The unaudited pro forma information does not necessarily reflect the actual results of operations of the combined entities that would have been achieved, nor are they necessarily indicative of future results of operations. The unaudited pro forma information reflects certain adjustments that were directly attributable to the acquisition of Invoice2go, including additional depreciation and amortization adjustments for the fair value of the assets acquired and liabilities assumed. The pro forma net loss for the three months ended September 30, 2021 was adjusted to exclude nonrecurring acquisition-related costs of \$19.0 million. The amounts below include pro forma results of the Company and Invoice2go.

	Three Months Ended September 30, 2021	
Total revenue	\$	124,867
Net loss	\$	(75,034)

Acquisition of Divvy

On June 1, 2021, the Company acquired 100% of the outstanding equity interests of Divvy for total consideration (equity and cash) of \$2.3 billion.

NOTE 4 – FAIR VALUE MEASUREMENT

The Company measures and reports its cash equivalents, short-term investments, funds held for customers that are invested in money market funds and marketable debt securities, and beneficial interest derivative on card receivables sold at fair value. Fair value is defined as the exchange price that would be received for an asset or an exit price paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs.

The fair value hierarchy defines a three-level valuation hierarchy for disclosure of fair value measurements as follows:

Level 1 — Inputs are unadjusted quoted prices in active markets for identical assets or liabilities.

Level 2 — Inputs other than quoted prices included within Level 1 that are observable, unadjusted 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 related assets or liabilities.

Level 3 — Unobservable inputs that are supported by little or no market activity for the related assets or liabilities and typically reflect management's estimate of assumptions that market participants would use in pricing the assets or liabilities.

In determining fair value, the Company utilizes quoted market prices, or valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible, and also considers counterparty credit risk in its assessment of fair value.

The following tables set forth the fair value of assets and liabilities that were measured at fair value on a recurring basis based on the three-tier fair value hierarchy as of the dates presented (in thousands):

	September 30, 2022			
	Level 1	Level 2	Level 3	Total
Assets				
Cash equivalents:				
Money market funds	\$ 1,413,916	\$ —	\$ —	\$ 1,413,916
Corporate bonds	—	33,243	—	33,243
U.S. treasury securities	19,976	—	—	19,976
	<u>1,433,892</u>	<u>33,243</u>	<u>—</u>	<u>1,467,135</u>
Short-term investments:				
Corporate bonds	—	595,286	—	595,286
U.S. treasury securities	372,350	—	—	372,350
Asset-backed securities	—	21,055	—	21,055
Certificates of deposit	—	45,846	—	45,846
	<u>372,350</u>	<u>662,187</u>	<u>—</u>	<u>1,034,537</u>
Funds held for customers:				
Restricted cash equivalents:				
Money market funds	26,988	—	—	26,988
Corporate bonds	—	147,303	—	147,303
	<u>26,988</u>	<u>147,303</u>	<u>—</u>	<u>174,291</u>
Short-term investments:				
Corporate bonds	—	850,613	—	850,613
Certificates of deposit	—	413,178	—	413,178
Municipal bonds	—	5,020	—	5,020
Asset-backed securities	—	77,594	—	77,594
U.S. treasury securities	37,258	—	—	37,258
	<u>37,258</u>	<u>1,346,405</u>	<u>—</u>	<u>1,383,663</u>
Beneficial interest derivative on card receivables sold	—	—	470	470
Total assets measured at fair value	<u>\$ 1,870,488</u>	<u>\$ 2,189,138</u>	<u>\$ 470</u>	<u>\$ 4,060,096</u>

	June 30, 2022			
	Level 1	Level 2	Level 3	Total
Assets				
Cash equivalents:				
Money market funds	\$ 1,424,259	\$ —	\$ —	\$ 1,424,259
Corporate bonds	—	11,430	—	11,430
	<u>1,424,259</u>	<u>11,430</u>	<u>—</u>	<u>1,435,689</u>
Short-term investments:				
Corporate bonds	—	597,204	—	597,204
U.S. treasury securities	421,728	—	—	421,728
Asset-backed securities	—	51,406	—	51,406
Certificates of deposit	—	38,155	—	38,155
	<u>421,728</u>	<u>686,765</u>	<u>—</u>	<u>1,108,493</u>
Funds held for customers:				
Restricted cash equivalents:				
Money market funds	34,703	—	—	34,703
Corporate bonds	—	133,557	—	133,557
	<u>34,703</u>	<u>133,557</u>	<u>—</u>	<u>168,260</u>
Short-term investments:				
Corporate bonds	—	807,685	—	807,685
Certificates of deposit	—	397,533	—	397,533
Municipal bonds	—	6,516	—	6,516
Asset-backed securities	—	69,912	—	69,912
U.S. treasury securities	3,072	—	—	3,072
	<u>3,072</u>	<u>1,281,646</u>	<u>—</u>	<u>1,284,718</u>
Beneficial interest derivative on card receivables sold	—	—	398	398
Total assets measured at fair value	<u>\$ 1,883,762</u>	<u>\$ 2,113,398</u>	<u>\$ 398</u>	<u>\$ 3,997,558</u>

There were no transfers of financial instruments between Level 1, Level 2, and Level 3 during the periods presented.

The fair values of the Company's Level 1 instruments were derived from quoted market prices and active markets for these specific instruments.

The valuation techniques used to measure the fair values of Level 2 instruments were derived from non-binding market consensus prices that were corroborated with observable market data, quoted market prices for similar instruments, or pricing models.

The initial and recurring fair value of the beneficial interest derivative on card receivables sold is estimated using a discounted cash flow model, which uses Level 3 inputs including a discount rate and a default rate. The default rate estimate is based upon the expected transferred card receivables that will ultimately default. The default rate is calculated using historical trends and ages of the outstanding card receivable balances.

The Company has \$575.0 million and \$1.15 billion in aggregate principal amount of its 0% convertible senior notes due in 2027 (2027 Notes) and in 2025 (2025 Notes, together with the 2027 Notes, the Notes), respectively, outstanding as of September 30, 2022. The Company carries the Notes at par value, less the unamortized debt discount and issuance costs in the accompanying condensed consolidated balance sheets. As of September 30, 2022, the estimated fair value of the 2027 Notes and 2025 Notes, which is presented for disclosure purposes only, was approximately \$457.3 million and \$1.26 billion, respectively. The fair value was

based on a market approach, which represents a Level 2 valuation estimate. The market approach was determined based on the actual bids and offers of the Notes in an over-the-counter market as of the last day of trading prior to the end of the period.

NOTE 5 – SHORT-TERM INVESTMENTS

Short-term investments consisted of the following as of the dates presented (in thousands):

	September 30, 2022			
	Amortized cost	Gross unrealized gains	Gross unrealized losses	Fair value
Corporate bonds	\$ 600,560	\$ 9	\$ (5,283)	\$ 595,286
U.S. treasury securities	375,171	2	(2,823)	372,350
Asset-backed securities	21,193	—	(138)	21,055
Certificates of deposit	45,846	—	—	45,846
Total	<u>\$ 1,042,770</u>	<u>\$ 11</u>	<u>\$ (8,244)</u>	<u>\$ 1,034,537</u>

	June 30, 2022			
	Amortized cost	Gross unrealized gains	Gross unrealized losses	Fair value
Corporate bonds	\$ 601,987	\$ 3	\$ (4,786)	\$ 597,204
U.S. treasury securities	424,644	1	(2,917)	421,728
Asset-backed securities	51,622	—	(216)	51,406
Certificates of deposit	38,155	—	—	38,155
Total	<u>\$ 1,116,408</u>	<u>\$ 4</u>	<u>\$ (7,919)</u>	<u>\$ 1,108,493</u>

The amortized cost and fair value amounts include accrued interest receivable of \$3.4 million and \$3.0 million as of September 30, 2022 and June 30, 2022, respectively.

As of September 30, 2022, the fair value of the Company's short-term investments that mature within one year and thereafter was \$879.2 million and \$155.4 million, respectively, or 85% and 15%, respectively, of the Company's total short-term investments. As of June 30, 2022, the fair value of the Company's short-term investments that mature within one year and thereafter was \$961.8 million and \$146.7 million, respectively, or 87% and 13%, respectively, of the Company's total short-term investments.

As of September 30, 2022, approximately 250 out of approximately 340 investment positions were in an unrealized loss position. The following table presents gross unrealized losses and fair values for those investments that were in an unrealized loss position as of the dates presented (in thousands):

	September 30, 2022	
	Fair value	Unrealized losses
Corporate bonds	\$ 388,689	\$ (5,283)
U.S. treasury securities	369,402	(2,823)
Asset backed securities	20,678	(138)
Total	<u>\$ 778,769</u>	<u>\$ (8,244)</u>

	June 30, 2022	
	Fair value	Unrealized losses
Corporate bonds	\$ 392,699	\$ (4,786)
U.S. treasury securities	411,787	(2,917)
Asset backed securities	51,406	(216)
Total	<u>\$ 855,892</u>	<u>\$ (7,919)</u>

Most of the Company investments with unrealized losses had been in a continuous unrealized loss position for less than 12 months. Investments with unrealized losses that had been in a continuous unrealized loss position for more than 12 months have not been material. The Company does not intend to sell the investments and it is not likely that the Company will be required to sell the investments before recovery of their amortized cost bases, which will be at maturity. Therefore, the Company does not consider those unrealized investment losses as other-than-temporary impairment of the investments. There have been no significant realized gains or losses on the short-term investments during the three months ended September 30, 2022 and 2021.

The Company has not recorded an allowance for credit losses on investments that were in an unrealized loss position as of September 30, 2022 and June 30, 2022 because they were not material.

NOTE 6 – FUNDS HELD FOR CUSTOMERS

Funds held for customers consisted of the following as of the dates presented (in thousands):

	September 30, 2022	June 30, 2022
Restricted cash	\$ 1,563,512	\$ 1,685,937
Restricted cash equivalents	174,291	168,260
Funds receivable	8,221	6,747
Corporate bonds	850,613	807,685
Certificates of deposit	413,178	397,533
Municipal bonds	5,020	6,516
Asset backed securities	77,594	69,912
U.S. treasury securities	37,258	3,072
Total funds held for customers	<u>3,129,687</u>	<u>3,145,662</u>
Less - income earned by the Company included in other current assets	(8,033)	(3,002)
Total funds held for customers, net of income earned by the Company	<u>\$ 3,121,654</u>	<u>\$ 3,142,660</u>

Income earned by the Company that is included in other current assets represents interest income, accretion of discount (offset by amortization of premium), and net unrealized gains on customer funds that were invested in money market funds and short-term marketable debt securities. Earnings from these investments are contractually earned by the Company and are expected to be transferred into the Company's corporate deposit account upon sale or settlement of the associated investment.

Below is a summary of the fair value of funds held for customers that were invested in short-term marketable debt securities as of the dates presented (in thousands):

September 30, 2022				
	Amortized cost	Gross unrealized gains	Gross unrealized losses	Fair value
Corporate bonds	\$ 851,872	\$ 11	\$ (1,270)	\$ 850,613
Certificates of deposit	413,178	—	—	413,178
Municipal bonds	5,026	—	(6)	5,020
Asset backed securities	78,291	—	(697)	77,594
U.S. treasury securities	37,366	1	(109)	37,258
Total	<u>\$ 1,385,733</u>	<u>\$ 12</u>	<u>\$ (2,082)</u>	<u>\$ 1,383,663</u>

June 30, 2022				
	Amortized cost	Gross unrealized gains	Gross unrealized losses	Fair value
Corporate bonds	\$ 809,113	\$ 1	\$ (1,429)	\$ 807,685
Certificates of deposit	397,533	—	—	397,533
Municipal bonds	6,542	—	(26)	6,516
Asset backed securities	70,574	—	(662)	69,912
U.S. treasury securities	3,082	—	(10)	3,072
Total	<u>\$ 1,286,844</u>	<u>\$ 1</u>	<u>\$ (2,127)</u>	<u>\$ 1,284,718</u>

The amortized cost and fair value amounts include accrued interest receivable of \$3.8 million and \$3.0 million and as of September 30, 2022 and June 30, 2022, respectively.

As of September 30, 2022, approximately 94%, or \$1.3 billion, of the total funds held for customers invested in marketable debt securities mature within one year and approximately 6% or \$77.6 million mature thereafter. As of June 30, 2022, approximately 95%, or \$1.2 billion, of the total funds held for customers invested in marketable debt securities mature within one year and approximately 5% or \$69.9 million mature thereafter.

As of September 30, 2022, approximately 160 out of approximately 415 investment positions were in an unrealized loss position. The following tables present gross unrealized losses and fair values for those investments that were in an unrealized loss position as of the dates presented (in thousands):

September 30, 2022		
	Fair value	Unrealized losses
Corporate bonds	\$ 242,360	\$ (1,270)
Municipal bonds	630	(6)
Asset backed securities	77,594	(697)
U.S. treasury securities	33,817	(109)
Total	<u>\$ 354,400</u>	<u>\$ (2,082)</u>

	June 30, 2022	
	Fair value	Unrealized losses
Corporate bonds	\$ 301,625	\$ (1,429)
Municipal bonds	6,516	(26)
Asset backed securities	64,361	(662)
U.S. treasury securities	3,072	(10)
Total	<u>\$ 375,574</u>	<u>\$ (2,127)</u>

Investments with unrealized losses have been in a continuous unrealized loss position for less than 12 months. The Company does not intend to sell the investments and it is not likely that the Company will be required to sell the investments before recovery of their amortized cost bases, which will be at maturity. Therefore, the Company does not consider those unrealized investment losses as other-than-temporary impairment of the investments. There have been no significant realized gains or losses on funds held for customers that were invested in short-term marketable debt securities during the three months ended September 30, 2022 and 2021.

NOTE 7 – ACQUIRED CARD RECEIVABLES

Acquired Card Receivables

Acquired card receivables consisted of the following as of the dates presented (in thousands):

	September 30, 2022	June 30, 2022
Gross amount of acquired card receivables	\$ 365,282	\$ 261,806
Less: allowance for credit losses	(7,541)	(5,414)
Total	<u>\$ 357,741</u>	<u>\$ 256,392</u>

Certain lines of credit and acquired card receivable balances are collateralized by cash deposits held by the Issuing Banks. Before an account is charged off, the Company obtains any available cash collateral from the Issuing Banks. As of September 30, 2022, approximately \$131.8 million of the acquired card receivable balance served as collateral for the Company's borrowings from the Revolving Credit Facility (see Note 8).

The Company also incurred losses related to card transactions disputed by spending businesses. The amount was not material during the three months ended September 30, 2022 and 2021.

The acquired card receivable balances above do not include purchases of card receivables from the Issuing Banks that have not cleared at the end of the reporting period. Purchases of card receivables that have not cleared as of September 30, 2022 totaled \$55.9 million. The Company recognized an immaterial amount of expected credit losses on the purchased card receivables that have not cleared yet as of September 30, 2022 and 2021 (see Note 13).

Credit Quality Information

The Company regularly reviews collection experience, delinquencies, and net charge-offs in determining allowance for credit losses related to acquired card receivables. Historical collections rates have shown that days past due is the primary indicator of the likelihood of loss. The Company elected to use the delinquency trends or past due status of the acquired card receivables as the credit quality indicator. Acquired card receivables are considered past due if full payment is not received on the bill date or within a grace period,

which is generally limited to five days. Below is a summary of the acquired card receivables by class (i.e., past due status) as of the dates presented (in thousands):

	September 30, 2022	June 30, 2022
Current and less than 30 days past due	\$ 360,638	\$ 257,618
30 ~ 59 days past due	2,661	1,677
60 ~ 89 days past due	1,125	1,199
90 ~ 119 days past due	813	1,186
Over 119 days past due	45	126
Total	<u>\$ 365,282</u>	<u>\$ 261,806</u>

As part of its collection efforts, the Company may modify card receivables terms with spending businesses that are experiencing financial difficulty; such modifications may include principal forgiveness, late fee forgiveness, or an extension of payment terms. Modifications were not material during the three months ended September 30, 2022 and 2021. The amount of outstanding balance of acquired card receivables that is (i) 90 days or more past due that continue to accrue fees and have an allowance for outstanding balance and fees, and (ii) classified as nonperforming was not material as of September 30, 2022 and June 30, 2022.

Allowance for Credit Losses

Below is a summary of the changes in allowance for credit losses presented (in thousands):

	Three Months Ended September 30,	
	2022	2021
Balance, beginning	\$ 5,414	\$ 1,740
Initial allowance for credit losses on purchased card receivables with credit deterioration	10	14
Provision for expected credit losses	6,583	4,035
Charge-off amounts	(5,033)	(2,276)
Recoveries collected	567	204
Balance, end of period	<u>\$ 7,541</u>	<u>\$ 3,717</u>

Card receivables acquired from the Issuing Banks and held for investment during the three months ended September 30, 2022 and 2021 were 2.7 billion and 1.2 billion, respectively. The allowance for credit losses related to acquired card receivables increased during the three months ended September 30, 2022 due to portfolio growth.

Gross charge-off amounts for the three months ended September 30, 2022 consisted of \$4.6 million originated in the year ended June 30, 2022 and \$0.4 million originated in the three months ended September 30, 2022.

Card Receivables Held for Sale

The Company previously sold a portion of acquired card receivables to a Purchasing Bank at a discount. Effective August 2022, the Company ceased selling acquired card receivables.

Card receivables held for sale, which are carried at the lower of cost or estimated market value at the individual user account level and included in prepaid expenses and other current assets in the accompanying condensed consolidated balance sheets, were zero and \$8.7 million as of September 30, 2022 and June 30, 2022, respectively.

Card Receivables Sold and Related Servicing and Beneficial Interest Derivative Retained

The Company accounts for the transfer of card receivables as a sale if all of the following conditions are met:

- the financial asset is isolated from the transferor and its consolidated affiliates as well as its creditors, even in bankruptcy or other receivership;
- the transferee or beneficial interest holders have the right to pledge or exchange the transferred financial asset; and
- the transferor, its consolidated affiliates and its agents do not maintain effective control over the transferred financial asset.

The card receivables that the Company transferred to the Purchasing Bank during the three months ended September 30, 2022 and 2021 met all of the requirements described above; therefore, the Company accounted for the transfer as a sale of financial assets. Accordingly, the Company measures gain or loss on the sales of financial assets as the net proceeds less the carrying amount of the card receivables sold. The net proceeds represent the fair value of any assets obtained or liabilities incurred as part of the transfer, including, but not limited to, servicing assets, servicing liabilities, or beneficial interest derivatives.

Under the agreement with the Purchasing Bank, the Company has continuing involvement as servicer, and by retaining a beneficial interest derivative in the form of a deferred purchase price. The beneficial interest derivative represents the Company's right to receive a portion of collections based on the performance of each cohort of card receivables sold to the Purchasing Bank. The fair value of the beneficial interest derivative, which is included in prepaid expenses and other current assets in the accompanying condensed consolidated balance sheets, was immaterial as of September 30, 2022 and June 30, 2022. The servicing fee income was not material during the three months ended September 30, 2022 and 2021.

Below is a summary of the fair value of consideration received from the transfer of card receivables accounted for as a sale during the periods presented (in thousands):

	Three Months Ended September 30,	
	2022	2021
Initial fair value of consideration received:		
Cash	\$ 316,477	\$ 258,501
Beneficial interest derivative	1,682	1,194
Total	<u>\$ 318,159</u>	<u>\$ 259,695</u>

Card receivable repurchases during the three months ended September 30, 2022 and 2021 were not material.

Below is a summary of outstanding transferred card receivables by class (i.e., past due status) that have not been charged-off and have not been recorded on the Company's condensed consolidated balance

sheets, but with which the Company has a continuing involvement through its servicing agreements, as of the periods presented (in thousands):

	September 30, 2022	June 30, 2022
Current and less than 30 days past due	\$ 340	\$ 56,162
30 ~ 59 days past due	537	292
60 ~ 89 days past due	634	375
90 ~ 119 days past due	547	422
Over 119 days past due	1	30
Total	<u>\$ 2,059</u>	<u>\$ 57,281</u>

The difference between the outstanding balance of transferred card receivables as of September 30, 2022 and June 30, 2022 and the amount derecognized for which the Company has a continuing involvement as service as of September 30, 2022 and June 30, 2022 was not material.

NOTE 8 – DEBT AND BORROWINGS

Debt and borrowings consisted of the following (in thousands):

	September 30, 2022	June 30, 2022
Convertible senior notes:		
2027 Notes, principal	\$ 575,000	\$ 575,000
2025 Notes, principal	1,150,000	1,150,000
Total principal amount of convertible senior notes	1,725,000	1,725,000
Revolving credit facility	75,000	75,000
Total principal amount of debt and borrowings	1,800,000	1,800,000
Less: unamortized debt discount and issuance costs	(25,227)	(26,918)
Net carrying value of debt and borrowings	<u>\$ 1,774,773</u>	<u>\$ 1,773,082</u>
Net carrying value of debt and borrowings consisted of:		
Current liabilities:		
Borrowings from revolving credit facility (including unamortized debt premium)	—	75,097
Non-current liabilities:		
2027 Notes, net	562,797	562,127
2025 Notes, net	\$ 1,136,893	1,135,858
Borrowings from revolving credit facility (including unamortized debt premium)	75,083	—
Total	<u>\$ 1,774,773</u>	<u>\$ 1,773,082</u>

2027 Notes

On September 24, 2021, the Company issued \$575.0 million in aggregate principal amount of its 0% convertible senior notes due on April 1, 2027, in a private placement to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended. The 2027 Notes are subject to the terms and conditions of the Indenture governing the 2027 Notes between the Company and Wells Fargo Bank, N.A., as trustee (Trustee). The net proceeds from the issuance of the 2027 Notes were \$560.1 million, after deducting debt discount and debt issuance costs totaling \$14.9 million.

The 2027 Notes are senior, unsecured obligations of the Company, and will not accrue interest unless the Company determines to pay special interest as a remedy for failure to timely file any reports required to be filed with the SEC, certain trading restrictions, or failure to deliver reports to the Trustee. The 2027 Notes rank senior in right of payment to any of the Company's indebtedness that is expressly subordinated to the 2027 Notes and rank equal in right of payment to any of the Company's unsecured indebtedness that is not so subordinated, including the 2025 Notes. In addition, the 2027 Notes are subordinated to any of the Company's secured indebtedness and to all indebtedness and other liabilities of the Company's subsidiaries.

The 2027 Notes have an initial conversion rate of 2.4108 shares of common stock per \$1,000 principal amount, which is equivalent to an initial conversion price of approximately \$414.80 per share of the Company's common stock and approximately 1.4 million shares issuable upon conversion. The conversion rate is subject to customary adjustments for certain events as described below. Upon conversion, the Company will pay or deliver, as the case may be, cash, shares of its common stock, or a combination of cash and shares of its common stock, at its election. The Company's current intent is to settle conversions of the 2027 Notes through a combination settlement, which involves a repayment of the principal portion in cash with any excess of the conversion value over the principal amount settled in shares of common stock.

The Company may redeem for cash, all or any portion of the 2027 Notes, at the Company's option, on or after October 5, 2024 if the last reported sale price of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on and including the trading day (Conversion Condition) preceding the date on which the Company provides notice of redemption at a redemption price equal to 100% of the principal amount of the notes to be redeemed, plus any accrued and unpaid special interest to, but excluding, the redemption date. No sinking fund is provided for the 2027 Notes.

The holders of the 2027 Notes may convert their notes at their option at any time prior to the close of business on the business day immediately preceding January 1, 2027 in multiples of \$1,000 principal amount, under the following circumstances:

- during any calendar quarter commencing after the calendar quarter ending on December 31, 2021, and only during such calendar quarter, if the last reported sale price of the Company's common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day;
- during the five business day periods after any five consecutive trading day period in which the trading price per \$1,000 principal amount of the 2027 Notes for each trading day of that period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day;
- if the Company calls such notes for redemption, at any time prior to the close of business on the second scheduled trading day immediately preceding the redemption date; or
- upon the occurrence of specified corporate events.

The conversion rate is subject to adjustment upon the occurrence of certain events or if the Company's Board of Directors determines it is in the best interest of the Company. Additionally, holders of the 2027 Notes that convert their notes in connection with a make-whole fundamental change or during the redemption period, may be eligible to receive a make-whole premium through an increase of the conversion rate based on the estimated fair value of the 2027 Notes for the given date and stock price. The make-whole premium is designed to compensate the holder for lost "time-value" of the conversion option. The maximum number of additional shares that may be issued under the make-whole premium is 1.2656 per \$1,000 principal (the lowest price of \$272.00 in the make whole).

The Indenture governing the 2027 Notes contains customary events of default with respect to the 2027 Notes and provides that upon certain events of default occurring and continuing, the holders of the 2027 Notes will have the right, at their option, to require the Company to repurchase for cash all or a portion of their

outstanding notes, at a price equal to 100% of the principal amount of the 2027 Notes to be repurchased, plus any accrued and unpaid interest.

2025 Notes

On November 30, 2020, the Company issued \$1.15 billion in aggregate principal amount of its 0% convertible senior notes due on December 1, 2025, in a private placement to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended. The 2025 Notes are subject to the terms and conditions of the Indenture governing the 2025 Notes between the Company and the Trustee. The net proceeds from the issuance of the 2025 Notes were \$1.13 billion, after deducting debt discount and debt issuance costs totaling \$20.6 million.

The 2025 Notes are senior, unsecured obligations of the Company, and will not accrue interest unless the Company determines to pay special interest as a remedy for failure to timely file any reports required to be filed with the SEC, certain trading restrictions, or failure to deliver reports to the Trustee. The 2025 Notes rank senior in right of payment to any of the Company's indebtedness that is expressly subordinated to the 2025 Notes and rank equal in right of payment to any of the Company's unsecured indebtedness that is not so subordinated, including the 2027 Notes. In addition, the 2025 Notes are subordinated to any of the Company's secured indebtedness and to all indebtedness and other liabilities of the Company's subsidiaries.

The 2025 Notes have an initial conversion rate of 6.2159 shares of common stock per \$1,000 principal amount, which is equivalent to an initial conversion price of approximately \$160.88 per share of the Company's common stock and approximately 7.1 million shares issuable upon conversion. The conversion rate is subject to customary adjustments for certain events as described below. Upon conversion, the Company will pay or deliver, as the case may be, cash, shares of its common stock, or a combination of cash and shares of its common stock, at its election. The Company's current intent is to settle conversions of the 2025 Notes through a combination settlement, which involves a repayment of the principal portion in cash with any excess of the conversion value over the principal amount settled in shares of common stock.

The Company may redeem for cash, all or any portion of the 2025 Notes, at the Company's option, on or after December 5, 2023 if the last reported sale price of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on and including the trading day (Conversion Condition) preceding the date on which the Company provides notice of redemption at a redemption price equal to 100% of the principal amount of the notes to be redeemed, plus any accrued and unpaid special interest to, but excluding, the redemption date. No sinking fund is provided for the 2025 Notes.

The holders of the 2025 Notes may convert their notes at their option at any time prior to the close of business on the business day immediately preceding September 1, 2025 in multiples of \$1,000 principal amount, under the following circumstances:

- during any calendar quarter commencing after the calendar quarter ending on March 31, 2021, and only during such calendar quarter, if the last reported sale price of the Company's common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day;
- during the five business day periods after any five consecutive trading day period in which the trading price per \$1,000 principal amount of the 2025 Notes for each trading day of that period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day;
- if the Company calls such notes for redemption, at any time prior to the close of business on the second scheduled trading day immediately preceding the redemption date; or
- upon the occurrence of specified corporate events.

The conversion rate is subject to adjustment upon the occurrence of certain events or if the Company's Board of Directors determines it is in the best interest of the Company. Additionally, holders of the 2025 Notes that convert their notes in connection with a make-whole fundamental change or during the redemption period, may be eligible to receive a make-whole premium through an increase of the conversion rate based on the estimated fair value of the 2025 Notes for the given date and stock price. The make-whole premium is designed to compensate the holder for lost "time-value" of the conversion option. The maximum number of additional shares that may be issued under the make-whole premium is 2.9525 per \$1,000 principal (the lowest price of \$109.07 in the make whole).

The Indenture governing the 2025 Notes contains customary events of default with respect to the 2025 Notes and provides that upon certain events of default occurring and continuing, the holders of the 2025 Notes will have the right, at their option, to require the Company to repurchase for cash all or a portion of their outstanding notes, at a price equal to 100% of the principal amount of the 2025 Notes to be repurchased, plus any accrued and unpaid interest.

Additional Information About the Notes

Effective July 1, 2021, the Company early-adopted ASU 2020-06 using the modified retrospective method which resulted in the accounting for the 2027 Notes and 2025 Notes as a single liability and no longer required to be accounted for separately between liability and equity components.

As of September 30, 2022 and June 30, 2022, the Notes consisted of the following:

	September 30, 2022		June 30, 2022	
	2027 Notes	2025 Notes	2027 Notes	2025 Notes
Liability component:				
Principal	\$ 575,000	\$ 1,150,000	\$ 575,000	\$ 1,150,000
Less: unamortized debt discount and issuance costs	(12,203)	(13,107)	(12,873)	(14,142)
Net carrying amount	<u>\$ 562,797</u>	<u>\$ 1,136,893</u>	<u>\$ 562,127</u>	<u>\$ 1,135,858</u>

The debt discount and issuance costs of the Notes are being amortized using the effective interest method. During the three months ended September 30, 2022 and 2021, the Company recognized \$1.7 million and \$1.1 million, respectively, of the debt discount and issuance amortization costs related to the Notes. The effective interest rate of the 2027 Notes was 0.48%. The effective interest rate of the 2025 Notes was 0.36% after the adoption of ASU 2020-06 beginning July 1, 2021. As of September 30, 2022, the weighted-average remaining life of the Notes was 3.6 years.

The "if-converted" value of the Notes did not exceed the principal amount of \$1.7 billion as of September 30, 2022 and June 30, 2022.

Capped Call Transactions

In conjunction with the issuance of each of the 2025 Notes and the 2027 Notes, the Company entered into Capped Call transactions (collectively, the Capped Calls) with certain of the initial purchasers of the Notes and/or their respective affiliates or other financial institutions at a total cost of \$125.8 million. The Capped Calls are separate transactions and are not part of the terms of the Notes. The total amount paid for the Capped Calls was recorded as a reduction of additional paid-in capital. The Company used the proceeds from the Notes to pay for the cost of the Capped Call premium. The cost of the Capped Calls is not expected to be tax-deductible as the Company did not elect to integrate the Capped Calls into the Notes for tax purposes.

The Capped Calls associated with the 2027 Notes and 2025 Notes each have an initial strike price of approximately \$414.80 per share and \$160.88 per share, respectively, subject to certain adjustments, which corresponds to the respective initial conversion price of the 2027 Notes and 2025 Notes, and have an initial cap price of \$544.00 per share and \$218.14 per share, respectively, subject to certain adjustments; provided that such cap price shall not be reduced to an amount less than their respective strike price. The Capped Calls associated with the Notes cover, subject to anti-dilution adjustments, a total of approximately 8.5 million shares

of the Company's common stock. The Capped Calls are expected to generally reduce the potential dilution of the Company's common stock upon any conversion of the Notes and/or offset any cash payments that the Company is required to make in excess of the principal amount of such converted notes, as the case may be, with such reduction and/or offset subject to a cap.

Revolving Credit Facility

The Revolving Credit Agreement was executed in March 2021, and was most recently amended in August 2022 (Revolving Credit Facility), to finance the acquisition of card receivables. The Revolving Credit Facility matures in June 2024 or earlier pursuant to the agreement and has a total commitment of \$225.0 million. The required minimum utilization was \$37.5 million as of September 30, 2022 which increases to \$112.5 million, or 50% of the total commitment, in November 2022, and further increases to \$135.0 million, or 60% of the total commitment in February 2023. As of September 30, 2022, the Company had borrowed \$75.0 million against the Revolving Credit Facility. The Revolving Credit Facility requires the Company to pay unused fee up to 0.50% per annum. Borrowings are secured by acquired card receivables. Prior to March 3, 2023, borrowings of up to \$75 million bear interest of 2.75% per annum and borrowings greater than \$75 million bear interest of 2.65% per annum, plus SOFR (subject to a floor rate of 0.25% and benchmark adjustment rate of 0.28%). The effective interest rate was 6.58% per annum as of September 30, 2022. Beginning March 3, 2023, borrowings bear interest of 2.65% per annum, plus SOFR (subject to a floor rate of 0.25% and benchmark adjustment rate of 0.28%). The Company is required to comply with certain restricted covenants, including liquidity requirements. As of September 30, 2022, the Company was in compliance with those covenants.

The debt issuance costs and debt premium associated with the Revolving Credit Facility is amortized using the effective interest method over the remaining term of the credit agreement, with a weighted-average remaining amortization period of approximately 1.7 years. The interest income (expense), net related to the amortization of the debt issuance costs and debt premium during the three months ended September 30, 2022 and 2021 was not material.

NOTE 9 – STOCKHOLDERS' EQUITY

Performance-based RSUs

During the three months ended September 30, 2022, the Company granted approximately 150,000 restricted stock units (RSUs) to certain executive employees that vest based upon the achievement of certain financial metrics and continued employment over a period of 3 years. The weighted-average grant date fair value of these performance-based RSUs was \$133.48 per unit. The Company recognizes expense for performance-based RSUs over the requisite service period based on management's estimate of the number of performance-based RSUs expected to vest. For any change in the estimate of the number of performance-based RSUs that are probable of vesting, the Company will cumulatively adjust compensation expense in the period that the change in estimate is made.

As of September 30, 2022, the total unrecognized compensation expense related to the performance-based RSUs was \$21.5 million, which is expected to be recognized over a weighted-average period of 1.7 years.

Stock Based Compensation Cost

Stock-based compensation cost by award type (in thousands):

	Three Months Ended September 30,	
	2022	2021
Stock options	\$ 11,793	\$ 13,236
RSUs	55,670	23,533
Performance-based awards	3,291	—
Market-based RSUs	1,254	—
Employee stock purchase plan	2,821	2,058
Total stock-based compensation cost	<u>\$ 74,828</u>	<u>\$ 38,827</u>

Stock-based compensation cost was included in the following line items in the accompanying condensed consolidated statements of operations and condensed consolidated balance sheets (in thousands):

	Three Months Ended September 30,	
	2022	2021
Cost of revenue	\$ 2,001	\$ 1,127
Research and development	20,851	10,560
Sales and marketing	29,258	8,114
General and administrative	20,510	18,086
Total amount charged to expense	<u>72,620</u>	<u>37,887</u>
Property and equipment (capitalized internal-use software)	2,209	940
Total stock-based compensation cost	<u>\$ 74,828</u>	<u>\$ 38,827</u>

NOTE 10 – OTHER INCOME (EXPENSES), NET

Other income (expenses), net consisted of the following for the periods presented (in thousands):

	Three Months Ended September 30,	
	2022	2021
Interest expense	\$ (2,849)	\$ (1,828)
Lower of cost or market adjustment on card receivables sold and held for sale	(1,545)	(1,676)
Interest income	11,464	501
Other	(1,123)	(472)
Total	<u>\$ 5,947</u>	<u>\$ (3,475)</u>

NOTE 11 – INCOME TAXES

The Company's provision for income taxes during the interim periods is determined using an estimate of the Company's annual effective tax rate, which is adjusted for certain discrete tax items during the interim period.

The Company's effective tax rate differs from the federal statutory rate primarily due to its federal, state and foreign valuation allowance positions. The income tax benefit during the three months ended September 30, 2022 consisted primarily of a reduction to the net deferred tax liability as a result of the

Company's current year losses, partially offset by an estimated cash tax liability associated with the capitalization of R&D costs for federal and certain state tax purposes for the year ending June 30, 2023.

The Company is subject to income tax audits in the U.S., Australia, and Canada. The Company records liabilities related to uncertain tax positions, which provide adequate reserves for income tax uncertainties in all open tax years. Due to the Company's history of tax losses, all years remain open to tax audit. The Company's management evaluates the realizability of the Company's deferred tax assets based on all available evidence, both positive and negative. The realization of net deferred tax assets is dependent on the Company's ability to generate sufficient future taxable income during the foreseeable future.

NOTE 12 – LEASES

The Company has non-cancelable operating leases for office and other facilities in various locations, and certain equipment, which expire through 2031. Also, the Company subleases part of its office facility in Draper, Utah under a non-cancellable operating lease that expires in December 2025. The Company's leases do not contain any material residual value guarantees.

As of September 30, 2022, the weighted-average remaining term of these operating leases is 7.9 years and the weighted-average discount rate used to estimate the net present value of the operating lease liabilities was 5.10%.

The total amount paid for amounts included in the measurement of operating lease liabilities was \$3.6 million and \$3.1 million during the three months ended September 30, 2022 and 2021, respectively.

The total amount of right-of-use assets obtained in exchange for new operating lease liabilities was \$1.5 million and \$1.2 million during the three months ended September 30, 2022 and 2021, respectively.

The components of lease expense during the three months ended September 30, 2022 and 2021 is shown on the table below (in thousands).

	Three Months Ended September 30,	
	2022	2021
Operating lease expense	\$ 3,118	\$ 3,180
Short-term lease expense	204	82
Variable lease expense, net of credit	513	598
Sublease income	(144)	(182)
Total	<u>\$ 3,691</u>	<u>\$ 3,678</u>

NOTE 13 – COMMITMENTS AND CONTINGENCIES

Commitments

The Company has non-cancelable operating leases for office and other facilities in various locations, and certain equipment, which expire through 2031. Future minimum lease payments as of September 30, 2022 are as follows (in thousands):

Fiscal years ending June 30:	Amount
Remainder of 2023	\$ 11,212
2024	13,910
2025	13,424
2026	13,292
2027	13,226
2028	13,590
Thereafter	35,919
Gross lease payments	114,573
Less - present value adjustments	(21,091)
Total operating lease liabilities, net	\$ 93,482

In addition to the minimum lease payments above, the Company has multi-year agreements with certain third parties and financial institution partners, expiring through 2029, which require the Company to pay fees over the term of the respective agreements. Future payments under these agreements as of September 30, 2022 are as follows (in thousands):

Fiscal years ending June 30:	Amount
Remainder of 2023	\$ 19,619
2024	12,974
2025	8,281
2026	4,750
2027	4,750
2028	5,000
Thereafter	29,250
Total	\$ 84,624

Purchase of Card Receivables that have not Cleared

The Company is contractually obligated to purchase all card receivables from the Issuing Banks including authorized transactions that have not cleared. The transactions that have been authorized but not cleared totaled \$55.9 million as of September 30, 2022 and have not been recorded on the accompanying consolidated balance sheets. The Company has credit exposures with these authorized but not cleared transactions; however, the expected credit losses recorded was not material as of September 30, 2022.

Litigation

From time to time, the Company is involved in lawsuits, claims, investigations, and proceedings that arise in the ordinary course of business. The Company records a provision for a liability when management believes that it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. As of September 30, 2022 and June 30, 2022, the Company's reserve for litigation is immaterial. The Company reviews these provisions periodically and adjusts these provisions to reflect the impact of negotiations, settlements, rulings, advice of legal counsel, and other information and events pertaining to a particular case. Litigation is inherently unpredictable.

NOTE 14 – NET LOSS PER SHARE ATTRIBUTABLE TO COMMON STOCKHOLDERS

The following table presents the calculation of basic and diluted net loss per share attributable to common stockholders (in thousands, except per share amounts):

	Three Months Ended September 30,	
	2022	2021
Numerator:		
Net loss attributable to common stockholders	\$ (81,640)	\$ (74,259)
Denominator:		
Weighted-average shares used to compute net loss per share attributable to common stockholders		
Basic and diluted	105,086	95,892
Net loss per share attributable to common stockholders:		
Basic and diluted	\$ (0.78)	\$ (0.78)

Potentially dilutive securities, which were excluded from the diluted net loss per share calculations because they would have been antidilutive were as follows as of the dates presented (in thousands):

	September 30,	
	2022	2021
Stock options	3,498	5,762
Restricted stock units	4,904	2,895
Total	8,402	8,657

In addition, approximately 8.5 million shares underlying the conversion option of the Notes are not considered in the calculation of diluted net loss per share as they would be anti-dilutive. Such number of shares issuable under the Notes is subject to adjustment up to approximately 12.7 million shares if certain corporate events occur prior to the maturity date of the Notes or if the Company issues a notice of redemption. The Company's current intent is to settle conversions of the Notes through a combination settlement, which involves a repayment of the principal portion in cash with any excess of the conversion value over the principal amount settled in shares of common stock. The Company uses the "as-if converted" method for calculating any potential dilutive effect of the conversion option on diluted earnings per share, if applicable. As of September 30, 2022, the Conversion Condition was not triggered for either the 2025 Notes or the 2027 Notes.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with our condensed consolidated financial statements and the related notes included elsewhere in this Quarterly Report on Form 10-Q. Some of the information contained in this Quarterly Report on Form 10-Q includes forward-looking statements that involve risks and uncertainties. You should read the sections titled "Special Note Regarding Forward-Looking Statements" and "Risk Factors" for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis. Our fiscal year end is June 30, and our fiscal quarters end on September 30, December 31, and March 31.

Overview

BILL is a leader in financial automation software for small and midsize businesses (SMBs). As a champion of SMBs, we are dedicated to automating the future of finance so businesses can flourish. Hundreds of thousands of businesses trust BILL solutions to manage financial workflows, including payables, receivables, and spend and expense management. With BILL, businesses are connected to a network of millions of members, so they can pay or get paid faster. Through our automated solutions, we help SMBs simplify and control their finances, so they can confidently manage their businesses, and succeed on their terms. BILL is a trusted partner of leading U.S. financial institutions, accounting firms, and accounting software providers.

Our purpose-built, artificial-intelligence (AI)-enabled financial software platform creates seamless connections between our customers, their suppliers, and their clients. Businesses on our platform generate and process invoices, streamline approvals, make and receive payments, manage employee expenses, sync with their accounting system, and manage their cash. We have built sophisticated integrations with popular accounting software solutions, banks, card issuers and payment processors, enabling our customers to access these mission-critical services quickly and easily.

We efficiently reach SMBs through our proven direct and indirect go-to-market strategies. We acquire new businesses to use our solutions directly through digital marketing and inside sales, and indirectly through accounting firms and financial institution partnerships. As of September 30, 2022, our partners included some of the most trusted brands in the financial services business, including more than 80 of the top 100 accounting firms and 6 of the top ten largest financial institutions in the U.S., including Bank of America, JPMorgan Chase, Wells Fargo Bank, and American Express. As we add customers and partners, we expect our network to continue to grow organically.

We have grown rapidly and scaled our business operations in recent periods. Our revenue was \$229.9 million and \$118.3 million during the three months ended September 30, 2022 and 2021, respectively, an increase of \$111.6 million. We generated net losses of \$81.6 million and \$74.3 million during the three months ended September 30, 2022 and 2021, respectively.

COVID-19 and Macroeconomic Factors

The full impact of the COVID-19 pandemic is inherently uncertain at the time of this report. The COVID-19 pandemic has resulted in various travel restrictions and mandates and greater uncertainty in global financial markets. Our customers, spending businesses and subscribers, and our business and operations, have been and may continue to be affected by the COVID-19 pandemic, variants and responsive government restrictions. For so long as the COVID-19 pandemic persists, restrictions and policies implemented by governments and companies may continue to have negative implications on business and consumer spending, the supply chain, production of goods, demand for goods, transportation, the labor market, the global capital markets and the global economy, and could result in inflation, recession and prolonged economic downturn. A negative impact on our customers, spending businesses, and subscribers may cause them to go out of business, request discounts, extend payment terms, or discontinue using our services.

In addition, ongoing interest rate increases and persistent inflation in the U.S. and other markets globally may increase the risk of an economic recession and volatility and dislocation in the capital or credit markets in the U.S. or globally. SMBs may be particularly susceptible to changes in overall economic and

financial conditions, and certain SMBs may cease operations in the event of a recession or inability to access financing. To date, we have not observed material impacts in our business or outlook, but there can be no assurance that, in the event of a recession, demand for our products would not be adversely affected. We intend to continue to monitor macroeconomic conditions closely and may determine to take certain financial or operational actions in response to such conditions to the extent our business begins to be adversely impacted.

Any of these conditions or actions may have a negative impact on our future results of operations, liquidity, and financial condition. We are unable to predict the full impact that the COVID-19 pandemic or other macroeconomic factors will have on our future results of operations, liquidity and financial condition due to numerous uncertainties, including the duration of the pandemic, the actions that may be taken by government authorities across the U.S. or other countries, changes in central bank policies and interest rates, rates of inflation, the impact to our customers, spending businesses, subscribers, partners, and suppliers, and other factors described in the section titled “Risk Factors” in Part II, Item 1A of this Quarterly Report on Form 10-Q.

Our Revenue Model

We generate revenue primarily from subscription and transaction fees.

Our subscription revenue is primarily based on a fixed monthly or annual rate per user charged to our customers. Our transaction revenue consists of transaction fees and interchange income on a fixed or variable rate per transaction. Transactions primarily include card payments, check issuances, ACH origination, cross-border payments, and creation of invoices. Much of our revenue comes from repeat transactions, which are an important contributor to our recurring revenue.

Our Receivables Purchases and Servicing Model

We market Divvy charge cards to potential spending businesses and issue business-purpose charge cards through our partnerships with card Issuing Banks. When a business applies for a Divvy card, we utilize, on behalf of the card Issuing Bank, proprietary risk management capabilities to confirm the identity of the business, and perform a credit underwriting process to determine if the business is eligible for a Divvy card pursuant to our credit policies. Once approved for a Divvy card, the spending business is provided a credit limit and can use the Divvy software to request virtual cards or physical cards.

The majority of cards on our platform are issued by Cross River Bank, an FDIC-insured New Jersey state chartered bank, and WEX Bank, an FDIC-insured Utah state chartered bank. Under our arrangements with these banks, we must comply with their respective credit policies and underwriting procedures, and the banks maintain ultimate authority to decide whether to issue a card or approve a transaction. We are responsible for all fraud and unauthorized use of a card and generally are required to hold the bank harmless from such losses unless claims regarding fraud or unauthorized use are due to the sole gross negligence of the bank.

When a spending business completes a purchase transaction, the payment to the merchant is made by the cards' Issuing Bank. Obligations incurred by the spending business in connection with their purchase transaction are reflected as receivables on the bank's balance sheet from the Divvy card account for the spending business. The bank then sells a 100% participation interest in the receivable to us. Pursuant to our agreements with the banks, we are obligated to purchase the participation interests in all of the receivables originated through our platform, and our obligations are secured by cash deposits. When we purchase the participation interests, the purchase price is equal to the outstanding principal balance of the receivable.

In order to purchase the participation rights in the receivables, we maintain a variety of funding arrangements, including warehouse facilities and other purchase arrangements with a diverse set of funding sources. We typically fund some portion of these participation interest purchases by borrowing under our credit facilities, although we may also fund purchases using corporate cash, and we may sell a portion of our receivables to a third-party institution pursuant to a purchase arrangement.

Key Business Metrics

We regularly review several metrics, including the metrics presented in the table below, to measure our performance, identify trends affecting our business, prepare financial projections, and make strategic decisions. We periodically review and revise these metrics to reflect changes in our business. We have presented the number of businesses using our solutions, total payment volume (TPV), and transactions processed as we believe that these key business metrics provide meaningful supplemental information for management and investors in assessing the historical and future operating performance of the BILL business. As a result of the Divvy and Invoice2go acquisitions, we are presenting our key business metrics on a consolidated basis which we believe better reflects the performance of our consolidated business. Our key business metrics are defined following the table below and track our BILL, Divvy, and Invoice2go products combined. Relevant metrics for BILL, Divvy, and Invoice2go are set forth in the footnotes to the table. The calculation of the key metrics and other measures discussed below may differ from other similarly-titled metrics used by other companies, securities analysts or investors.

	Three Months Ended September 30,		% Growth
	2022	2021	
Businesses using our solutions ⁽¹⁾	419,800	365,400	15%

	Three Months Ended September 30,		% Growth
	2022	2021	
Total payment volume (amounts in billions) ⁽²⁾	\$ 64.9 \$55,066	\$ 48.4	34%

	Three Months Ended September 30,		% Growth
	2022	2021	
Transactions processed ⁽³⁾	19,580,000	13,536,000	45%

- ⁽¹⁾ As of September 30, 2022, the total number of BILL customers was approximately 172,000; the total number of spending businesses that used Divvy's spend management solution was approximately 22,800; and the total number of Invoice2go subscribers was 225,100.
- ⁽²⁾ During the three months ended September 30, 2022: the total payment volume transacted by BILL customers was approximately \$61.6 billion; the total card payment volume transacted by spending businesses that used Divvy cards was approximately \$3.0 billion; the total payment volume transacted by Invoice2go subscribers was approximately \$292 million.
- ⁽³⁾ During the three months ended September 30, 2022: the total transactions executed by BILL customers was approximately 10.8 million; the total transactions executed by spending businesses that used Divvy cards were approximately 8.5 million; the total transactions executed by Invoice2go subscribers were over 300,000.

Businesses Using Our Solutions

For the purposes of measuring our key business metrics, we define businesses using our solutions as the summation of: customers that are either billed directly by us or for which we bill our partners for BILL products during a particular period, spending businesses that use Divvy's spend and expense management products, and Invoice2go subscribers. In prior fiscal quarters, we counted and reported customers using our BILL products as our "Number of Customers," which excluded businesses using our Divvy products and our Invoice2go subscribers. In light of the growth of our company in recent periods, we consider the businesses using our solutions metric to better represent the performance and scale of our business as it currently exists. Businesses using our solutions during a trial period are not counted as new businesses using our solutions during that period. If an organization has multiple entities billed separately for the use of our solutions, each

entity is counted as a business using our solutions. The number of businesses using our solutions in the table above represents the total number of businesses using our solutions at the end of each fiscal quarter.

Total Payment Volume (TPV)

To grow revenue from businesses using our solutions, we must deliver a product experience that helps them automate their back-office financial operations. The more they use the product and rely upon our features to automate their operations, the more transactions they process on our platform. This metric provides an important indication of the value of transactions that businesses using our solutions are completing on our platform and is an indicator of our ability to generate revenue from our customers. We define TPV as the value of transactions that we process on our platform during a particular period. Our calculation of TPV includes payments that are subsequently reversed. Such payments comprised of less than 2% of TPV during the three months ended September 30, 2022 and 2021.

Transactions Processed

We define transactions processed as the number of customer payments initiated and processed through our platform during a particular period. Payment transactions include checks, ACH items, card payments, real-time payments, and cross-border payments.

Components of Results of Operations

Revenue

We generate revenue primarily from subscription and transaction fees.

Subscription fees are fixed monthly or annually and charged to our customers for the use of our platform to process transactions. Subscription fees are generally charged either on a per user or per customer account per period basis, normally monthly or annually. Transaction fees are fees collected for each transaction processed, on either a fixed or variable fee basis. Transaction fees primarily include processing of payments in the form of checks, ACH, card payments, real-time payments, and cross-border payments, and the creation of invoices. Transaction fees also include interchange fees paid by suppliers accepting card payments.

Our contracts with SMB and accounting firm customers provide them with access to the functionality of our cloud-based payments platform to process transactions. These contracts are either monthly contracts paid in arrears or upfront, or annual arrangements paid up front. We charge our SMB and accounting firm customers subscription fees to access our platform either based on the number of users or per customer account and the level of service. We generally also charge these customers transaction fees based on transaction volume and the category of transaction. The contractual price for subscription and transaction services is based on either negotiated fees or the rates published on our website. Revenue recognized excludes amounts collected on behalf of third parties, such as sales taxes collected and remitted to governmental authorities.

We facilitate the extension of credit to spending businesses through our Divvy product in the form of Divvy cards, which are originated through our agreements with our Issuing Banks. The agreements with the Issuing Banks allow for card transactions on the Mastercard and Visa networks. The spending businesses utilize the credit on the Divvy cards as a means of payment for goods and services provided by their suppliers. For each transaction, the suppliers are required to pay interchange fees to the issuer of the credit. Based on our agreements with the Issuing Banks, we recognize the interchange fees as revenue gross or net of rebates received from the Issuing Banks based on our determination of whether we are the principal or the agent under the agreements.

We also enter into multi-year contracts with financial institution customers to provide them with access to our cloud-based payments platform. These contracts typically include fees for initial implementation services that are paid during the period the implementation services are provided as well as fees for subscription and transaction processing services, which are subject to guaranteed monthly minimum fees that are paid monthly over the contract term. These contracts enable the financial institutions to provide their customers with access to online bill pay services through the financial institutions' online platforms. Implementation services are required up-front to establish an infrastructure that allows the financial institutions' online platforms to

communicate with our online platform. A financial institution's customers cannot access online bill pay services until implementation is complete. The total consideration in these contracts varies based on the number of users and transactions to be processed.

In addition, we generate revenue from interest on funds held for customers. Interest on funds held for customers consists of the interest that we earn from customer funds while payment transactions are clearing. Interest is earned from interest-bearing deposit accounts, certificates of deposit, money market funds, commercial paper, and U.S. Treasury securities, until those payments are cleared and credited to the intended recipient.

Service Costs and Expenses

Service costs – Service costs consists primarily of personnel-related costs, including stock-based compensation expenses, for our customer success and payment operations teams, outsourced support services for our customer success team, costs that are directly attributed to processing customers' and spending businesses' transactions (such as the cost of printing checks, postage for mailing checks, fees associated with the issuance and processing of card transactions, fees for processing payments, such as ACH, check, and cross-border wires), direct and amortized costs for implementing and integrating our cloud-based platform into our customers' systems, costs for maintaining, optimizing, and securing our cloud payments infrastructure, amortization of capitalized internal-use developed software, fees on the investment of customer funds, and allocation of overhead costs. We expect that service costs will increase in absolute dollars, but may fluctuate as a percentage of revenue from period to period, as we continue to invest in growing our business.

Research and development – Research and development expenses consist primarily of personnel-related expenses, including stock-based compensation expenses, for our research and development teams, incurred in developing new products or enhancing existing products, and allocated overhead costs. We expense a substantial portion of research and development expenses as incurred. We believe that delivering new and enhanced functionality is critical to attract new customers and expand our relationship with existing customers. We expect to continue to make investments in and expand our offerings to enhance our customers' experience and satisfaction, and to attract new customers. We expect our research and development expenses to increase in absolute dollars, but they may fluctuate as a percentage of revenue from period to period as we expand our research and development team to develop new products and product enhancements. We capitalize certain software development costs that are attributable to developing new products and adding incremental functionality to our platform and amortize such costs over the estimated life of the new product or incremental functionality, which is generally three years.

Sales and marketing – Sales and marketing expenses consist primarily of personnel-related expenses, including stock-based compensation expenses, for our sales and marketing teams, rewards expense in connection with our card rewards programs, sales commissions, marketing program expenses, travel-related expenses, and costs to market and promote our platform through advertisements, marketing events, partnership arrangements, direct customer acquisition, and allocated overhead costs. Sales commissions that are incremental to obtaining new customer contracts are deferred and amortized ratably over the estimated period of our relationship with new customers.

We focus our sales and marketing efforts on generating awareness of our company, platform, and products, creating sales leads, and establishing and promoting our brand. We plan to continue investing in sales and marketing efforts by driving our go-to-market strategies, building our brand awareness, and sponsoring additional marketing events; however, we will adjust our sales and marketing spend level as needed, as the spend may fluctuate from period to period, in response to changes in the economic environment.

General and administrative – General and administrative expenses consist primarily of personnel-related expenses, including stock-based compensation expenses, for finance, corporate business operations, risk management, legal and compliance, human resources, information technology, costs incurred for external professional services, provision for credit losses, losses from fraud, and allocated overhead costs. We expect to incur additional general and administrative expenses as we explore various growth initiatives, which include incurring higher costs for professional services. We also expect to increase the size of our general and administrative functions to support the growth in our business. As a result, we expect that our general and

administrative expenses will increase in absolute dollars but may fluctuate as a percentage of revenue from period to period.

Depreciation and amortization of intangible assets - Depreciation and amortization of intangible assets expenses consist of depreciation of property and equipment, and amortization of acquired intangibles, such as developed technology, customer relationship, and trade names. Amortization of capitalized internal-use software costs are excluded.

Other income (expenses), net – Other income (expenses), net consists primarily of the lower of cost or market adjustment on card receivables sold and held for sale, interest expense on our borrowings (including amortization of debt discount and issuance costs in connection with our 2025 Notes and 2027 Notes), and interest income on our corporate funds.

Benefit from income taxes – Benefit from income taxes consists primarily of a reduction to the net deferred tax liability as a result of our current year losses, partially offset by an estimated cash tax liability associated with the expected impacted from capitalization of research and development (R&D) costs.

Results of Operations

The following table sets forth our results of operations together with the dollar and percentage change for the periods presented (amounts in thousands):

	Three Months Ended September 30,		Change	
	2022	2021 ⁽¹⁾	\$	%
Revenue	\$ 229,924	\$ 118,349	\$ 111,575	94 %
Cost of revenue				
Service costs ⁽²⁾	34,820	20,713	14,107	68 %
Depreciation and amortization of intangible assets ⁽³⁾	10,287	9,122	1,165	13 %
Total cost of revenue	45,107	29,835	15,272	51 %
Gross profit	184,817	88,514	96,303	109 %
Operating expenses				
Research and development ⁽²⁾	75,121	41,884	33,237	79 %
Sales and marketing ⁽²⁾	118,633	53,629	65,004	121 %
General and administrative ⁽²⁾	66,738	57,515	9,223	16 %
Depreciation and amortization of intangible assets ⁽³⁾	12,019	9,691	2,328	24 %
Total operating expenses	272,511	162,719	109,792	67 %
Loss from operations	(87,694)	(74,205)	\$ (13,489)	18 %
Other income (expense), net	5,947	(3,475)	9,422	(271)%
Loss before benefit from income taxes	(81,747)	(77,680)	(4,067)	5 %
Benefit from income taxes	(107)	(3,421)	3,314	(97)%
Net loss	\$ (81,640)	\$ (74,259)	(7,381)	10 %

⁽¹⁾ Includes the results of Invoice2go from the acquisition date on September 1, 2021.

⁽²⁾ Includes stock-based compensation expense as follows (in thousands):

	Three Months Ended September 30,		Change	
	2022	2021	\$	%
Cost of revenue - service costs	\$ 2,001	\$ 1,127	\$ 874	78 %
Research and development	20,851	10,560	10,291	97 %
Sales and marketing	29,258	8,114	21,144	261 %
General and administrative	20,510	18,086	2,424	13 %
Total	\$ 72,620	\$ 37,887	\$ 34,733	92 %

⁽³⁾ Depreciation expense does not include amortization of capitalized internal-use software costs.

The following table presents the components of our consolidated statements of operations for the periods presented as a percentage of revenue:

	Three Months Ended September 30,	
	2022	2021 ⁽¹⁾
Revenue	100 %	100 %
Cost of revenue		
Service costs	15 %	18 %
Depreciation and amortization of intangible assets	5 %	8 %
Total cost of revenue	20 %	25 %
Gross profit	80 %	75 %
Operating expenses		
Research and development	33 %	35 %
Sales and marketing	52 %	45 %
General and administrative	29 %	49 %
Depreciation and amortization of intangible assets	5 %	7 %
Total operating expenses	119 %	137 %
Loss from operations	(39)%	(63)%
Other income (expense), net	3 %	(3)%
Loss before benefit from income taxes	(36)%	(67)%
(Benefit from) provision for income taxes	— %	(3)%
Net loss	(36)%	(64)%

⁽¹⁾ Includes the results of Invoice2go from the acquisition date on September 1, 2021.

Comparison of the three months ended September 30, 2022 and 2021

Revenue

Revenue consists mainly of subscription and transactions fees. Subscription revenue increased by \$21.1 million, or 57% during the three months ended September 30, 2022, as compared to the prior year period, primarily due to the increase in customers and average subscription revenue per customer due to an increase in the number of users. Transaction fee revenue increased by \$75.9 million, or 94% during the three months ended September 30, 2022, as compared to the prior year period, primarily due to increased adoption of new product offerings and the mix of transaction revenues shifting to variable-priced products. In addition, interest on funds held for customers increased by \$14.5 million, or 1,835% during the three months ended September 30, 2022, as compared to the prior year period, primarily due to an increase in yield earned from investing customer funds as interest rates have increased.

Our revenue could be impacted by fluctuations in foreign currency rates in the future, especially if our revenue through our international operations grows as a percentage of our revenue or our international operations increase.

Cost of Revenue, Gross Profit, and Gross Margin

Cost of revenue, gross profit, and gross margin during the three months ended September 30, 2022 and 2021 were as follows (amounts in thousands):

	Three months ended September 30,			Change	
	2022	2021 ⁽¹⁾		Amount	%
Cost of revenue:					
Service costs	34,820	20,713	\$ 56,576	14,107	68 %
Depreciation and amortization of intangible assets ⁽²⁾	10,287	9,122	5,230	1,165	13 %
Total cost of revenue	\$ 45,107	\$ 29,835	\$ 61,806	15,272	51 %
Gross profit	\$ 184,817	\$ 88,514	\$176,459	96,303	109 %
Gross margin	80 %	75 %	74 %		

⁽¹⁾ Includes the results of Invoice2go from the acquisition date on September 1, 2021.

⁽²⁾ Excludes amortization of capitalized internal-use software costs.

Service costs increased by \$14.1 million during the three months ended September 30, 2022 as compared to the prior year period, primarily due to:

- a \$7.1 million increase in direct costs associated with the processing of payments made by businesses using our solution, use of software applications and equipment, bank fees for funds held for customers, and data hosting services, which were driven by the increase in the number of customers, increased adoption of new product offerings, and an increase in the volume of transactions;
- a \$5.1 million increase in personnel-related costs, including stock-based compensation expense and amortization of increased deferred service costs, due to the hiring of additional personnel and added headcount from our acquisition of Invoice2go, who were directly engaged in providing implementation and support services to our customers; and
- a \$1.9 million increase in costs for consultants, temporary contractors, shared overhead, and other costs.

Gross margin increased to 80% during the three months ended September 30, 2022 from 75% during the prior year period, primarily due to a higher mix of variable-priced transaction revenue.

Research and Development Expenses

Research and development expenses increased by \$33.2 million during the three months ended September 30, 2022, as compared to the prior year period, primarily due to the following:

- a \$31.0 million increase in personnel-related costs, including stock-based compensation expense, resulting from the hiring of additional personnel and added headcount from our acquisition of Invoice2Go, who were directly engaged in developing new product offerings; and
- a \$1.6 million increase in costs for engaging consultants and temporary contractors who provided product development services, and increase in computer-related expenses and software costs.

Our research and development expenses decreased to 33% as a percentage of revenue during the three months ended September 30, 2022, from 35% during the prior year period, primarily due to a higher revenue growth rate but a relatively lower increase in personnel-related expenses and consulting services as a percentage of revenue during the three months ended September 30, 2022 compared to the prior year period.

We expect research and development expenses to be affected by fluctuations in foreign currency rates in the future, especially if our international operations increase.

Sales and Marketing Expenses

Sales and marketing expenses increased by \$65.0 million during the three months ended September 30, 2022, as compared to the prior year period, primarily due to the following:

- a \$35.0 million increase in personnel-related costs, including stock-based compensation expense, due to the hiring of additional personnel and added headcount from our acquisition of Invoice2go, who were directly engaged in acquiring new customers and in marketing our products and services;
- a \$23.4 million increase in rewards expense in connection with our rewards programs as a result of increased transaction volume and higher rewards rates. We offer promotion programs whereby spending businesses that use our spend and expense management products can earn rewards based on transaction volume on the cards issued to them. Rewards can be redeemed by spending businesses through cash back, statement credit, gift cards and travel. Rewards expense is driven by transaction volume and an estimate of the cost of earned rewards that are expected to be redeemed; and
- a \$6.1 million increase in advertising spend and various marketing initiatives and activities, such as engaging consultants and attending marketing events, as we increased our efforts in promoting our products and services and in increasing brand awareness.

Our sales and marketing expenses increased to 52% as a percentage of revenue during the three months ended September 30, 2022 from 45% during the prior year period, primarily due to the increase in rewards expense and a higher stock-based compensation expense recognized during the current fiscal quarter.

General and Administrative Expenses

General and administrative expenses increased by \$9.2 million during the three months ended September 30, 2022, as compared to prior year period, primarily due to the following:

- an \$11.1 million increase in personnel-related costs, including stock-based compensation expense, resulting from the hiring of additional general and administrative personnel, and added headcount from our acquisition of Invoice2go;
- a \$3.0 million increase in provision for card and fraud losses;
- a \$1.4 million increase in software subscription and computer-related expenses, shared overhead and other costs; and partially offset by
- a \$6.3 million decrease in professional and consulting fees.

Our general and administrative expenses decreased to 29% as a percentage of revenue during the three months ended September 30, 2022 from 49% during the prior year period, primarily due to a higher revenue growth rate but a relatively lower increase in stock-based compensation expense and consulting costs as a percentage of revenue.

Depreciation and Amortization of Intangible Assets

Depreciation and amortization of intangible assets increased by \$3.5 million during the three months ended September 30, 2022 as compared to the prior year period, primarily due to a full-quarter-period amortization of intangible assets associated with the acquisition of Invoice2go in September 2021.

Other Income (Expenses), Net

Other income (expenses), was \$5.9 million during the three months ended September 30, 2022 as compared \$(3.5) million in the prior year period. The net change of \$9.4 million was primarily due to the following:

- an \$11.0 million increase in interest income due to higher interest rates earned on corporate funds; and partially offset by

- a \$1.0 million increase in interest expense as the result of higher interest rates on our credit borrowings.

Benefit from Income Taxes

Benefit from income taxes during the three months ended September 30, 2022 pertained mainly to a reduction to the net deferred tax liability as a result of our current year losses, partially offset by an estimated cash tax liability associated with the capitalization of R&D costs for federal and certain state tax purposes for the year ending June 30, 2023.

Non-GAAP Financial Measures

To supplement our consolidated financial statements, which are prepared and presented in accordance with GAAP, we use certain non-GAAP financial measures, as described below, to understand and evaluate our core operating performance. These non-GAAP financial measures, which may be different than similarly-titled measures used by other companies, are presented to enhance investors' overall understanding of our financial performance and should not be considered a substitute for, or superior to, the financial information prepared and presented in accordance with GAAP.

We believe that these non-GAAP financial measures provide useful information about our financial performance, enhance the overall understanding of our past performance and future prospects and allow for greater transparency with respect to important metrics used by our management for financial and operational decision-making. We are presenting these non-GAAP metrics to assist investors in seeing our financial performance using a management view. We believe that these measures provide an additional tool for investors to use in comparing our core financial performance over multiple periods with other companies in our industry.

Non-GAAP Gross Profit and Non-GAAP Gross Margin

We define non-GAAP gross profit as gross profit, minus amortization of acquired intangible assets, stock-based compensation expense, payroll taxes related to stock-based compensation expense, and depreciation expense recognized in cost of revenue. Non-GAAP gross margin is defined as non-GAAP gross profit, divided by revenue, and is represented as a percentage. We believe non-GAAP gross profit and non-GAAP gross margin provide our management and investors' consistency and comparability with our past financial performance and facilitate period-to-period comparisons of operations. The following table presents a reconciliation of our non-GAAP gross profit and non-GAAP gross margin to our gross profit and gross margin for the periods presented (amounts in thousands):

	Three Months Ended September 30,	
	2022	2021 ⁽¹⁾
Revenue	\$ 229,924	\$ 118,349
Gross profit	184,817	88,514
Add:		
Depreciation and amortization of intangible assets ⁽²⁾	10,287	9,122
Stock-based compensation and related payroll taxes	2,066	1,290
Non-GAAP gross profit	\$ 197,170	\$ 98,926
Gross margin	80.4 %	74.8 %
Non-GAAP gross margin	85.8 %	83.6 %

⁽¹⁾ Includes the results of Invoice2go from the acquisition date on September 1, 2021.

(2) Excludes amortization of capitalized internal-use software cost.

Free Cash Flow

Free cash flow is defined as net cash used in operating activities, adjusted by purchases of property and equipment and capitalization of internal-use software costs. We believe free cash flow is an important liquidity measure of the cash (if any) that is available, after purchases of property and equipment and capitalization of internal-use software costs, for operational expenses and investment in our business. Free cash flow is useful to investors as a liquidity measure because it measures our ability to generate or use cash. Once our business needs and obligations are met, cash can be used to maintain a strong balance sheet and invest in future growth. The following table presents a reconciliation of our free cash flow to net cash provided by (used in) operating activities for the periods presented (amounts in thousands):

	Three Months Ended September 30,	
	2022	2021 ⁽¹⁾
Net cash provided by (used in) operating activities	\$ 18,152	\$ (21,134)
Purchases of property and equipment	(1,376)	(1,404)
Capitalization of internal-use software costs	(4,764)	(2,942)
Free cash flow	\$ 12,012	\$ (25,480)

⁽¹⁾ Includes the results of Invoice2go from the acquisition date on September 1, 2021.

Liquidity and Capital Resources

As of September 30, 2022, our principal sources of liquidity were our cash and cash equivalents of \$1.6 billion, our available-for-sale short-term investments of \$1.0 billion, and our available undrawn line of credit of \$150 million. Our cash equivalents are comprised primarily of money market funds and investments in debt securities with original maturities of three months or less at the time of purchase. Our short-term investments are comprised primarily of available-for-sale investments in corporate bonds, certificates of deposit, asset-backed securities, municipal bonds, and U.S. treasury securities with original maturities of more than three months. We have a total borrowing commitment of \$225.0 million from our Revolving Credit Facility (as defined below) and have drawn \$75.0 million as of September 30, 2022. Our principal uses of cash are funding our operations and other working capital requirements, including the contractual and other obligations discussed below.

We believe that our cash, cash equivalents, and available-for sale short-term investments will be sufficient to meet our working capital requirements for at least the next 12 months. In the future, we may attempt to raise additional capital through the sale of equity securities or through equity-linked or debt financing arrangements to fund future operations or obligations, including the repayment of the principal amount of the Notes in the event that the Notes become convertible and the noteholders opt to exercise their right to convert. We may also seek to raise additional capital from these offerings or financings on an opportunistic basis when we believe there are suitable opportunities for doing so. If we raise additional funds by issuing equity or equity-linked securities, the ownership of our existing stockholders will be diluted. If we raise additional financing by incurring additional indebtedness, we may be subject to increased fixed payment obligations and could also be subject to additional restrictive covenants, such as limitations on our ability to incur additional debt, and other operating restrictions that could adversely impact our ability to conduct our business. Any future indebtedness we incur may have terms that could be unfavorable to equity investors. There can be no assurances that we will be able to raise additional capital. The inability to raise capital would adversely affect our ability to achieve our business objectives.

Our principal commitments to settle our contractual obligations consist of our 2027 Notes, 2025 Notes, and outstanding borrowings from our line of credit as further discussed below. For additional discussion about our senior convertible notes and line of credit borrowings, refer to Note 8 to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q. In addition, we have minimum commitments under our noncancellable operating lease agreements and agreements with certain vendors. For

additional discussion about our operating leases and other commitments, refer to Note 13 to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q.

Cash Flows

Below is a summary of our consolidated cash flows for the periods presented (amounts in thousands):

	Three Months Ended September 30,	
	2022	2021 ⁽¹⁾
Net cash provided by (used in):		
Operating activities	\$ 18,152	\$ (21,134)
Investing activities	\$ (133,315)	\$ (453,872)
Financing activities	\$ (2,154)	\$ 2,104,111

⁽¹⁾ Includes the results of Invoice2go from the acquisition date on September 1, 2021.

Net Cash Provided by (Used in) Operating Activities

Our primary source of cash provided by our operating activities is our revenue from subscription and transaction fees. Our subscription revenue is primarily based on a fixed monthly or annual rate per user charged to our customers. Our transaction revenue is comprised of transaction fees on a fixed or variable rate per type of transaction. We also generate cash from the interest earned on both corporate funds and funds held in trust on behalf of customers while payment transactions are clearing. Our primary uses of cash in our operating activities include payments for employee salary and related costs, payments to third parties to fulfill our payment transactions, payments to sales and marketing partners, payments for card rewards expenses, and other general corporate expenditures.

Net cash provided by operating activities was \$18.2 million during the three months ended September 30, 2022, compared to a net cash used of \$21.1 million during the prior year period. The net change was due to the increase in our revenues, partially offset by the timing of the payments for costs of our services and operating expenses.

Net Cash Used in Investing Activities

Our cash proceeds from our investing activities consist primarily of proceeds from the maturities and sale of corporate and customer fund available-for-sale investments. Our cash usage for our investing activities consists primarily of purchases of corporate and customer fund available-for-sale investments, business acquisitions, capitalization of internal-use software, and purchases of property and equipment. Additionally, the increase or decrease in our net cash from investing activities is impacted by the net change in acquired card receivable balances.

Our net cash used in investing activities decreased to \$133.3 million during the three months ended September 30, 2022, from \$453.9 million during the prior year period, due primarily to the increase in proceeds from maturities of corporate and customer short-term investments and absence of the payment to acquire Invoice2go in the prior year period. The decrease was partially offset by the increase in purchases of corporate and customer fund short-term investments and the increase in acquired card receivables.

Net Cash Provided by (Used in) Financing Activities

Our cash proceeds from our financing activities consist primarily of proceeds from public offerings of our common stock, issuance of convertible notes, exercises of stock options, and employee purchases of our common stock under our Employee Stock Purchase Plan (ESPP). Our cash usage for our financing activities consists primarily of payments of costs related to public offerings of our common stock and issuance of debt. Additionally, the increase or decrease in our net cash from financing activities is impacted by the change in customer fund deposits liability.

Our net cash used in financing activities was \$2.2 million during the three months ended September 30, 2022, compared to net cash provided of \$2.1 billion during the prior year period. The net change was primarily due to the absence of the proceeds from the public offering of our common stock and issuance of our 2027 Notes in the prior year period and a decrease in customer funds liability.

2027 Notes

On September 24, 2021, we issued \$575.0 million in aggregate principal amount of our 0% convertible senior notes due on April 1, 2027. The 2027 Notes are senior, unsecured obligations, will not accrue interest unless we determine to pay special interest, and are convertible on or after January 1, 2027 until the close of business on the second scheduled trading day immediately preceding the maturity date on April 1, 2027. The 2027 Notes are convertible by the holders at their option during any calendar quarter after December 31, 2021 under certain circumstances, including if the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the \$414.80 per share initial conversion price. If the note holders exercise their right to convert, our current intent is to settle such conversion through a combination settlement involving a repayment of the principal portion in cash and the balance in shares of common stock. For additional discussion about our 2027 Notes and the capped call transactions, refer to Note 8 to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q.

2025 Notes

On November 30, 2020, we issued \$1.15 billion in aggregate principal amount of our 0% convertible senior notes due on December 1, 2025. The 2025 Notes are senior, unsecured obligations, will not accrue interest unless we determine to pay special interest, and are convertible on or after September 1, 2025 until the close of business on the second scheduled trading day immediately preceding the maturity date on December 1, 2025. The 2025 Notes are convertible by the holders at their option during any calendar quarter after March 31, 2021 under certain circumstances, including if the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the \$160.88 per share initial conversion price. If the note holders exercise their right to convert, our current intent is to settle such conversion through a combination settlement involving a repayment of the principal portion in cash and the balance in shares of common stock. For additional discussion about our 2025 Notes and the capped call transactions, refer to Note 8 to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q.

Revolving Credit

We have a total borrowing commitment of \$225.0 million pursuant to our Revolving Credit and Security Agreement, by and between our subsidiary, Divvy Peach, LLC, Goldman Sachs Bank USA and the lenders party thereto (the Revolving Credit Facility), of which we borrowed \$75.0 million as of September 30, 2022. In August 2022, we amended the Revolving Credit Facility to increase the borrowing capacity from \$75.0 million to \$225.0 million. Revolving loans under the Revolving Credit Facility bear interest at a rate per annum determined by reference to either the SOFR Rate or an adjusted benchmark rate plus an applicable margin ranging from 2.65% to 2.75%, based on the outstanding principal amount and the date that principal amounts are outstanding. Obligations under the Revolving Credit Facility are secured by receivables generated by our Divvy charge card and certain related collateral. Our Revolving Credit Facility matures in June 2024 and the outstanding borrowings are payable on or before the maturity date. For additional discussion about our Revolving Credit Facility, refer to Note 8 to our condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q.

Off-Balance Sheet Arrangements

We are contractually obligated to purchase all card receivables from U.S. based card issuing banks (Issuing Banks) including authorized transactions that have not cleared. The transactions that have been authorized but not cleared totaled \$55.9 million as of September 30, 2022 and have not been recorded on our condensed consolidated balance sheets. We have off-balance sheet credit exposures with these authorized but

not cleared transactions; however, our expected credit losses with respect to these transactions were not material as of September 30, 2022.

Other than our expected credit loss exposure on the card transactions that have not cleared, we had no other off-balance sheet arrangements that have, or are reasonably likely to have, a current or future material effect on our consolidated financial condition, results of operations, liquidity, capital expenditures, or capital resources as of September 30, 2022.

Critical Accounting Estimates

Our condensed consolidated financial statements have been prepared in accordance with GAAP. The preparation of these condensed consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements, as well as the reported revenue generated, and reported expenses incurred during the reporting periods. Our estimates are based on our historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

There have been no material changes to our critical accounting estimates as compared to the critical accounting estimates described in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” set forth in our Annual Report on Form 10-K for fiscal 2022.

Recent Accounting Pronouncements

See “The Company and its Significant Accounting Policies” in Note 1 of the notes to our condensed consolidated financial statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Our overall investment portfolio is comprised of corporate investments and customer fund assets that have been collected from customers, but not yet remitted to the applicable supplier or deposited into our customers’ accounts. Our corporate investments are invested in cash and cash equivalents and highly liquid, investment-grade fixed income marketable securities. These assets are available for corporate operating purposes and mature within 24 months from the date of purchase. Our customer funds assets are invested with safety of principal as the primary objectives. As secondary objectives, we seek to provide liquidity and diversification and maximize interest income. Our customer funds assets are invested in money market funds that maintain a constant net asset value, other cash equivalents, and highly liquid, investment-grade fixed income marketable securities, with maturities of up to 13 months from the time of purchase. Our investment policy governs the types of investments we make. We classify all of our investments in marketable securities as available-for-sale.

As part of our customer funds investment strategy, we use funds collected daily from our customers to satisfy the obligations of other unrelated customers, rather than liquidating investments purchased with previously collected funds. There is risk that we may not be able to satisfy customer obligations in full or on time due to insufficient liquidity or due to a decline in value of our investments. However, the liquidity risk is minimized by collecting the customer’s funds in advance of the payment obligation and by maintaining significant investments in bank deposits and constant net asset value money market funds that allow for same-day liquidity. The risk of a decline in investment value is minimized by our restrictive investment policy allowing for only short-term, high quality fixed income marketable securities. We also maintain other sources of liquidity including our corporate cash balances.

Interest Rate and Credit Risk

We are exposed to interest-rate risk relating to our investments of corporate cash and funds held for customers that we process through our bank accounts. Our corporate investment portfolio consists principally of interest-bearing bank deposits, money market funds, certificates of deposit, commercial paper, other corporate

notes, asset-backed securities, and U.S. Treasury securities. Funds that we hold for customers are held in non-interest and interest-bearing bank deposits, money market funds, certificates of deposit, commercial paper, other corporate notes, and U.S. Treasury securities. We recognize interest earned from funds held for customers as revenue. We do not pay interest to customers.

Factors that influence the rate of interest we earn include the short-term market interest rate environment and the weighting of our balances by security type. The annualized interest rate earned on our corporate investment portfolio and funds held for customers increased to 1.84% during the three months ended September 30, 2022 compared to 0.13% during the same period in fiscal 2022 due primarily to the changes in the short-term interest rate environment.

Unrealized gains or losses on our marketable debt securities are due primarily to interest rate fluctuations from the time the securities were purchased. We account for both fixed and variable rate securities at fair value with unrealized gains and losses recorded in accumulated other comprehensive income since we classify our marketable debt securities as available for sale. Our investments in marketable debt securities are generally held through maturity with minimal sales before maturity barring unforeseen circumstances, and thus unrealized gains or losses on fixed-income securities from market interest rate decreases or increases are not realized as the securities mature at par.

We are also exposed to interest-rate risk relating to borrowings from our line of credit. As of September 30, 2022, we borrowed \$75.0 million from our line of credit. Because the interest rate on our borrowings is indexed to SOFR, which is a floating rate mechanism, our interest cost may increase if market interest rates rise. A hypothetical 100 basis point increase or decrease in interest rates would not have a material effect on our financial results.

In addition to interest rate risks, we also have exposure to risks associated with changes in laws and regulations that may affect customer fund balances. For example, a change in regulations that restricts the permissible investment alternatives for customer funds would reduce our interest earned revenue.

We are exposed to credit risk in connection with our investments in securities through the possible inability of the borrowers to meet the terms of the securities. We limit credit risk by investing in investment-grade securities as rated by Moody's, Standard & Poor's, or Fitch, by investing only in securities that mature in the near-term, and by limiting concentration in securities other than U.S. Treasuries. Investment in securities of issuers with short-term credit ratings must be rated A-2/P-2/F2 or higher. Investment in securities of issuers with long-term credit ratings must be rated A- or A3, or higher. Investment in asset-backed securities and money market funds must be rated AAA or equivalent. Investment in repurchase agreements will be at least 102 percent collateralized with securities issued by the U.S. government or its agencies. Securities in our corporate portfolio may not mature beyond two years from purchase, and securities held in our customer fund accounts may not mature beyond 13 months from purchase. No more than 5% of invested funds, either corporate or customer, may be held in the issues of a single corporation.

We are also exposed to credit risk related to the timing of payments made from customer funds collected. We typically remit customer funds to our customers' suppliers in advance of having good or confirmed funds collected from our customers and if a customer disputes a transaction after we remit funds on their behalf, then we could suffer a credit loss. Furthermore, our customers generally have three days to dispute transactions, and if we remit funds in advance of receiving confirmation that no dispute was initiated by our customer, then we could suffer a credit loss. We mitigate this credit exposure by leveraging our data assets to make credit underwriting decisions about whether to accelerate disbursements, managing exposure limits, and various controls in our operating systems.

We continually evaluate the credit quality of the securities in our portfolios. If a security holding is downgraded below our credit rating threshold or we otherwise believe the security's payment performance may be compromised, we will evaluate the relevant risks, remaining time to maturity, amount of principal, as well as other factors, and we will make a determination of whether to continue to hold the security or promptly sell it.

We are exposed to credit risk from card receivable balances we have with our spending businesses. Spending businesses may default on their obligations to us due to bankruptcy, lack of liquidity, operational failure or other reasons. Although we regularly review our credit exposure to specific spending businesses and

to specific industries that we believe may present credit concerns, default risk may arise from events or circumstances that are difficult to foresee or detect, such as fraud. In addition, our ability to manage credit risk or collect amounts owed to us may be adversely affected by legal or regulatory changes (such as restrictions on collections or changes in bankruptcy laws, and minimum payment regulations). We rely principally on the creditworthiness of spending businesses for repayment of card receivables and therefore have limited recourse for collection. Our ability to assess creditworthiness may be impaired if the criteria or models we use to manage our credit risk prove inaccurate in predicting future losses, which could cause our losses to rise and have a negative impact on our results of operations. Any material increases in delinquencies and losses beyond our current estimates could have a material adverse impact on us. Although we make estimates to provide for credit losses in our outstanding portfolio of card receivables, these estimates may not be accurate.

Foreign Currency Exchange Risk

We are exposed to foreign currency exchange risk relating to our cross-border payment service, which allows customers to pay their international suppliers in foreign currencies. When customers make a cross-border payment, customers fund those payments in U.S. dollars based upon an exchange rate that is quoted on the initiation date of the transaction. Subsequently, when we convert and remit those funds to our customers' suppliers primarily through our global payment partners, the exchange rate may differ, due to foreign exchange fluctuation, from the exchange rate that was initially quoted. Our transaction fees to our customers are not adjusted for changes in foreign exchange rates between the initiation date of the transaction and the date the funds are converted.

We are also exposed to foreign currency exchange risk relating to the operations of our subsidiary in Australia. A change in foreign currency exchange rate, particularly the Australian dollar, can affect our financial results due to transaction gains or losses related to the remeasurement of certain monetary asset and monetary liability balances that are denominated in currencies other than the functional currency of our Australian subsidiary, which is U.S. dollars.

If the value of the U.S. dollar weakens relative to the foreign currencies, this may have an unfavorable effect on our cash flows and operating results. We do not believe that a 10% change in the relative value of the U.S. dollar to other foreign currencies would have a material effect on our cash flows and operating results.

Inflation Risk

We do not believe that inflation had a material effect on our cash flows and operating results during the three months ended September 30, 2022. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through increase in prices of our product offerings.

The Inflation Reduction Act was enacted on August 16, 2022 and includes a number of provisions that may impact us in the future. We have assessed these impacts for the current reporting period, and do not expect the new law to have a material impact on our fiscal 2023 financial statements.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of disclosure controls and procedures

Our management, with the participation and supervision of our chief executive officer (CEO) and our chief financial officer (CFO), have evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the Exchange Act)) as of the end of the period covered by this Quarterly Report on Form 10-Q. Our disclosure controls and procedures are designed to ensure that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure. Based on such evaluation, our CEO and CFO have concluded that, as of such date, our disclosure controls and procedures were effective at a reasonable level. Based on additional procedures and post-closing review, management concluded that the condensed consolidated financial statements included in this Quarterly Report on Form 10-Q present fairly, in all material respects, our financial position, results of operations, and

cash flows for the periods presented, in conformity with accounting principles generally accepted in the United States.

Changes in internal control over financial reporting

There were no changes in our internal control over financial reporting identified in connection with the evaluation required by Rules 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the quarter ended September 30, 2022, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Inherent limitation on the effectiveness of internal control

Our management, including our chief executive officer and chief financial officer, do not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls is also based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Due to inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, we are party to litigation and subject to claims incident to the ordinary course of business. As our growth continues, we may become party to an increasing number of litigation matters and claims. The outcome of litigation and claims cannot be predicted with certainty, and the resolution of these matters could materially affect our future results of operations, cash flows, or financial position. We are not presently party to any legal proceedings that, in the opinion of management, would individually or taken together have a material adverse effect on our business, operating results, financial condition, or cash flows.

Item 1A. Risk Factors

Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, together with all of the other information in this Quarterly Report on Form 10-Q, including “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” our consolidated financial statements and the accompanying notes included elsewhere in this Quarterly Report on Form 10-Q before deciding whether to invest in shares of our common stock. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of or that we deem immaterial may also become important factors that adversely affect our business. If any of the following risks actually occur, our business, financial condition, operating results, and future prospects could be materially and adversely affected. In that event, the market price of our common stock could decline, and you could lose part or all of your investment.

Summary of Risk Factors

Some of the material risks that we face include:

- We have a history of operating losses and may not achieve or sustain profitability in the future;
- Our recent rapid growth, including growth in our volume of payments, may not be indicative of our future growth, and if we continue to grow rapidly, we may not be able to manage our growth effectively;
- We expect fluctuations in our financial results, making it difficult to project future results, and if we fail to meet the expectations of securities analysts or investors with respect to our operating results, our stock price and the value of your investment could decline;
- If we are unable to attract new customers or convert trial customers into paying customers, our revenue growth and operating results will be adversely affected;
- If we are unable to retain our current customers, increase customer adoption of our products, sell additional services to them, or develop and launch new payment products, our revenue growth will be adversely affected;
- We are exposed to credit risk and other risks related to spending businesses' ability to pay the balances incurred on their Divvy cards and in relation to several other product offerings;
- Our risk management efforts may not be effective to prevent fraudulent activities by our customers, subscribers, spending businesses or their counterparties, which could expose us to material financial losses and liability and otherwise harm our business;
- A significant portion of our revenue comes from small and medium-sized businesses, which may have fewer financial resources to weather an economic downturn;
- The markets in which we participate are competitive, and if we do not compete effectively, our operating results could be harmed;
- We transfer large sums of customer funds daily, and are subject to numerous associated risks, which could result in financial losses, damage to our reputation, or loss of trust in our brand, which could harm our business and financial results;
- Our business depends, in part, on our relationships with accounting firms;
- Our business depends, in part, on our partnerships with financial institutions;
- We are subject to numerous risks related to partner banks and financing arrangements with respect to our Divvy solution;
- Payments and other financial services-related regulations and oversight are material to our business. Our failure to comply could materially harm our business;
- Future acquisitions, strategic investments, partnerships, collaborations, or alliances could be difficult to identify and integrate, divert the attention of management, disrupt our business, dilute stockholder value, and adversely affect our operating results and financial condition;
- Our debt service obligations, including the Notes, may adversely affect our financial condition and results of operations;
- We may not have the ability to raise funds necessary for cash settlement upon conversion of the Notes or to repurchase the Notes for cash upon a fundamental change, and our future debt may contain limitations on our ability to pay cash upon conversion of the Notes or to repurchase the Notes; and
- The market for our common stock has been, and will likely continue to be, volatile and the market price of our common stock may fluctuate significantly in response to numerous factors, many of which are beyond our control.

Risks Related to Our Business and Industry

We have a history of operating losses and may not achieve or sustain profitability in the future.

We were incorporated in 2006 and have mostly experienced net losses and negative cash flows from operations since inception. We generated net losses of \$81.6 million and \$74.3 million during the three months ended September 30, 2022 and 2021, respectively. As of September 30, 2022, we had an accumulated deficit of \$626.5 million. While we have experienced significant revenue growth in recent periods, we are not certain whether or when we will obtain a high enough volume of subscription and transaction fee revenue to sustain or increase our growth or achieve or maintain profitability in the future. We also expect our costs and expenses to increase in future periods, which could negatively affect our future operating results if our revenue does not increase. In particular, we intend to continue to expend significant funds to further develop our platform, including introducing new products and functionality, drive new customer adoption, expand partner integrations, and support international expansion, and to continue hiring across all functions to accomplish these objectives. Our profitability each quarter is also impacted by the mix of our revenue generated from subscriptions, transaction fees, including the mix of ad valorem transaction revenue, and interest earned on customer funds that we hold for the benefit of our customers, respectively. Any changes in this revenue mix will have the effect of increasing or decreasing our margins. In addition, we offer promotion programs whereby spending businesses that use our spend and expense management products can earn rewards based on transaction volume on our corporate charge cards, and the cost of earned rewards that are redeemed impacts our sales and marketing expenses. We also face increased compliance and security costs associated with growth, the expansion of our customer base, and being a public company. Inflationary pressures may also result in increases in many of our other costs, including personnel-related costs. Our efforts to grow our business may be costlier than we expect, and we may not be able to increase our revenue enough to offset our increased operating expenses. We may incur significant losses in the future for several reasons, including the other risks described herein, and unforeseen expenses, difficulties, complications, delays, and other unknown events. If we are unable to achieve and sustain profitability, the value of our business and common stock may significantly decrease.

Our recent rapid growth, including growth in our volume of payments, may not be indicative of our future growth, and if we continue to grow rapidly, we may not be able to manage our growth effectively. Our rapid growth also makes it difficult to evaluate our future prospects and may increase the risk that we will not be successful.

Our revenue was \$229.9 million and \$118.3 million during the three months ended September 30, 2022 and 2021, respectively. Our TPV was \$64.9 billion and \$48.4 billion during the three months ended September 30, 2022 and 2021, respectively. Although we have recently experienced significant growth in our revenue and payment volume, even if our revenue continues to increase, we expect our growth rate will decline in the future as a result of a variety of factors, including the increasing scale of our business. Overall growth of our revenue depends on a number of factors, including our ability to:

- price our platform effectively to attract new customers and increase sales to our existing customers;
- expand the functionality and scope of the products we offer on our platform;
- maintain the rates at which customers subscribe to and continue to use our platform;
- maintain payment volume;
- generate interest income on customer funds that we hold in trust;
- provide our customers with high-quality customer support that meets their needs;
- introduce our products to new markets outside of the U.S.;
- serve SMBs across a wide cross-section of industries;
- expand our target market beyond SMBs;
- manage the effects of the COVID-19 pandemic on our business and operations;

- successfully identify and acquire or invest in businesses, products, or technologies that we believe could complement or expand our platform; and
- increase awareness of our brand and successfully compete with other companies.

We may not successfully accomplish any of these objectives, which makes it difficult for us to forecast our future operating results. Further, the revenue that we derive from interest income on customer funds is dependent on interest rates, which we do not control. If the assumptions that we use to plan our business are incorrect or change in reaction to changes in our market, or if we are unable to maintain consistent revenue or revenue growth, our stock price could be volatile, and it may be difficult to achieve and maintain profitability. You should not rely on our revenue from any prior quarterly or annual periods as any indication of our future revenue or revenue or payment growth.

In addition, we expect to continue to expend substantial financial and other resources on:

- sales, marketing and customer success, including an expansion of our sales organization and new customer success initiatives;
- our technology infrastructure, including systems architecture, scalability, availability, performance, and security;
- product development, including investments in our product development team and the development of new products and new functionality for our AI-enabled platform;
- acquisitions or strategic investments;
- international expansion;
- regulatory compliance and risk management; and
- general administration, including increased legal and accounting expenses associated with being a public company.

These investments may not result in increased revenue growth in our business. If we are unable to increase our revenue at a rate sufficient to offset the expected increase in our costs, or if we encounter difficulties in managing a growing volume of payments, our business, financial position, and operating results will be harmed, and we may not be able to achieve or maintain profitability over the long term.

We expect fluctuations in our financial results, making it difficult to project future results, and if we fail to meet the expectations of securities analysts or investors with respect to our operating results, our stock price and the value of your investment could decline.

Our operating results have fluctuated in the past and are expected to fluctuate in the future due to a variety of factors, many of which are outside of our control. As a result, our past results may not be indicative of our future performance. In addition to the other risks described herein, factors that may affect our operating results include the following:

- fluctuations in demand for, or pricing of our platform;
- our ability to attract new customers;
- our ability to retain and grow engagement with our existing customers;
- our ability to expand our relationships with our accounting firm partners, financial institution partners, and accounting software partners, or identify and attract new partners;
- customer expansion rates;
- changes in customer preference for cloud-based services as a result of security breaches in the industry or privacy concerns, or other security or reliability concerns regarding our products;
- fluctuations or delays in purchasing decisions in anticipation of new products or product enhancements by us or our competitors;

- general economic, market, credit and liquidity conditions, both domestically and internationally, such as high inflation, high interest rate and recessionary environments, as well as economic conditions specifically affecting industries in which our customers participate;
- changes in customers' budgets and in the timing of their budget cycles and purchasing decisions, as a result of general economic factors or factors specific to their businesses;
- the impact of the COVID-19 pandemic on our employees, customers, partners, vendors, results of operations, liquidity and financial condition, including as a result of supply chain disruptions and labor shortages;
- potential and existing customers choosing our competitors' products or developing their own solutions in-house;
- the development or introduction of new platforms or services that are easier to use or more advanced than our current suite of services, especially related to the application of artificial intelligence-based services;
- our failure to adapt to new forms of payment that become widely accepted;
- the adoption or retention of more entrenched or rival services in the international markets where we compete;
- our ability to control costs, including our operating expenses;
- the amount and timing of payment for operating expenses, particularly research and development and sales and marketing expenses, including commissions;
- the amount and timing of non-cash expenses, including stock-based compensation, goodwill impairments, and other non-cash charges;
- the amount and timing of costs associated with recruiting, training, and integrating new employees, and retaining and motivating existing employees;
- fluctuation in market interest rates, which impacts interest earned on funds held for customers;
- the effects of acquisitions and their integration, including impairment of goodwill;
- the impact of new accounting pronouncements;
- changes in the competitive dynamics of our market;
- security breaches of, technical difficulties with, or interruptions to, the delivery and use of our platform;
- the impact of the conflict in Ukraine, economic sanctions and countermeasures taken by other countries, and market volatility resulting from the above;and
- awareness of our brand and our reputation in our target markets.

Any of these and other factors, or the cumulative effect of some of these factors, may cause our operating results to vary significantly. In addition, we expect to incur significant additional expenses due to the increased costs of operating as a public company. If our quarterly operating results fall below the expectations of investors and securities analysts who follow our stock, the price of our common stock could decline substantially, and we could face costly lawsuits, including securities class action suits.

If we are unable to attract new customers or convert trial customers into paying customers or if our efforts to promote our charge card usage through marketing, promotion, and spending business rewards, our revenue growth and operating results will be adversely affected.

To increase our revenue, we must continue to attract new customers and increase sales to those customers. As our market matures, product and service offerings evolve, and competitors introduce lower cost or differentiated products or services that are perceived to compete with our platform, our ability to sell subscriptions or successfully increase customer adoption of new payment products could be impaired. Similarly,

our subscription sales could be adversely affected if customers or users perceive that features incorporated into alternative products reduce the need for our platform or if they prefer to purchase products that are bundled with solutions offered by other companies. Further, in an effort to attract new customers, we may offer simpler, lower-priced products or promotions, which may reduce our profitability.

We rely upon our marketing strategy of offering risk-free trials of our platform and other digital marketing strategies to generate sales opportunities. Many of our customers start a risk-free trial of our service. Converting these trial customers to paid customers often requires extensive follow-up and engagement. Many prospective customers never convert from the trial version of a product to a paid version of a product. Further, we often depend on the ability of individuals within an organization who initiate the trial versions of our products to convince decision makers within their organization to convert to a paid version. To the extent that these users do not become, or are unable to convince others to become, paying customers, we will not realize the intended benefits of this marketing strategy, and our ability to grow our revenue will be adversely affected. In addition, it may be necessary to engage in more sophisticated and costly sales and marketing efforts in order to attract new customers, and changes in privacy laws and third party practices may make adding new customers more expensive or difficult. As a result of these and other factors, we may be unable to attract new customers or our related expenses may increase, which would have an adverse effect on our business, revenue, gross margins, and operating results.

In addition, revenue growth from our charge card products is dependent on increasing business spending on our cards. We have been investing in a number of growth initiatives, including to capture a greater share of spending businesses' total spend, but there can be no assurance that such investments will be effective. In addition, if we develop new products or offerings that attract spending businesses looking for short-term incentives rather than displaying long-term loyalty, attrition and costs could increase. Expanding our service offerings, adding acquisition channels and forming new partnerships or renewing current partnerships could have higher costs than our current arrangements and could dilute our brand. In addition, we offer rewards to spending businesses based on their usage of charge cards. Redemptions of rewards present significant associated expenses for our business. We operate in a highly competitive environment and may need to increase the rewards that we offer or provide other incentives to spending businesses in order to grow our business. Any significant change in, or failure by management to reasonably estimate, such costs could adversely affect or harm our business, operating results, and financial condition.

If we are unable to retain our current customers, increase customer adoption of our products, sell additional services to them, or develop and launch new payment products, our revenue growth will be adversely affected.

To date, a significant portion of our growth has been attributable to customer adoption of new and existing payment products. To increase our revenue, in addition to acquiring new customers, we must continue to retain existing customers and convince them to expand their use of our platform by incentivizing them to pay for additional services and driving adoption of new and existing payment products, including ad valorem products. Our ability to retain our customers, drive adoption and increase usage could be impaired for a variety of reasons, including our inability to develop and launch new payment products, customer reaction to changes in the pricing of our products, general economic conditions or the other risks described in this Quarterly Report on Form 10-Q. Our ability to sell additional services or increase customer adoption of new or existing products may require more sophisticated and costly sales and marketing efforts, especially for our larger customers. If we are unable to retain existing customers or increase the usage of our platform by them, it would have an adverse effect on our business, revenue, gross margins, and other operating results, and accordingly, on the trading price of our common stock.

While some of our contracts are non-cancelable annual subscription contracts, most of our contracts with customers and accounting firms primarily consist of open-ended arrangements that can be terminated by either party without penalty at any time. Our customers have no obligation to renew their subscriptions to our platform after the expiration of their subscription period. For us to maintain or improve our operating results, it is important that our customers continue to maintain their subscriptions on the same or more favorable terms. We cannot accurately predict renewal or expansion rates given the diversity of our customer base in terms of size, industry, and geography. Our renewal and expansion rates may decline or fluctuate as a result of several factors, including customer spending levels, customer satisfaction with our platform, decreases in the number of users, changes in the type and size of our customers, pricing changes, competitive conditions, the acquisition of

our customers by other companies, and general economic conditions. In addition, our customers, most of which are SMBs, may be particularly vulnerable to changes in general economic conditions, such as economic recessions. If our customers do not renew their subscriptions, or if they reduce their usage of our platform, our revenue and other operating results will decline and our business will suffer. Moreover, if our renewal or expansion rates fall significantly below the expectations of the public market, securities analysts, or investors, the trading price of our common stock would likely decline.

Our Divvy card exposes us to credit risk and other risks related to spending businesses' ability to pay the balances incurred on their Divvy cards. Certain of our other current and future product offerings may also subject us to credit risk.

We offer our Divvy card as a credit product to a wide range of businesses in the U.S., and the success of this product depends on our ability to effectively manage related risks. The credit decision-making process for our Divvy cards uses techniques designed to analyze the credit risk of specific businesses based on, among other factors, their past purchase and transaction history, as well as their credit scores. Similarly, proprietary risk models and other indicators are applied to assess current or prospective spending businesses who desire to use our cards to help predict their ability to repay. These risk models may not accurately predict creditworthiness due to inaccurate assumptions, including assumptions related to the particular spending business, market conditions, economic environment, or limited transaction history or other data, among other factors. The accuracy of these risk models and the ability to manage credit risk related to our cards may also be affected by legal or regulatory requirements, competitors' actions, changes in consumer behavior, changes in the economic environment, policies of Issuing Banks (as defined below), and other factors.

For a substantial majority of extensions of credit to Divvy spending businesses facilitated through our platform, we purchase from our Issuing Banks participation interests in the accounts receivables generated when Divvy spending businesses make purchases using Divvy cards and we bear the entire credit risk in the event that a spending business fails to pay card balances. Like other businesses with significant exposure to losses from credit, we face the risk that spending businesses will default on their payment obligations, creating the risk of potential charge-offs. The non-payment rate among Divvy spending businesses may increase due to, among other factors, changes to underwriting standards, risk models not accurately predicting the creditworthiness of a business, a decline in economic conditions, such as a recession, high inflation or government austerity programs. Spending businesses who miss payments may fail to repay their outstanding statement balances, and spending businesses who file for protection under the bankruptcy laws generally do not repay their outstanding balances. If collection efforts on overdue card balances are ineffective or unsuccessful, we may incur financial losses or lose the confidence of our funding sources. We do not file UCC liens or take other security interests on Divvy card balances, which significantly reduces our ability to collect amounts outstanding to spending businesses that file for bankruptcy protection. Any such losses or failures of our risk models could harm our business, operating results, and financial condition. Non-performance, or even significant underperformance, of the account receivables participation interests that we own could have an adverse effect on our business.

Moreover, the funding model for our Divvy card product relies on a variety of funding arrangements, including warehouse facilities and purchase arrangements, with a variety of funding sources. Any significant underperformance of the participation interests we own may adversely impact our relationship with such funding sources and result in an increase in our cost of financing, a modification or termination of our existing funding arrangements or our ability to procure funding, which would have a material adverse effect on our business, results of operations, financial condition, and future prospects.

Several of our other product offerings in connection with which we advance funds to our customers or vendors of our customers based on credit and risk profiling before we receive the funds on their behalf, such as our Instant Transfer feature, also expose us to credit risks. Although these offerings are only available to customers that satisfy specific credit eligibility criteria, the credit and risk models we use to determine eligibility may be insufficient. Any failure of our credit or risk models to predict creditworthiness would expose us to many of the credit risks described above and could harm our business, operating results, and financial condition.

Our risk management efforts may not be effective to prevent fraudulent activities by our customers, subscribers, spending businesses or their counterparties, which could expose us to material financial losses and liability and otherwise harm our business.

We offer software that digitizes and automates financial operations for a large number of customers and executes payments to their vendors or from their clients. We are responsible for verifying the identity of our customers and their users, and monitoring transactions for fraud. We have been in the past and will continue to be targeted by parties who seek to commit acts of financial fraud using stolen identities and bank accounts, compromised business email accounts, employee or insider fraud, account takeover, false applications, check fraud and stolen cards or card account numbers. We may suffer losses from acts of financial fraud committed by our customers and their users, our employees or third-parties. In addition, our customers or spending businesses may suffer losses from acts of financial fraud by third parties posing as our Company through account takeover, credential harvesting, use of stolen identities and various other techniques, which could harm our reputation or prompt us to reimburse our customers for such losses in order to maintain customer and spending business relationships.

The techniques used to perpetrate fraud on our platform are continually evolving, and we expend considerable resources to continue to monitor and combat them. In addition, when we introduce new products and functionality, or expand existing products, we may not be able to identify all risks created by such new products or functionality. Our risk management policies, procedures, techniques, and processes may not be sufficient to identify all of the risks to which we are exposed, to enable us to prevent or mitigate the risks we have identified, or to identify additional risks to which we may become subject in the future. Our risk management policies, procedures, techniques, and processes may contain errors, or our employees or agents may commit mistakes or errors in judgment as a result of which we may suffer large financial losses. The software-driven and highly automated nature of our platform could enable criminals and those committing fraud to steal significant amounts of money from businesses like ours.

Our current business and anticipated growth will continue to place significant demands on our risk management efforts, and we will need to continue developing and improving our existing risk management infrastructure, policies, procedures, techniques, and processes. As techniques used to perpetrate fraud on our platform evolve, we may need to modify our products or services to mitigate fraud risks. As our business grows and becomes more complex, we may be less able to forecast and carry appropriate reserves in our books for fraud related losses.

Further, these types of fraudulent activities on our platform can also expose us to civil and criminal liability and governmental and regulatory sanctions as well as potentially cause us to be in breach of our contractual obligations to our third-party partners.

A significant portion of our revenue comes from small and medium-sized businesses, which may have fewer financial resources to weather an economic downturn.

A significant portion of our revenue comes from SMBs. These customers may be more susceptible to negative impacts from economic downturns, recession, inflation, changes in foreign currency exchange rates, including the strengthening U.S. dollar, financial market conditions, supply chain shortages, increased fuel prices, the COVID-19 pandemic, and catastrophic events than larger, more established businesses, as SMBs typically have fewer financial resources than larger entities. If any of these conditions occur, as a result of recent or future increases in interest rates in the U.S. or other countries, ongoing inflationary trends, or for any other reason, they may have a disproportionate negative impact on SMBs and as a result the overall demand for our products and services could be materially and adversely affected.

The markets in which we participate are competitive, and if we do not compete effectively, our operating results could be harmed.

The market for cloud-based software that automates the financial back-office is fragmented, competitive, and constantly evolving. Our competitors range from large entities that predominantly focus on enterprise resource planning solutions, to smaller niche suppliers of solutions that focus exclusively on document management, workflow management, accounts payable, accounts receivable, spend and expense management, and/or electronic bill presentment and payment, to companies that offer industry-specific payments solutions. With the introduction of new technologies and market entrants, we expect that the competitive environment will remain intense going forward. Our competitors that currently focus on enterprise solutions may offer products to SMBs that compete with ours. In addition, companies that provide solutions that are adjacent to our products and services may decide to enter our market segment and develop and offer products that compete with ours. Accounting software providers, such as Intuit, as well as the financial

institutions with which we partner, may internally develop products, acquire existing, third-party products, or may enter into partnerships or other strategic relationships that would enable them to expand their product offerings to compete with our platform or provide more comprehensive offerings than they individually had offered or achieve greater economies of scale than us. These software providers and financial institutions may have the operating flexibility to bundle competing solutions with other offerings, including offering them at a lower price or for no additional cost to customers as part of a larger sale. In addition, new entrants not currently considered to be competitors may enter the market through acquisitions, partnerships, or strategic relationships. As we look to market and sell our platform to potential customers, spending business or partners with existing solutions, we must convince their internal stakeholders that our platform is superior to their current solutions.

We compete on several factors, including:

- product features, quality, and functionality;
- data asset size and ability to leverage artificial intelligence to grow faster and smarter;
- ease of deployment;
- ease of integration with leading accounting and banking technology infrastructures;
- ability to automate processes;
- cloud-based delivery architecture;
- advanced security and control features;
- regulatory compliance leadership, as evidenced by money transmitter licenses in all required U.S. and Canadian jurisdictions;
- brand recognition; and
- pricing and total cost of ownership.

Our competitors vary in size, breadth, and scope of the products and services offered. Many of our competitors and potential competitors have greater name recognition, longer operating histories, more established customer relationships, larger marketing budgets, and greater resources than us. Our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards, and customer requirements. For example, an existing competitor or new entrant could introduce new technology that reduces demand for our platform.

In addition, the market for our products and services is competitive, and we expect the market to attract increased competition, which could make it difficult for us to succeed. We currently face competition for our offerings from a range of companies that continue to develop additional products and to become more sophisticated and effective. As a result, our competitors might be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards or customer requirements. Certain competitors have long-standing exclusive, or nearly exclusive, relationships with financial services provider partners to accept payment cards and other services that compete with what we offer. Competing services tied to established brands may engender greater confidence in the safety and efficacy of their services. If we are unable to differentiate ourselves from and successfully compete with our competitors, our business will be materially and adversely affected.

For these reasons, we may not be able to compete successfully against our current or future competitors, and this competition could result in the failure of our platform to continue to achieve or maintain market acceptance, any of which would harm our business, operating results, and financial condition.

We transfer large sums of customer funds daily, and are subject to numerous associated risks which could result in financial losses, damage to our reputation, or loss of trust in our brand, which would harm our business and financial results.

Excluding Divvy spending businesses and Invoice2go subscribers, we had over 170,000 customers on our platform as of September 30, 2022. Excluding the card payment volume by the spending businesses using Divvy cards and payment volume transacted by Invoice2go subscribers, the TPV processed by our customers

on our platform was \$61.6 billion and \$46.9 billion during the three months ended September 30, 2022 and 2021, respectively. For the purposes of measuring our key business metrics, we define customers as entities that are either billed directly by us or for which we bill our partners for BILL products during a particular period. We have grown rapidly and seek to continue to grow, and although we maintain a robust and multi-faceted risk management process, our business is always subject to the risk of financial losses as a result of credit losses, operational errors, software defects, service disruption, employee misconduct, security breaches, or other similar actions or errors on our platform. As a provider of accounts payable, accounts receivable, spend and expense management and payment solutions, we collect and transfer funds on behalf of our customers. Software errors in our platform and operational errors by our employees may also expose us to losses.

Moreover, our trustworthiness and reputation are fundamental to our business. As a provider of cloud-based software for complex back-office financial operations, the occurrence of any credit losses, operational errors, software defects, service disruption, employee misconduct, security breaches, or other similar actions or errors on our platform could result in financial losses to our business and our customers, loss of trust, damage to our reputation, or termination of our agreements with financial institution partners and accountants, each of which could result in:

- loss of customers;
- lost or delayed market acceptance and sales of our platform;
- legal claims against us, including warranty and service level agreement claims;
- regulatory enforcement action; or
- diversion of our resources, including through increased service expenses or financial concessions, and increased insurance costs.

Although our terms of service allocate to our customers the risk of loss resulting from our customers' errors, omissions, employee fraud, or other fraudulent activity related to their systems, in some instances we may cover such losses for efficiency or to prevent damage to our reputation. Although we maintain insurance to cover losses resulting from our errors and omissions, there can be no assurance that our insurance will cover all losses or our coverage will be sufficient to cover our losses. If we suffer significant losses or reputational harm as a result, our business, operating results, and financial condition could be adversely affected.

We, our partners, our customers, and others who use our services obtain and process a large amount of sensitive data. Any real or perceived improper or unauthorized use of, disclosure of, or access to such data could harm our reputation as a trusted brand, as well as have a material adverse effect on our business.

We, our partners, our customers, and the third-party vendors and data centers that we use, obtain and process large amounts of sensitive data, including data related to our customers and their transactions, as well as other data of the counterparties to their payments. We face risks, including to our reputation as a trusted brand, in the handling and protection of this data, and these risks will increase as our business continues to expand to include new products and technologies.

Cybersecurity incidents and malicious internet-based activity continue to increase generally, and providers of cloud-based services have frequently been targeted by such attacks. These cybersecurity challenges, including threats to our own IT infrastructure or those of our customers or third-party providers, may take a variety of forms ranging from stolen bank accounts, business email compromise, customer employee fraud, account takeover, check fraud, or cybersecurity attacks, to "mega breaches" targeted against cloud-based services and other hosted software, which could be initiated by individual or groups of hackers or sophisticated cyber criminals. State-sponsored cybersecurity attacks on the U.S. financial system or U.S. financial service providers could also have a material adverse effect on our business. A cybersecurity incident or breach could result in disclosure of confidential information and intellectual property, or cause production downtimes and compromised data. We have in the past experienced cybersecurity incidents of limited scale. We may be unable to anticipate or prevent techniques used in the future to obtain unauthorized access or to sabotage systems because they change frequently and often are not detected until after an incident has occurred. As we increase our customer base and our brand becomes more widely known and recognized, third

parties may increasingly seek to compromise our security controls or gain unauthorized access to our sensitive corporate information or our customers' data.

We have administrative, technical, and physical security measures in place, and we have policies and procedures in place to contractually require service providers to whom we disclose data to implement and maintain reasonable privacy, data protection, and information security measures. However, if our privacy protection, data protection, or information security measures or those of the previously mentioned third parties are inadequate or are breached as a result of third-party action, employee or contractor error, malfeasance, malware, phishing, hacking attacks, system error, software bugs, or defects in our products, trickery, process failure, or otherwise, and, as a result, there is improper disclosure of, or someone obtains unauthorized access to or exfiltrates funds or sensitive information, including personally identifiable information, on our systems or our partners' systems, or if we suffer a ransomware or advanced persistent threat attack, or if any of the foregoing is reported or perceived to have occurred, our reputation and business could be damaged. Recent high-profile security breaches and related disclosures of sensitive data by large institutions suggest that the risk of such events is significant, even if privacy, data protection, and information security measures are implemented and enforced. If sensitive information is lost or improperly disclosed or threatened to be disclosed, we could incur significant costs associated with remediation and the implementation of additional security measures, and may incur significant liability and financial loss, and be subject to regulatory scrutiny, investigations, proceedings, and penalties.

In addition, our financial institution partners conduct regular audits of our cybersecurity program, and if any of them were to conclude that our systems and procedures are insufficiently rigorous, they could terminate their relationships with us, and our financial results and business could be adversely affected. Under our terms of service and our contracts with certain partners, if there is a breach of payment information that we store, we could be liable to the partner for their losses and related expenses. Additionally, if our own confidential business information were improperly disclosed, our business could be materially and adversely affected. A core aspect of our business is the reliability and security of our platform. Any perceived or actual breach of security, regardless of how it occurs or the extent of the breach, could have a significant impact on our reputation as a trusted brand, cause us to lose existing partners or other customers, prevent us from obtaining new partners and other customers, require us to expend significant funds to remedy problems caused by breaches and implement measures to prevent further breaches, and expose us to legal risk and potential liability including those resulting from governmental or regulatory investigations, class action litigation, and costs associated with remediation, such as fraud monitoring and forensics. Any actual or perceived security breach at a company providing services to us or our customers could have similar effects. Further, as the current COVID-19 pandemic continues to result in a significant number of people working from home, these cybersecurity risks may be heightened by an increased attack surface across our business and those of our partners and service providers. We have heightened monitoring in the face of such risks, but cannot guarantee that our efforts, or the efforts of those upon whom we rely and partner with, will be successful in preventing any such information security incidents.

While we maintain cybersecurity insurance, our insurance may be insufficient or may not cover all liabilities incurred by such attacks. We also cannot be certain that our insurance coverage will be adequate for data handling or data security liabilities actually incurred, that insurance will continue to be available to us on economically reasonable terms, or at all, or that any insurer will not deny coverage as to any future claim. The successful assertion of one or more large claims against us that exceed available insurance coverage, or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co-insurance requirements, could have a material adverse effect on our business, including our financial condition, operating results, and reputation.

Customer funds that we hold for the benefit of our customers are subject to market, interest rate, foreign exchange, and liquidity risks, as well as general political and economic conditions. The loss of these funds could have a material adverse effect on our business, financial condition, and results of operations.

We invest funds that we hold for the benefit of our customers, including funds being remitted to suppliers, in highly liquid, investment-grade marketable securities, money market securities, and other cash equivalents. Nevertheless, our customer fund assets are subject to general market, interest rate, credit, foreign exchange, and liquidity risks. These risks may be exacerbated, individually or in the aggregate, during periods

of heavy financial market volatility such as that experienced in 2008 and 2022, that may result from the COVID-19 or other pandemics, from high inflation, high interest rate or recessionary environments or from war (such as the war in Ukraine). As a result, we could be faced with a severe constriction of the availability of liquidity, which could impact our ability to fulfill our obligations to move customer money to its intended recipient. Additionally, we rely upon certain banking partners and third parties to originate payments, process checks, execute wire transfers, and issue virtual cards, which could be similarly affected by a liquidity shortage and further exacerbate our ability to operate our business. Any loss of or inability to access customer funds could have an adverse impact on our cash position and results of operations, could require us to obtain additional sources of liquidity, and could have a material adverse effect on our business, financial condition, and results of operations. In addition to the risks related to customer funds, we are also exposed to interest-rate risk relating to our investments of our corporate cash.

We are licensed as a money transmitter in all required U.S. states and registered as a Money Services Business with the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN). In certain jurisdictions where we operate, we are required to hold eligible liquid assets, as defined by the relevant regulators in each jurisdiction, equal to at least 100% of the aggregate amount of all customer balances. Our ability to manage and accurately account for the assets underlying our customer funds and comply with applicable liquid asset requirements requires a high level of internal controls. As our business continues to grow and we expand our product offerings, we will need to scale these associated internal controls. Our success requires significant public confidence in our ability to properly manage our customers' balances and handle large and growing transaction volumes and amounts of customer funds. Any failure to maintain the necessary controls or to accurately manage our customer funds and the assets underlying our customer funds in compliance with applicable regulatory requirements could result in reputational harm, lead customers to discontinue or reduce their use of our products, and result in significant penalties and fines, possibly including the loss of our state money transmitter licenses, which would materially harm our business.

Our business depends, in part, on our relationships with accounting firms.

Our relationships with our more than 6,000 firm partners account for approximately 19% of our total customers as of September 30, 2022 and approximately 26% of our consolidated revenue during fiscal 2022. We market and sell our products and services through accounting firms. We also have a partnership with CPA.com to market our products and services to accounting firms, which then enroll their customers directly onto our platform. Although our relationships with accounting firms are independent of one another, if our reputation in the accounting industry more broadly were to suffer, or if we were unable to establish relationships with new accounting firms and grow our relationships with existing accounting firm partners, our growth prospects would weaken and our business, financial position, and operating results may be adversely affected.

Our business depends, in part, on our business relationships with financial institutions.

We enter into partnering relationships with financial institutions pursuant to which they offer our services to their customers. These relationships involve risks that may not be present or that are present to a lesser extent with sales to our direct SMB customers. Launching a product offering with our financial institution partners entails integrating our platform with our partners' websites and apps, which requires significant engineering resources and time to design, deploy and maintain, and requires developing associated sales and marketing strategies and programs. With financial institution partners, the decision to roll out our product offering typically requires several levels of management and technical personnel approval by our partners and is frequently subject to budget constraints. Delays in decision making, unplanned budget constraints or changes in our partners' business, business priorities or internal resource allocations may result in significant delays to the deployment of our platform and its availability to their customers. Significant delays in the deployment of our platform to our partners' customers could cause us to incur significant expenditures for platform integration and product launch without generating anticipated revenue in the same period or at all and could adversely impact our results of operations. In addition, once we have successfully launched a product offering with a financial institution partner, lower than anticipated customer adoption or unanticipated ongoing system integration costs could result in lower than anticipated profit margins, which could have an adverse impact on our business, financial position and operating results. Moreover, if our partners or their customers experience problems with the operation of our platform, such as service outages or interruptions or security breaches or incidents, our relationship with the partner and our reputation could be harmed and our results of operations may suffer.

We may not be able to attract new financial institution partners if our potential partners favor our competitors' products or services over our platform or choose to compete with our products directly. Further, many of our existing financial institution partners have greater resources than we do and could choose to develop their own solutions to replace ours. Moreover, certain financial institutions may elect to focus on other market segments and decide to terminate their SMB-focused services. If we are unsuccessful in establishing, growing, or maintaining our relationships with financial institution partners, our ability to compete in the marketplace or to grow our revenue could be impaired, and our results of operations may suffer.

We are subject to oversight by our financial institution partners and they conduct audits of our operations, information security controls, and compliance controls. To the extent an audit were to identify material gaps or evidence of noncompliance in our operations or controls it could violate contractual terms with the financial institution partner, which could materially and adversely impact our commercial relationships with that partner.

Our spend and expense management products are dependent on our relationship with our Issuing Banks, Cross River Bank and WEX Bank.

The extensions of credit facilitated through our platform are originated through Cross River Bank and WEX Bank, and we rely on these entities (Issuing Banks) to comply with various federal, state and other laws. There has been significant recent U.S. Congressional and federal administrative agency lawmaking and ruling in the area of program agreements between banks and non-banks involving extensions of credit and the regulatory environment in this area remains unsettled. There has also been significant recent government enforcement and litigation challenging the validity of such arrangements, including disputes seeking to re-characterize lending transactions on the basis that the non-bank party rather than the bank is the "true lender" or "de facto lender", and in case law upholding the "valid when made" doctrine, which holds that federal preemption of state interest rate limitations are not applicable in the context of certain bank - non-bank partnership arrangements. If the legal structure underlying our relationship with our Issuing Banks were to be successfully challenged, our extension of credit offerings through these banks may be determined to be in violation of state licensing requirements and other state laws. In addition, Issuing Banks engaged in this activity have been subject to increased regulatory scrutiny recently. Adverse orders or regulatory enforcement actions against our Issuing Banks, even if unrelated to our business, could impose restrictions on our Issuing banks' ability to continue to extend credit through our platform or on current terms.

Cross River Bank and WEX Bank are subject to oversight by the FDIC and state banking regulators and must comply with applicable federal and state banking rules, regulations and examination requirements. As a service provider to Cross River Bank and WEX Bank, we are subject to audit by these banks in accordance with FDIC guidance related to management of service providers and other bank specific requirements pursuant to the terms of our agreements with these banks. We are also subject to the examination and enforcement authority of the FDIC under the Bank Service Company Act and state regulators in our capacity as a service provider for these banks. If we fail to comply with requirements applicable to us by law or contract, or if audits by our Issuing Banks were to conclude that our processes and procedures are insufficient, we may be subject to fines or penalties or our Issuing Banks could terminate their relationships with us.

In the event of a challenge to the legal structure underlying our program agreements with our Issuing Banks or if one or both of our Issuing Banks were to suspend, limit, or cease its operations, or were to otherwise terminate for any reason (including, but not limited to, the failure by an Issuing Bank to comply with regulatory actions), we would need to identify and implement alternative, compliant, bank relationships or otherwise modify our business practices in order to be compliant with prevailing law or regulation, which could result in business interruptions or delays, force us to incur additional expenses and potentially interfere with our existing customer and spending business relationships or make us less attractive to potential new customers and spending businesses, any of which could have a material adverse effect on our business.

We rely on a variety of funding sources to support Divvy's business model. If our existing funding arrangements are not renewed or replaced, or if our existing funding sources are unwilling or unable to provide funding to us on terms acceptable to us, or at all, it could have a material adverse effect on our business, results of operations, financial condition, cash flows, and future prospects.

To support Divvy's business model and the growth of our Divvy business, we must maintain a variety of funding arrangements, including warehouse facilities and purchase arrangements with financial institutions. In

particular, we have financing arrangements in place pursuant to which we purchase from our Issuing Banks participation interests in the accounts receivables generated when Divvy spending businesses make purchases using our cards. We typically fund some portion of these participation interest purchases by borrowing under credit facilities with our finance partners, although we may also fund participation purchases using corporate cash. Typically, we immediately sell a portion of the participation interests we have purchased to a warehousing subsidiary which funds the purchases through loans provided by our financing partners, and we may sell a portion of the participation interests to third-party institution pursuant to a purchase arrangements.

If our finance partners terminate or interrupt their financing or purchase of participation interests or are unable to offer terms which are acceptable to us, we may have to fund these purchases using corporate cash, which we have a limited ability to do and may place significant stress on our cash resources. An inability to purchase participation interests from our Issuing Banks, whether funded through financing or corporate cash, could result in the banks' limiting extensions of credit to Divvy spending businesses or ceasing to extend credit for our cards altogether, which would interrupt or limit our ability to offer our card products and materially and adversely affect our business.

We cannot guarantee that these funding arrangements will continue to be available on favorable terms or at all, and our funding strategy may change over time, depending on the availability of such funding arrangements. In addition, our funding sources may curtail access to uncommitted financing capacity, fail to renew or extend facilities, or impose higher costs to access funding upon reassessing their exposure to our industry or in light of changes to general economic, market, credit or liquidity conditions. In addition, because our borrowings under current and future financing facilities may bear interest based on floating rate interest rates, our interest costs may increase if market interest rates rise. Moreover, there can be no assurances that we would be able to extend or replace our existing funding arrangements at maturity, on reasonable terms or at all.

If our existing funding arrangements are not renewed or replaced or our existing funding sources are unwilling or unable to provide funding to us on terms acceptable to us, or at all, we may need to secure additional sources of funding or reduce Divvy's operations significantly. Further, as the volume of credit facilitated through our platform increases, we may need to expand the funding capacity under our existing funding arrangements or add new sources of capital. The availability and diversity of our funding arrangements depends on various factors and are subject to numerous risks, many of which are outside of our control. If we are unable to maintain access to, or to expand, our network and diversity of funding arrangements, our business, results of operations, financial condition, and future prospects could be materially and adversely affected.

If we do not or cannot maintain the compatibility of our platform with popular accounting software solutions or offerings of our partners, our revenue and growth prospects will decline.

To deliver a comprehensive solution, our platform integrates with popular accounting software solutions including Intuit QuickBooks, Oracle NetSuite, Sage Intacct, Xero, Microsoft Dynamics 365 Business Central and Microsoft Dynamics GP, through application program interfaces (APIs) made available by these software providers. We automatically synchronize certain data between our platform and these accounting software systems relating to invoices and payment transactions between our customers and their suppliers and clients. This two-way sync saves time for our customers by reducing duplicative manual data entry and provides the basis for managing cash-flow through an integrated solution for accounts payable, accounts receivable, spend and expense management and payments.

If any of the accounting software providers change the features of their APIs, discontinue their support of such APIs, restrict our access to their APIs, or alter the terms governing their use in a manner that is adverse to our business, we may be restricted or may not be able to provide synchronization capabilities, which could significantly diminish the value of our platform and harm our business, operating results, and financial condition. In addition, if any of these accounting software providers reconfigure their platforms in a manner that no longer supports our integration with their accounting software we would lose customers and our business would be adversely affected.

If we are unable to increase adoption of our platform with customers of these accounting software solutions our growth prospects may be adversely affected. In addition, any of these accounting software

providers may seek to develop a payment solution of its own, acquire a solution to compete with ours, or decide to partner with other competing applications, any of which its SMB customers may select over ours, thereby harming our growth prospects and reputation and adversely affecting our results of operations.

We depend on third-party service providers to process transactions on our platform and to provide other services important to the operation of our business. Any significant disruption in services provided by these vendors could prevent us from processing transactions on our platform, result in other interruptions to our business and have a material adverse effect on our operations, results of operations and financial condition.

We depend on banks, including JPMorgan Chase and Silicon Valley Bank, to process ACH transactions and checks for our customers. We also rely on third-party providers to support other aspects of our business, including, for example, for card transaction processing, check printing, real-time payments, virtual and physical card issuance and our cross-border funds transfer capabilities. If we are unable to effectively manage our third-party relationships, we are unable to comply with security, compliance or operational obligations to which we are subject under agreements with these providers, these providers are unable to meet their obligations to us, or we experience substantial disruptions in these relationships, our operations, results of operations and financial condition could be adversely impacted. In addition, in some cases a provider may be the sole source, or one of a limited number of sources, of the services they provide to us and we may experience increased costs and difficulties in replacing those providers and replacement services may not be available on commercially reasonable terms, on a timely basis, or at all.

Interruptions or delays in the services provided by AWS or other third-party data centers or internet service providers could impair the delivery of our platform and our business could suffer.

We host our platform using third-party cloud infrastructure services, including co-location facilities at Coresite, Equinix, and Iron Mountain. We also use public cloud hosting with Amazon Web Services (AWS). All of our products utilize resources operated by us through these providers. We therefore depend on our third-party cloud providers' ability to protect their data centers against damage or interruption from natural disasters, power or telecommunications failures, criminal acts, and similar events. Our operations depend on protecting the cloud infrastructure hosted by such providers by maintaining their respective configuration, architecture, and interconnection specifications, as well as the information stored in these virtual data centers and transmitted by third-party internet service providers. We have periodically experienced service disruptions in the past, and we cannot assure you that we will not experience interruptions or delays in our service in the future. We may also incur significant costs for using alternative equipment or taking other actions in preparation for, or in reaction to, events that damage the data storage services we use. Although we have disaster recovery plans that utilize multiple data storage locations, any incident affecting their infrastructure that may be caused by fire, flood, severe storm, earthquake, power loss, telecommunications failures, unauthorized intrusion, computer viruses and disabling devices, natural disasters, military actions, terrorist attacks, negligence, and other similar events beyond our control could negatively affect our platform. Any prolonged service disruption affecting our platform for any of the foregoing reasons could damage our reputation with current and potential customers, expose us to liability, cause us to lose customers, or otherwise harm our business. Also, in the event of damage or interruption, our insurance policies may not adequately compensate us for any losses that we may incur. System failures or outages, including any potential disruptions due to significantly increased global demand on certain cloud-based systems during the COVID-19 pandemic, could compromise our ability to perform these functions in a timely manner, which could harm our ability to conduct business or delay our financial reporting. Such failures could adversely affect our operating results and financial condition.

Our platform is accessed by many customers, often at the same time. As we continue to expand the number of our customers and products available to our customers, we may not be able to scale our technology to accommodate the increased capacity requirements, which may result in interruptions or delays in service. In addition, the failure of data centers, internet service providers, or other third-party service providers to meet our capacity requirements could result in interruptions or delays in access to our platform or impede our ability to grow our business and scale our operations. If our third-party infrastructure service agreements are terminated, or there is a lapse of service, interruption of internet service provider connectivity, or damage to data centers, we could experience interruptions in access to our platform as well as delays and additional expense in arranging new facilities and services.

Moreover, we are in the process of migrating our systems from internal data centers and smaller vendors to AWS. AWS provides us with computing and storage capacity pursuant to an agreement that continues until terminated by either party. We have a limited history of operating on AWS. As we migrate our data from our servers to AWS' servers, we may experience some duplication and incur additional costs. If our data migration is not successful, or if AWS unexpectedly terminates our agreement, we would be forced to incur additional expenses to locate an alternative provider and may experience outages or disruptions to our service. Any service disruption affecting our platform during such migration or while operating on the AWS cloud infrastructure could damage our reputation with current and potential customers, expose us to liability, cause us to lose customers, or otherwise harm our business.

Payments and other financial services-related regulations and oversight are material to our business. Our failure to comply could materially harm our business.

The local, state, and federal laws, rules, regulations, licensing schemes, and industry standards that govern our business include, or may in the future include, those relating to banking, deposit-taking, cross-border and domestic money transmission, foreign exchange, payments services (such as licensed money transmission, payment processing, and settlement services), lending, anti-money laundering, combating terrorist financing, escheatment, international sanctions regimes, and compliance with the Payment Card Industry Data Security Standard, a set of requirements designed to ensure that all companies that process, store, or transmit payment card information maintain a secure environment to protect spending business data. In addition, Divvy is required to maintain loan brokering or servicing licenses in a number of states in which it conducts business and is contractually obligated to comply with Federal Deposit Insurance Corporation (FDIC) federal banking regulations, as well as Visa and MasterCard network rules as a card program manager. These laws, rules, regulations, licensing schemes, and standards are enforced by multiple authorities and governing bodies in the U.S., including the Department of the Treasury, the FDIC, the SEC, self-regulatory organizations, and numerous state and local agencies. As we expand into new jurisdictions, the number of foreign laws, rules, regulations, licensing schemes, and standards governing our business will expand as well. In addition, as our business and products continue to develop and expand, we may become subject to additional laws, rules, regulations, licensing schemes, and standards. We may not always be able to accurately predict the scope or applicability of certain laws, rules, regulations, licensing schemes, or standards to our business, particularly as we expand into new areas of operations, which could have a significant negative effect on our existing business and our ability to pursue future plans.

Our subsidiary, Bill.com, LLC, maintains licenses, as applicable, to operate as a money transmitter (or its equivalent) in the U.S., in the District of Columbia, the Commonwealth of Puerto Rico, and, to the best of our knowledge, in all the states where such licensure or registration is required for our business. In addition, our subsidiary, Bill.com Canada, LLC is a Foreign Money Services Business in Canada and the regulations applicable to our activity in Canada are enforced by FINTRAC and Quebec's Autorité Des Marchés Financiers (Financial Markets Authority). As a licensed money transmitter in the U.S., we are subject to obligations and restrictions with respect to the investment of customer funds, reporting requirements, bonding requirements, minimum capital requirements, and examinations by state and federal regulatory agencies concerning various aspects of our business. As a licensed Foreign Money Services business in Canada, we are subject to Canadian compliance regulations applicable to money movement and sanctions requirements.

Evaluation of our compliance efforts in the U.S. and Canada, as well as questions as to whether and to what extent our products and services are considered money transmission, are matters of regulatory interpretation and could change over time. In the past, we have been subject to fines and other penalties by regulatory authorities for violations of state money transmission laws. Regulators and third-party auditors have also identified gaps in our anti-money laundering and sanctions program, which we have addressed through remediation processes. In the future, as a result of the regulations applicable to our business, we could be subject to investigations and resulting liability, including governmental fines, restrictions on our business, or other sanctions, and we could be forced to cease conducting certain aspects of our business with residents of certain jurisdictions, be forced to change our business practices in certain jurisdictions, or be required to obtain additional licenses or regulatory approvals. There can be no assurance that we will be able to obtain or maintain any such licenses, and, even if we were able to do so, there could be substantial costs and potential product changes involved in maintaining such licenses, which could have a material and adverse effect on our business. In addition, there are substantial costs and potential product changes involved in maintaining and renewing such licenses, certifications, and approvals, and we could be subject to fines or other enforcement action if we

are found to violate disclosure, reporting, anti-money laundering, capitalization, corporate governance, or other requirements of such licenses. These factors could impose substantial additional costs, involve considerable delay to the development or provision of our products or services, require significant and costly operational changes, or prevent us from providing our products or services in any given market.

Government agencies may impose new or additional rules on money transmission, including regulations that:

- prohibit, restrict, and/or impose taxes or fees on money transmission transactions in, to or from certain countries or with certain governments, individuals, and entities;
- impose additional customer and spending business identification and customer or spending business due diligence requirements;
- impose additional reporting or recordkeeping requirements, or require enhanced transaction monitoring;
- limit the types of entities capable of providing money transmission services, or impose additional licensing or registration requirements;
- impose minimum capital or other financial requirements;
- limit or restrict the revenue that may be generated from money transmission, including revenue from interest earned on customer funds, transaction fees, and revenue derived from foreign exchange;
- require enhanced disclosures to our money transmission customers;
- require the principal amount of money transmission originated in a country to be invested in that country or held in trust until paid;
- limit the number or principal amount of money transmission transactions that may be sent to or from a jurisdiction, whether by an individual or in the aggregate; and
- restrict or limit our ability to process transactions using centralized databases, for example, by requiring that transactions be processed using a database maintained in a particular country or region.

Our business and operations have and may continue to be affected by the global outbreak of the COVID-19 pandemic.

Our business and operations have been and may continue to be affected by the COVID-19 pandemic and variants thereof. For so long as the COVID-19 pandemic persists, responsive restrictions and policies implemented by governments and companies may continue to have negative implications on business and consumer spending, the supply chain, production of goods and transportation, the labor market, global capital markets and the global economy, and could result in a prolonged economic downturn. To the extent that these conditions adversely impact the operations and business of our customers, it may have a material adverse impact on our customer growth, payment and transaction volumes, revenues and financial condition. Even after the COVID-19 pandemic has subsided, we may experience material and adverse impacts to our business as a result of any resulting economic downturns, including bankruptcies or insolvencies of customers. To the extent the COVID-19 pandemic adversely affects our business and financial results, it may also have the effect of heightening many of the other risks described in this “Risk Factors” section.

We operate in an emerging and evolving market, which may develop more slowly or differently than we expect. If our market does not grow as we expect, or if we cannot expand our platform to meet the demands of this market, our revenue may decline or fail to grow, and we may incur additional operating losses.

Our primary competition remains the legacy manual processes that SMBs have relied on for generations. Our success will depend, to a substantial extent, on the widespread adoption of our cloud-based automated back-office solution as an alternative to existing solutions or adoption by customers that are not using any such solutions at all. Some organizations may be reluctant or unwilling to use our platform for several reasons, including concerns about additional costs, uncertainty regarding the reliability and security of cloud-based offerings, or lack of awareness of the benefits of our platform. Our ability to expand sales of our platform depends on several factors, including prospective customers' awareness of our platform, the timely completion, introduction, and market acceptance of enhancements to our platform or new products that we may introduce, the effectiveness of our marketing programs, the costs of our platform, and the success of our competitors. If we are unsuccessful in developing and marketing our platform, or if organizations do not perceive or value the benefits of our platform as an alternative to legacy systems, the market for our platform may not continue to develop or may develop more slowly than we expect, either of which would harm our growth prospects and operating results.

If we lose our founder or key members of our management team or are unable to attract and retain executives and employees we need to support our operations and growth, our business may be harmed.

Our success and future growth depend upon the continued services of our management team and other key employees. Our founder and Chief Executive Officer, René Lacerte, is critical to our overall management, as well as the continued development of our products, our partnerships, our culture, our relationships with accounting firms, and our strategy. From time to time, there may be changes in our management team resulting from the hiring or departure of executives and key employees, which could disrupt our business. In addition, we may face challenges retaining senior management of acquired businesses. Our senior management and key employees are employed on an at-will basis. We currently do not have "key person" insurance for any of our employees. Certain of our key employees have been with us for a long period of time and have fully vested stock options or other long-term equity incentives that may become valuable and are publicly tradable now that we are a public company. The loss of our founder, or one or more of our senior management, key members of senior management of acquired companies or other key employees could harm our business, and we may not be able to find adequate replacements. We cannot ensure that we will be able to retain the services of any members of our senior management or other key employees or that we would be able to timely replace members of our senior management or other key employees should any of them depart.

In addition, to execute our business strategy, we must attract and retain highly-qualified personnel. We compete with many other companies for software developers with high levels of experience in designing, developing, and managing cloud-based software and payments systems, as well as for skilled legal and compliance and risk operations professionals. Competition for software developers, compliance and risk management personnel and other key employees in our industry and locations is intense and increasing and may be exacerbated in tight labor markets. We may also face increased competition for personnel from other companies which adopt approaches to remote work that differ from ours. In addition, the current regulatory environment related to immigration is uncertain, including with respect to the availability of H1-B and other visas. If a new or revised visa program is implemented, it may impact our ability to recruit, hire, retain or effectively collaborate with qualified skilled personnel, including in the areas of artificial intelligence and machine learning, and payment systems and risk management, which could adversely impact our business, operating results and financial condition. Many of the companies with which we compete for experienced personnel have greater resources than we do and can frequently offer such personnel substantially greater compensation than we can offer. If we fail to identify, attract, develop and integrate new personnel, or fail to retain and motivate our current personnel, our growth prospects would be adversely affected.

Future acquisitions, strategic investments, partnerships, collaborations, or alliances could be difficult to identify and integrate, divert the attention of management, disrupt our business, dilute stockholder value, and adversely affect our operating results and financial condition.

We have in the past and may in the future seek to acquire or invest in businesses, products, or technologies that we believe could complement or expand our platform, enhance our technical capabilities, or otherwise offer growth opportunities. However, we have limited experience in acquiring other businesses, and we may not successfully identify desirable acquisition targets. Moreover, an acquisition, investment, or business relationship may not further our business strategy or result in the economic benefits or synergies as expected or

may result in unforeseen operating difficulties and expenditures, including disrupting our ongoing operations, diverting management from their primary responsibilities, subjecting us to additional liabilities, increasing our expenses, and adversely impacting our business, financial condition, and operating results.

In addition, the technology and information security systems and infrastructure of businesses we acquire may be underdeveloped or subject to vulnerabilities, subjecting us to additional liabilities. We could incur significant costs related to the implementation of enhancements to or the scaling of information security systems and infrastructure of acquired businesses and related to the remediation of any related security breaches. If security, data protection and information security measures in place at businesses we acquire are inadequate or breached, or are subject to cybersecurity attacks, or if any of the foregoing is reported or perceived to have occurred, our reputation and business could be damaged and we could be subject to regulatory scrutiny, investigations, proceedings, and penalties. We may also acquire businesses whose operations may not be fully compliant with all applicable law, including economic and trade sanctions and anti-money laundering, counter-terrorist financing and privacy laws, subjecting us to potential liabilities and requiring us to spend considerable time, effort, and resources to address.

Moreover, we may acquire businesses whose management or compliance functions require significant investments to support current and anticipated future product offerings, or that have underdeveloped internal control infrastructures or procedures or with respect to which we discover significant deficiencies or material weaknesses. The costs that we may incur to implement or improve such functions, controls and procedures may be substantial and we could encounter unexpected delays and challenges related to such activity.

Given the complexity of our platform and the integration that we offer to our accounting firm customers and financial institution partners, it may be critical that certain businesses or technologies that we acquire be successfully and fully integrated into our platform. In addition, some acquisitions may require us to spend considerable time, effort, and resources to integrate employees from the acquired business into our teams, and acquisitions of companies in lines of business in which we lack expertise may require considerable management time, oversight, and research before we see the desired benefit of such acquisitions. Therefore, we may be exposed to unknown liabilities and the anticipated benefits of any acquisition, investment, or business relationship may not be realized, if, for example, we fail to successfully integrate such acquisitions, or the technologies associated with such acquisitions, into our company. The challenges and costs of integrating and achieving anticipated synergies and benefits of transactions, and the risk that the anticipated benefits of the proposed transaction may not be fully realized or take longer to realize than expected, may be compounded where we attempt to integrate multiple acquired businesses within similar timeframes, as is the case with the concurrent integration efforts related to our acquisitions of the Divvy and Invoice2go businesses.

Acquisitions could also result in dilutive issuances of equity securities or the incurrence of debt, as well as unfavorable accounting treatment and exposure to claims and disputes by third parties, including intellectual property claims. We also may not generate sufficient financial returns to offset the costs and expenses related to any acquisitions. In addition, if an acquired business fails to meet our expectations, our business, operating results, and financial condition may suffer.

If we fail to offer high-quality customer support, or if our support is more expensive than anticipated, our business and reputation could suffer.

Our customers rely on our customer support services to resolve issues and realize the full benefits provided by our platform. High-quality support is also important for the renewal and expansion of our subscriptions with existing customers. We provide customer support via chat email, and phone. If we do not help our customers quickly resolve issues and provide effective ongoing support, or if our support personnel or methods of providing support are insufficient to meet the needs of our customers, our ability to retain customers, increase adoption by our existing customers, and acquire new customers could suffer, and our reputation with existing or potential customers could be harmed. If we are not able to meet the customer support needs of our customers during the hours that we currently provide support, we may need to increase our support coverage or provide additional support, which may reduce our profitability.

If we fail to adapt and respond effectively to rapidly changing technology, evolving industry standards, changing regulations, and changing business needs, requirements, or preferences, our products may become less competitive.

The market for SMB software financial back-office solutions is relatively new and subject to ongoing technological change, evolving industry standards, payment methods and changing regulations, and changing customer needs, requirements, and preferences. The success of our business will depend, in part, on our ability to adapt and respond effectively to these changes on a timely basis, including launching new products and services. In addition, the market for our Divvy spend and expense management solution is new and fragmented, and it is uncertain whether we will achieve and sustain high levels of demand and market adoption. The success of any new product and service, or any enhancements or modifications to existing products and services, depends on several factors, including the timely completion, introduction, and market acceptance of such products and services, enhancements, and modifications. If we are unable to enhance our platform, add new payment methods, or develop new products that keep pace with technological and regulatory change and achieve market acceptance, or if new technologies emerge that are able to deliver competitive products and services at lower prices, more efficiently, more conveniently, or more securely than our products, our business, operating results, and financial condition would be adversely affected. Furthermore, modifications to our existing platform or technology will increase our research and development expenses. Any failure of our services to operate effectively with existing or future network platforms and technologies could reduce the demand for our services, result in customer or spending business dissatisfaction and adversely affect our business.

If the prices we charge for our services are unacceptable to our customers, our operating results will be harmed.

We generate revenue by charging customers a fixed monthly rate per user for subscriptions as well as transaction fees. As the market for our platform matures, or as new or existing competitors introduce new products or services that compete with ours, we may experience pricing pressure and be unable to renew our agreements with existing customers or attract new customers at prices that are consistent with our pricing model and operating budget. Our pricing strategy for new products we introduce, including our virtual card and cross-border payment products, may prove to be unappealing to our customers, and our competitors could choose to bundle certain products and services competitive with ours. If this were to occur, it is possible that we would have to change our pricing strategies or reduce our prices, which could harm our revenue, gross profits, and operating results.

We typically provide service level commitments under our financial institution partner agreements. If we fail to meet these contractual commitments, we could be obligated to provide credits or refunds for prepaid amounts related to unused subscription services or face contract terminations, which could adversely affect our revenue.

Our agreements with our financial institution partners typically contain service level commitments evaluated on a monthly basis. If we are unable to meet the stated service level commitments or suffer extended periods of unavailability for our platform, we may be contractually obligated to provide these partners with service credits, up to 10% of the partner's subscription fees for the month in which the service level was not met. In addition, we could face contract terminations, in which case we would be subject to refunds for prepaid amounts related to unused subscription services. Our revenue could be significantly affected if we suffer unexcused downtime under our agreements with our partners. Further, any extended service outages could adversely affect our reputation, revenue, and operating results.

We may not be able to scale our business quickly enough to meet our customers' growing needs, and if we are not able to grow efficiently, our operating results could be harmed.

As usage of our platform grows and we sign additional partners, we will need to devote additional resources to improving and maintaining our infrastructure and computer network and integrating with third-party applications to maintain the performance of our platform. In addition, we will need to appropriately scale our internal business systems and our services organization, including customer support, risk and compliance operations, and professional services, to serve our growing customer base.

Any failure of or delay in these efforts could result in service interruptions, impaired system performance, and reduced customer satisfaction, resulting in decreased sales to new customers, lower subscription renewal rates by existing customers, the issuance of service credits, or requested refunds, all of which could hurt our revenue growth. If sustained or repeated, these performance issues could reduce the attractiveness of our platform to customers and could result in lost customer opportunities and lower renewal rates, any of which could hurt our revenue growth, customer loyalty, and our reputation. Even if we are successful in these efforts to scale our business, they will be expensive and complex, and require the dedication of significant management time and attention. We could also face inefficiencies or service disruptions as a result of our efforts to scale our internal infrastructure. We cannot be sure that the expansion and improvements to our internal infrastructure will be effectively implemented on a timely basis, if at all, and such failures could adversely affect our business, operating results, and financial condition.

Failure to effectively develop and expand our sales and marketing capabilities could harm our ability to increase our customer base and achieve broader market acceptance of our products.

Our ability to increase our customer base and achieve broader market acceptance of our platform will depend to a significant extent on our ability to expand our sales and marketing organizations, and to deploy our sales and marketing resources efficiently. Although we will adjust our sales and marketing spend levels as needed in response to changes in the economic environment, we plan to continue expanding our direct-to-SMB sales force as well as our sales force focused on identifying new partnership opportunities. We also dedicate significant resources to sales and marketing programs, including digital advertising through services such as Google AdWords. The effectiveness and cost of our online advertising has varied over time and may vary in the future due to competition for key search terms, changes in search engine use, and changes in the search algorithms used by major search engines. These efforts will require us to invest significant financial and other resources.

In addition, our ability to broaden the spending business base for our Divvy spend and expense management offerings and achieve broader market acceptance of these products will depend to a significant extent on the ability of our sales and marketing organizations to work together to drive our sales pipeline and cultivate spending business and partner relationships to drive revenue growth. If we are unable to recruit, hire, develop, and retain talented sales or marketing personnel, if our new sales or marketing personnel and partners are unable to achieve desired productivity levels in a reasonable period of time, or if our sales and marketing programs are not effective, our ability to broaden our spending business base and achieve broader market acceptance of our platform could be harmed. Moreover, our Divvy marketing efforts depend significantly on our ability to call on our current spending businesses to provide positive references to new, potential spending business customers. Given our limited number of long-term spending businesses, the loss or dissatisfaction of any spending business could substantially harm our brand and reputation, inhibit the market adoption of our offering and impair our ability to attract new spending businesses and maintain existing spending businesses.

Our business and operating results will be harmed if our sales and marketing efforts do not generate significant increases in revenue. We may not achieve anticipated revenue growth from expanding our sales force if we are unable to hire, develop, integrate, and retain talented and effective sales personnel, if our new and existing sales personnel are unable to achieve desired productivity levels in a reasonable period of time, or if our sales and marketing programs and advertising are not effective.

We are subject to governmental regulation and other legal obligations, particularly those related to privacy, data protection, and information security, and our actual or perceived failure to comply with such obligations could harm our business, by resulting in litigation, fines, penalties, or adverse publicity and reputational damage that may negatively affect the value of our business and decrease the price of our common stock. Compliance with such laws could also result in additional costs and liabilities to us or inhibit sales of our products.

Our customers, their suppliers, and other users store personal and business information, financial information and other sensitive information on our platform. In addition, we receive, store, and process personal and business information and other data from and about actual and prospective customers and users, in addition to our employees and service providers. Our handling of data is subject to a variety of laws and regulations, including regulation by various government agencies, such as the U.S. Federal Trade Commission

(FTC), and various state, local, and foreign agencies. Our data handling also is subject to contractual obligations and industry standards.

The U.S. federal and various state and foreign governments have adopted or proposed limitations on the collection, distribution, use, and storage of data relating to individuals and businesses, including the use of contact information and other data for marketing, advertising, and other communications with individuals and businesses. In the U.S., various laws and regulations apply to the collection, processing, disclosure, and security of certain types of data, including the Gramm Leach Bliley Act and state laws relating to privacy and data security. Additionally, the FTC and many state attorneys general are interpreting federal and state consumer protection laws as imposing standards for the online collection, use, dissemination, and security of data. For example, in June 2018, California enacted the California Consumer Privacy Act (CCPA), which became operative on January 1, 2020 and broadly defines personal information, gives California residents expanded privacy rights and protections, and provides for civil penalties for violations and a private right of action for data breaches. The CCPA was amended several times after its enactment, most recently by the California Privacy Rights Act (CPRA) which, as of its effective date of January 1, 2023, gives California residents expanded privacy rights, including the right to opt out of certain personal information sharing, the use of “sensitive personal information,” and the use of personal information for automated decision-making or targeted advertising. The CCPA and CPRA provide for civil penalties and a private right of action for data breaches that is expected to increase data breach litigation. Many aspects of the CCPA, the CPRA, and their interpretation remain unclear, and their full impact on our business and operations remains uncertain. Following the lead of California, several other states, including Colorado, Utah, Virginia and Connecticut have each enacted laws similar to the CCPA/CPRA and other states are considering enacting privacy laws as well. Accordingly, the laws and regulations relating to privacy, data protection, and information security are evolving, can be subject to significant change, and may result in ever-increasing regulatory and public scrutiny and escalating levels of enforcement and sanctions.

In addition, several foreign countries and governmental bodies, including the European Union (EU) and the United Kingdom (UK), have laws and regulations dealing with the handling and processing of personal information obtained from their residents, which in certain cases are more restrictive than those in the U.S. Laws and regulations in these jurisdictions apply broadly to the collection, use, storage, disclosure, and security of various types of data, including data that identifies or may be used to identify an individual, such as names, email addresses, and in some jurisdictions, Internet Protocol (IP) addresses. Our current and prospective service offerings subject us to the EU’s General Data Protection Regulation (GDPR), the UK GDPR, Australian and Canadian privacy laws and the privacy laws of many other foreign jurisdictions. Such laws and regulations may be modified or subject to new or different interpretations, and new laws and regulations may be enacted in the future.

For example, the GDPR and the UK GDPR impose stringent operational requirements for controllers and processors of personal data of individuals within the European Economic Area and the UK, respectively, and non-compliance can trigger robust regulatory enforcement and fines of up to the greater of €20 million or 4% of the annual global revenues. Among other requirements, these laws regulate transfers of personal data to third countries that have not been found to provide adequate protection to such personal data, including the United States. The efficacy and longevity of current transfer mechanisms between the EU or the UK and the United States remains uncertain. Violations of the GDPR or the UK GDPR may also lead to damages claims by data controllers and data subjects, in addition to civil litigation claims by data controllers, customers, and data subjects.

The scope and interpretation of the laws that are or may be applicable to us are often uncertain and may be conflicting, as a result of the rapidly evolving regulatory framework for privacy issues worldwide. For example, laws relating to the liability of providers of online services for activities of their users and other third parties are currently being tested by a number of claims, including actions based on invasion of privacy and other torts, unfair competition, copyright and trademark infringement, and other theories based on the nature and content of the materials searched, the ads posted, or the content provided by users. As a result of the laws that are or may be applicable to us, and due to the sensitive nature of the information we collect, we have implemented policies and procedures to preserve and protect our data and our customers’ data against loss, misuse, corruption, misappropriation caused by systems failures, or unauthorized access. If our policies, procedures, or measures relating to privacy, data protection, information security, marketing, or customer communications fail to comply with laws, regulations, policies, legal obligations, or industry standards, we may be subject to governmental enforcement actions, litigation, regulatory investigations, fines, penalties, and negative publicity, and it could cause our application providers, customers, and partners to lose trust in us, and have an adverse effect on our business, operating results, and financial condition.

In addition to government regulation, privacy advocates and industry groups may propose new and different self-regulatory standards that may apply to us. Because the interpretation and application of privacy, data protection and information security laws, regulations, rules, and other standards are still uncertain, it is possible that these laws, rules, regulations, and other actual or alleged legal obligations, such as contractual or self-regulatory obligations, may be interpreted and applied in a manner that is inconsistent with our existing data management practices or the functionality of our platform. If so, in addition to the possibility of fines, lawsuits, and other claims, we could be required to fundamentally change our business activities and practices or modify our software, which could have an adverse effect on our business.

Any failure or perceived failure by us to comply with laws, regulations, policies, legal, or contractual obligations, industry standards, or regulatory guidance relating to privacy, data protection, or information security, may result in governmental investigations and enforcement actions, litigation, fines and penalties, or adverse publicity, and could cause our customers and partners to lose trust in us, which could have an adverse effect on our reputation and business. We expect that there will continue to be new proposed laws, regulations, and industry standards relating to privacy, data protection, information security, marketing, and consumer communications, and we cannot determine the impact such future laws, regulations, and standards may have on our business. Future laws, regulations, standards, and other obligations or any changed interpretation of existing laws or regulations could impair our ability to develop and market new functionality and maintain and grow our customer base and increase revenue. Future restrictions on the collection, use, sharing, or disclosure of data, or additional requirements for express or implied consent of our customers, partners, or end users for the use and disclosure of such information could require us to incur additional costs or modify our platform, possibly in a material manner, and could limit our ability to develop new functionality.

If we are not able to comply with these laws or regulations, or if we become liable under these laws or regulations, our business, financial condition or reputation could be harmed, and we may be forced to implement new measures to reduce our exposure to this liability. This may require us to expend substantial resources or to discontinue certain products, which would negatively affect our business, financial condition, and operating results. In addition, the increased attention focused upon liability issues as a result of lawsuits and legislative proposals could harm our reputation or otherwise adversely affect the growth of our business. Furthermore, any costs incurred as a result of this potential liability could harm our operating results.

We currently handle cross-border payments and plan to expand our payments offerings to new customers and to make payments to new countries, creating a variety of operational challenges.

A component of our growth strategy involves our cross-border payments product and, ultimately, expanding our operations internationally. Although we do not currently offer our payments products to customers outside the U.S., starting in 2018, we introduced cross-border payments, and now, working with two international payment services, offer our U.S.-based customers the ability to disburse funds to over 130 countries. We are continuing to adapt to and develop strategies to address payments to new countries. However, there is no guarantee that such efforts will have the desired effect.

Our cross-border payments product and international expansion strategy involve a variety of risks, including:

- complying with financial regulations and our ability to comply and obtain any relevant licenses in applicable countries or jurisdictions;
- currency exchange rate fluctuations and our cross-border payments providers' ability to provide us favorable currency exchange rates, which may impact our revenues and expenses;
- reduction or cessation in cross-border trade resulting from government sanctions, trade tariffs or restrictions, other trade regulations or strained international relations;
- potential application of more stringent regulations relating to privacy, information protection, and data security, and the authorized use of, or access to, commercial and personal information;
- sanctions imposed by applicable government authorities or jurisdictions, such as the U.S. Office of Foreign Assets Control, or comparable authorities in other countries;

- exposure to liabilities under anti-corruption and anti-money laundering laws, including the U.S. Foreign Corrupt Practices Act (FCPA), U.S. bribery laws, the UK Bribery Act, and similar laws and regulations in other jurisdictions;
- unexpected changes in tax laws; and
- cessation of business of a cross-border payment service provider or other limitation or inability of a cross-border payment service provider to make payments into certain countries, including for the reasons set forth above.

If we invest substantial time and resources to further expand our cross-border payments offering and are unable to do so successfully and in a timely manner, our business and operating results may suffer.

Our card payment products generate interchange revenues which exposes us to potential variability in income and other risks.

Our card payment products, including our Divvy card and our virtual card payment products, generate revenues primarily from interchange paid by the supplier accepting the cards for purchase transactions, which involve a variety of risks, including:

- interchange income fluctuations due to the variability of card acceptance practices at supplier locations, and the resulting effect on our revenue;
- changes in card network interchange rates or rules which could dissuade new and existing card-accepting suppliers from continuing to accept card payments;
- unexpected compliance and risk management imposed by the card networks;
- declines in the number of active card-accepting suppliers due to concerns about cost or operational complexity; and
- unexpected changes in card acceptance or card issuing rules which may impact our ability to offer this payment product.

Any of these developments could adversely affect our operating results.

We use open source software in our products, which could subject us to litigation or other actions.

We use open source software in our products. From time to time, there have been claims challenging the ownership of open source software against companies that incorporate it into their products. As a result, we could be subject to lawsuits by parties claiming ownership of what we believe to be open source software. Litigation could be costly for us to defend, have a negative effect on our operating results and financial condition, or require us to devote additional research and development resources to change our products. In addition, if we were to combine our proprietary software products with open source software in a certain manner under certain open source licenses, we could be required to release the source code of our proprietary software products. If we inappropriately use or incorporate open source software subject to certain types of open source licenses that challenge the proprietary nature of our products, we may be required to re-engineer such products, discontinue the sale of such products, or take other remedial actions.

If we fail to maintain and enhance our brands, our ability to expand our customer base will be impaired and our business, operating results, and financial condition may suffer.

We believe that maintaining and enhancing our brands are important to support the marketing and sale of our existing and future products to new customers and partners and to expand sales of our platforms to new and existing customers and partners. Our ability to protect our BILL brand is limited as a result of its descriptive nature. Successfully maintaining and enhancing our brands will depend largely on the effectiveness of our marketing and demand generation efforts, our ability to provide reliable products that continue to meet the needs of our customers at competitive prices, our ability to maintain our customers' trust, our ability to continue to develop new functionality and products, and our ability to successfully differentiate our platform and products

from competitive products and services. Our brand promotion activities may not generate customer awareness or yield increased revenue, and even if they do, any increased revenue may not offset the expenses we incur in building our brand. If we fail to successfully promote and maintain our brands, our business could suffer.

If we fail to adequately protect our proprietary rights, our competitive position could be impaired and we may lose valuable assets, generate less revenue and incur costly litigation to protect our rights.

Our success is dependent, in part, upon protecting our proprietary technology. We rely on a combination of patents, copyrights, trademarks, service marks, trade secret laws, and contractual provisions to establish and protect our proprietary rights. However, the steps we take to protect our intellectual property may be inadequate. While we have been issued patents in the U.S. and have additional patent applications pending, we may be unable to obtain patent protection for the technology covered in our patent applications. In addition, any patents issued in the future may not provide us with competitive advantages or may be successfully challenged by third parties. Any of our patents, trademarks, or other intellectual property rights may be challenged or circumvented by others or invalidated through administrative process or litigation. There can be no guarantee that others will not independently develop similar products, duplicate any of our products, or design around our patents. Furthermore, legal standards relating to the validity, enforceability, and scope of protection of intellectual property rights are uncertain. Despite our precautions, it may be possible for unauthorized third parties to copy our products and use information that we regard as proprietary to create products and services that compete with ours.

We have been in the past, and may in the future be, subject to intellectual property disputes, which are costly and may subject us to significant liability and increased costs of doing business.

We have been in the past and may in the future become subject to intellectual property disputes. Lawsuits are time-consuming and expensive to resolve and they divert management's time and attention. Although we carry insurance, our insurance may not cover potential claims of this type or may not be adequate to indemnify us for all liability that may be imposed. We cannot predict the outcome of lawsuits and cannot assure you that the results of any such actions will not have an adverse effect on our business, operating results, or financial condition.

The software industry is characterized by the existence of many patents, copyrights, trademarks, trade secrets, and other intellectual and proprietary rights. Companies in the software industry are often required to defend against litigation claims based on allegations of infringement or other violations of intellectual property rights. Our technologies may not be able to withstand any third-party claims against their use. In addition, many companies have the capability to dedicate substantially greater resources to enforce their intellectual property rights and to defend claims that may be brought against them. Any litigation may also involve patent holding companies or other adverse patent owners that have no relevant product revenue, and therefore, our patents may provide little or no deterrence as we would not be able to assert them against such entities or individuals. If a third party is able to obtain an injunction preventing us from accessing such third-party intellectual property rights, or if we cannot license or develop alternative technology for any infringing aspect of our business, we would be forced to limit or stop sales of our software or cease business activities related to such intellectual property. Any inability to license third-party technology in the future would have an adverse effect on our business or operating results and would adversely affect our ability to compete. We may also be contractually obligated to indemnify our customers in the event of infringement of a third party's intellectual property rights. Responding to such claims, regardless of their merit, can be time consuming, costly to defend, and damaging to our reputation and brand.

Indemnity provisions in various agreements potentially expose us to substantial liability for intellectual property infringement, data protection, and other losses.

Our agreements with financial institution partners and some larger customers include indemnification provisions under which we agree to indemnify them for losses suffered or incurred as a result of claims of intellectual property infringement, data protection, damages caused by us to property or persons, or other liabilities relating to or arising from our platform or other contractual obligations. Some of these indemnity agreements provide for uncapped liability and some indemnity provisions survive termination or expiration of the applicable agreement. Large indemnity payments could harm our business, operating results, and financial condition. Although we normally limit our liability with respect to such obligations in our contracts with direct

customers and with customers acquired through our accounting firm partners, we may still incur substantial liability, and we may be required to cease use of certain functions of our platform or products, as a result of intellectual property-related claims. Any dispute with a customer with respect to these obligations could have adverse effects on our relationship with that customer and other existing or new customers, and harm our business and operating results. In addition, although we carry insurance, our insurance may not be adequate to indemnify us for all liability that may be imposed, or otherwise protect us from liabilities or damages with respect to claims alleging compromises of customer data, and any such coverage may not continue to be available to us on acceptable terms or at all.

Changes to payment card networks rules or fees could harm our business.

We are required to comply with Mastercard, American Express, and Visa payment card network operating rules applicable to our card products. We have agreed to reimburse certain service providers for any fines they are assessed by payment card networks as a result of any rule violations by us. We may also be directly liable to the payment card networks for rule violations. The payment card networks set and interpret the card operating rules. The payment card networks could adopt new operating rules or interpret or reinterpret existing rules that we or our processors might find difficult or even impossible to follow, or costly to implement. We also may seek to introduce other card-related products in the future, which would entail compliance with additional operating rules. As a result of any violations of rules, new rules being implemented, or increased fees, we could be hindered or lose our ability to provide our card products, which would adversely affect our business. In addition, we are contractually obligated to comply with MasterCard and Visa network rules as a card program manager. As a result of any violations of these rules or new rules being implemented, we could lose our ability or rights to act as a card program manager.

Our business is subject to extensive government regulation and oversight. Our failure to comply with extensive, complex, overlapping, and frequently changing rules, regulations, and legal interpretations could materially harm our business.

Our success and increased visibility may result in increased regulatory oversight and enforcement and more restrictive rules and regulations that apply to our business. We are subject to a wide variety of local, state, federal, and international laws, rules, regulations, licensing schemes, and industry standards in the U.S. and in other countries in which we operate and in many of the approximately 150 countries in which Invoice2go has subscribers. These laws, rules, regulations, licensing schemes, and standards govern numerous areas that are important to our business. In addition to the payments and financial services-related regulations, and the privacy, data protection, and information security-related laws described elsewhere, our business is also subject to, without limitation, rules and regulations applicable to: securities, labor and employment, immigration, competition, and marketing and communications practices. Laws, rules, regulations, licensing schemes, and standards applicable to our business are subject to change and evolving interpretations and application, including by means of legislative changes and/or executive orders, and it can be difficult to predict how they may be applied to our business and the way we conduct our operations, particularly as we introduce new products and services and expand into new jurisdictions. We may not be able to respond quickly or effectively to regulatory, legislative, and other developments, and these changes may in turn impair our ability to offer our existing or planned features, products, and services and/or increase our cost of doing business.

Although we have a compliance program focused on the laws, rules, regulations, licensing schemes, and industry standards that we have assessed as applicable to our business and we are continually investing more in this program, there can be no assurance that our employees or contractors will not violate such laws, rules, regulations, licensing schemes, and industry standards. Any failure or perceived failure to comply with existing or new laws, rules, regulations, licensing schemes, industry standards, or orders of any governmental authority (including changes to or expansion of the interpretation of those laws, regulations, standards or orders), may:

- subject us to significant fines, penalties, criminal and civil lawsuits, license suspension or revocation, forfeiture of significant assets, audits, inquiries, whistleblower complaints, adverse media coverage, investigations, and enforcement actions in one or more jurisdictions levied by federal, state, local or foreign regulators, state attorneys general, and private plaintiffs who may be acting as private attorneys general pursuant to various applicable federal, state, and local laws;

- result in additional compliance and licensure requirements;
- increase regulatory scrutiny of our business; and
- restrict our operations and force us to change our business practices or compliance program, make product or operational changes, or delay planned product launches or improvements.

The complexity of U.S. federal and state regulatory and enforcement regimes, coupled with the scope of our international operations and the evolving regulatory environment, could result in a single event giving rise to many overlapping investigations and legal and regulatory proceedings by multiple government authorities in different jurisdictions.

Any of the foregoing could, individually or in the aggregate, harm our reputation as a trusted provider, damage our brands and business, cause us to lose existing customers, prevent us from obtaining new customers, require us to expend significant funds to remedy problems caused by breaches and to avert further breaches, expose us to legal risk and potential liability, and adversely affect our results of operations and financial condition.

We may require additional capital to support the growth of our business, and this capital might not be available on acceptable terms, if at all.

We have funded our operations since inception primarily through equity and debt financings, sales of subscriptions to our products, and usage-based transaction fees. We cannot be certain when or if our operations will generate sufficient cash to fully fund our ongoing operations or the growth of our business. We intend to continue to make investments to support our business, which may require us to engage in equity or debt financings to secure additional funds. We may also seek to raise additional capital from equity or debt financings on an opportunistic basis when we believe there are suitable opportunities for doing so. Additional financing may not be available on terms favorable to us, if at all. If adequate funds are not available on acceptable terms, we may be unable to invest in future growth opportunities, which could harm our business, operating results, and financial condition. If we incur additional debt, the debt holders would have rights senior to holders of common stock to make claims on our assets, and the terms of any debt could restrict our operations, including our ability to pay dividends on our common stock. Furthermore, if we issue additional equity securities, including in connection with merger and acquisition transactions, stockholders will experience dilution. In addition, new equity securities could have rights senior to those of our common stock. During 2022, interest rates have increased and the trading prices for our common stock and other technology companies have been highly volatile, which may reduce our ability to access capital on favorable terms or at all. In addition, a recession or depression, high inflation or other sustained adverse market event could materially and adversely affect our business and the value of our common stock. Because our decision to issue securities in the future will depend on numerous considerations, including factors beyond our control, we cannot predict or estimate the amount, timing, or nature of any future issuances of debt or equity securities. As a result, our stockholders bear the risk of future issuances of debt or equity securities reducing the value of our common stock and diluting their interests.

Our ability to use our net operating losses to offset future taxable income may be subject to certain limitations.

As of June 30, 2022, we had net operating loss (NOL) carryforwards of approximately \$1.5 billion, \$1.1 billion, and \$61.3 million for federal, state and foreign tax purposes, respectively, that are available to reduce future taxable income. If not utilized, the federal and state NOL carryforwards will begin to expire in 2027. As of June 30, 2022, approximately \$1.4 billion and \$61.3 million of the federal and foreign NOL carryforwards do not expire and will carry forward indefinitely until utilized. As of June 30, 2022, we had research and development tax credit carryforwards of approximately \$40.1 million and \$27.1 million for federal and state tax purposes, respectively. If not utilized, the federal tax credits will expire at various dates beginning in 2028. The state tax credits do not expire and will carry forward indefinitely until utilized. In general, under Sections 382 and 383 of the U.S. Internal Revenue Code of 1986, as amended (the Code), a corporation that undergoes an “ownership change” is subject to limitations on its ability to utilize its pre-change NOLs and other tax attributes such as research tax credits to offset future taxable income or income tax. If it is determined that we have in the past experienced an ownership change, or if we undergo one or more ownership changes as a result of future transactions in our stock, then our ability to utilize NOLs and other pre-change tax attributes

could be limited by Sections 382 and 383 of the Code. Future changes in our stock ownership, many of which are outside of our control, could result in an ownership change under Sections 382 or 383 of the Code. Furthermore, our ability to utilize NOLs of companies that we may acquire in the future may be subject to limitations. For these reasons, we may not be able to utilize a material portion of the NOLs, even if we were to achieve profitability. In addition, any future changes in tax laws could impact our ability to utilize NOLs in future years and may result in greater tax liabilities than we would otherwise incur and adversely affect our cash flows and financial position.

We could be required to collect additional sales taxes or be subject to other tax liabilities that may increase the costs our customers would have to pay for our offering and adversely affect our operating results.

The vast majority of states have considered or adopted laws that impose tax collection obligations on out-of-state companies. States where we have nexus may require us to calculate, collect, and remit taxes on sales in their jurisdiction. Additionally, the Supreme Court of the U.S. recently ruled in *South Dakota v. Wayfair, Inc. et al* (Wayfair) that online sellers can be required to collect sales and use tax despite not having a physical presence in the buyer's state. In response to Wayfair, or otherwise, states or local governments may enforce laws requiring us to calculate, collect, and remit taxes on sales in their jurisdictions. We may be obligated to collect and remit sales and use taxes in states where we have not collected and remitted sales and use taxes. A successful assertion by one or more states requiring us to collect taxes where we historically have not or presently do not do so could result in substantial tax liabilities, including taxes on past sales, as well as penalties and interest. The imposition by state governments or local governments of sales tax collection obligations on out-of-state sellers could also create additional administrative burdens for us, put us at a perceived competitive disadvantage if they do not impose similar obligations on our competitors, and decrease our future sales, which could adversely affect our business and operating results.

Changes in our effective tax rate or tax liability may adversely affect our operating results.

Our effective tax rate could increase due to several factors, including:

- changes in the relative amounts of income before taxes in the various U.S. and international jurisdictions in which we operate due to differing statutory tax rates in various jurisdictions;
- changes in tax laws, tax treaties, and regulations or the interpretation of them, including the 2017 Tax Act as modified by the CARES Act, and the Inflation Reduction Act of 2022;
- changes to our assessment about our ability to realize our deferred tax assets that are based on estimates of our future results, the prudence and feasibility of possible tax planning strategies, and the economic and political environments in which we do business;
- the outcome of current and future tax audits, examinations, or administrative appeals; and
- limitations or adverse findings regarding our ability to do business in some jurisdictions.

Any of these developments could adversely affect our operating results.

Natural catastrophic events, pandemics, and man-made problems such as power-disruptions, computer viruses, data security breaches, war, and terrorism may disrupt our business.

Natural disasters, pandemics such as COVID-19, other catastrophic events and man-made problems, such as terrorism, war or economic or trade sanctions related to war (including the 2022 Russian invasion of Ukraine), may cause damage or disruption to our operations, international commerce and the global economy, and thus could harm our business. We have a large employee presence in the San Francisco Bay Area in California, Draper, Utah, Houston, Texas and Sydney, Australia, and our data centers are located in California and Arizona. The west coast of the U.S. contains active earthquake zones, the Houston area frequently experiences significant hurricanes and Sydney frequently experiences wildfires. In the event of a major earthquake, hurricane or catastrophic event such as fire, flooding, power loss, telecommunications failure, vandalism, cyber-attack, war, or terrorist attack, we may be unable to continue our operations and may endure system interruptions, reputational harm, delays in our application development, lengthy interruptions in our

products, breaches of data security, and loss of critical data, all of which could harm our business, operating results, and financial condition.

Additionally, as computer malware, viruses, and computer hacking, fraudulent use attempts, and phishing attacks have become more prevalent, we, and third parties upon which we rely, face increased risk in maintaining the performance, reliability, security, and availability of our solutions and related services and technical infrastructure to the satisfaction of our customers. Any computer malware, viruses, computer hacking, fraudulent use attempts, phishing attacks, or other data security breaches related to our network infrastructure or information technology systems or to computer hardware we lease from third parties, could, among other things, harm our reputation and our ability to retain existing customers and attract new customers.

In addition, the insurance we maintain may be insufficient to cover our losses resulting from disasters, cyber-attacks, or other business interruptions, and any incidents may result in loss of, or increased costs of, such insurance.

If we fail to maintain an effective system of disclosure controls and internal control over financial reporting, our ability to produce timely and accurate financial statements or comply with applicable laws and regulations could be impaired.

We are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (Exchange Act), the Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley), the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the listing requirements of the New York Stock Exchange (NYSE), and other applicable securities rules and regulations. Compliance with these rules and regulations will increase our legal and financial compliance costs, make some activities more difficult, time consuming, or costly, and increase demand on our systems and resources. The Exchange Act requires, among other things, that we file annual, quarterly, and current reports with respect to our business and operating results. Sarbanes-Oxley requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. It may require significant resources and management oversight to maintain and, if necessary, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard. As a result, management's attention may be diverted from other business concerns, which could adversely affect our business and operating results. Although we have already hired additional employees to comply with these requirements, we may need to hire more employees in the future or engage outside consultants, which would increase our costs and expenses.

We are required, pursuant to Section 404 of Sarbanes-Oxley (Section 404), to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting. Effective internal control over financial reporting is necessary for us to provide reliable financial reports and, together with adequate disclosure controls and procedures, are designed to prevent fraud. Any failure to implement required new or improved controls, or difficulties encountered in their implementation, could cause us to fail to meet our reporting obligations. Ineffective internal controls could also cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our common stock.

This assessment needs to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting, as well as a statement that our independent registered public accounting firm has issued an opinion on the effectiveness of our internal control over financial reporting. Section 404(b) of the Sarbanes-Oxley Act requires our independent registered public accounting firm to annually attest to the effectiveness of our internal control over financial reporting, which has, and will continue to, require increased costs, expenses, and management resources. An independent assessment of the effectiveness of our internal controls could detect problems that our management's assessment might not. Undetected material weaknesses in our internal controls could lead us to restate our financial statements, which could cause investors to lose confidence in our reported financial information, have a negative effect on the trading price of our common stock, and result in additional costs to remediate such material weaknesses. We are required to disclose changes made in our internal control and procedures on a quarterly basis. To comply with the requirements of being a public company, we may need to undertake various actions, such as implementing new internal controls and procedures and hiring accounting or internal audit staff.

If we are unable to assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm issues an adverse opinion on the effectiveness of our internal

control, we could lose investor confidence in the accuracy and completeness of our financial reports, which could cause the price of our common stock to decline, and we may be subject to investigation or sanctions by the SEC. In addition, if we are unable to continue to meet these requirements, we may not be able to remain listed on the NYSE.

Our reported financial results may be adversely affected by changes in accounting principles generally accepted in the U.S.

U.S. generally accepted accounting principles (GAAP) is subject to interpretation by the Financial Accounting Standards Board (FASB), the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported operating results and financial condition and could affect the reporting of transactions already completed before the announcement of a change.

If our estimates or judgments relating to our critical accounting policies prove to be incorrect, our operating results could be adversely affected.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, as provided in the section titled “Management’s Discussion and Analysis of Financial Condition and Operating Results—Critical Accounting Policies and Estimates.” The results of these estimates form the basis for making judgments about the carrying values of assets, liabilities, and equity, and the amount of revenue and expenses that are not readily apparent from other sources. Significant estimates and judgments involve the identification of performance obligations in revenue recognition, valuation of assets acquired and liabilities assumed in a business combination, estimation of fair value of a reporting unit when assessing goodwill impairment, determination of useful lives of finite-lived intangible assets, present value estimation of operating lease liabilities, valuation of stock option grants, and the period of benefit for amortizing deferred commissions. Our operating results may be adversely affected if our assumptions change or if actual circumstances differ from those in our assumptions, which could cause our operating results to fall below the expectations of securities analysts and investors, resulting in a decline in the trading price of our common stock.

Our estimates of market opportunity and forecasts of market growth may prove to be inaccurate, and even if the market in which we compete achieves the forecasted growth, our business could fail to grow at similar rates, if at all.

Market opportunity estimates and growth forecasts, including those we have generated ourselves, are subject to significant uncertainty and are based on assumptions and estimates that may not prove to be accurate. The variables that go into the calculation of our market opportunity are subject to change over time, and there is no guarantee that any particular number or percentage of addressable users or companies covered by our market opportunity estimates will purchase our products at all or generate any particular level of revenue for us. Any expansion in the markets in which we operate depend on a number of factors, including the cost, performance, and perceived value associated with our platforms and those of our competitors. Even if the markets in which we compete meet the size estimates and growth forecasted, our business could fail to grow at similar rates, if at all. Our growth is subject to many factors, including our success in implementing our business strategy, which is subject to many risks and uncertainties. Accordingly, our forecasts of market growth should not be taken as indicative of our future growth.

We rely on assumptions and estimates to calculate certain of our performance metrics, and real or perceived inaccuracies in such metrics may harm our reputation and negatively affect our business.

We calculate and track certain customer and other performance metrics with internal tools, which are not independently verified by any third-party. While we believe our metrics are reasonable estimates of our customer base and payment and transaction volumes for the applicable period of measurement, the methodologies used to measure these metrics require significant judgment and may be susceptible to algorithm or other technical errors. For example, the accuracy and consistency of our performance metrics may be impacted by changes to internal assumptions regarding how we account for and track customers, limitations on

system implementations, and limitations on third party tools' ability to match our database. If the internal tools we use to track these metrics undercount or overcount performance or contain algorithmic or other technical errors, the data we report may not be accurate. In addition, limitations or errors with respect to how we measure data (or the data that we measure) may affect our understanding of certain details of our business, which could affect our longer-term strategies. Further, as our business develops, we may revise or cease reporting certain metrics if we determine that such metrics are no longer accurate or appropriate measures of our performance. If our performance metrics are not accurate representations of our business, customer base, or payment or transaction volumes; if we discover material inaccuracies in our metrics; or if the metrics we rely on to track our performance do not provide an accurate measurement of our business, our reputation may be harmed, we may be subject to legal or regulatory actions, and our business, financial condition, results of operations, and prospects could be adversely affected.

Any future litigation against us could be costly and time-consuming to defend.

In addition to intellectual property litigation, we have in the past and may in the future become subject to legal proceedings and claims that arise in the ordinary course of business, such as claims brought by our customers in connection with commercial disputes, employment claims made by our current or former employees, or claims for reimbursement following misappropriation of customer data. Litigation might result in substantial costs and may divert management's attention and resources, which might seriously harm our business, overall financial condition, and operating results. Insurance might not cover such claims, might not provide sufficient payments to cover all the costs to resolve one or more such claims, and might not continue to be available on terms acceptable to us. A claim brought against us that is uninsured or under-insured could result in unanticipated costs, thereby reducing our operating results and leading analysts or potential investors to reduce their expectations of our performance, which could reduce the trading price of our stock.

We are subject to governmental laws and requirements regarding economic and trade sanctions, anti-money laundering, and counter-terror financing that could impair our ability to compete in international markets or subject us to criminal or civil liability if we violate them.

Although we currently only offer our payment and card products to customers in the U.S. and Canada, Invoice2go has international subscribers in approximately 150 countries, including Australia and several EU countries, for which payment activity is conducted through third party payment providers. As we continue to expand internationally we will become subject to additional laws and regulations, and will need to implement new regulatory controls to comply with applicable laws. We are currently required to comply with U.S. economic and trade sanctions administered by the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) and we have processes in place to comply with the OFAC regulations as well as similar requirements in other jurisdictions, including the Australian Sanctions Regime, the Canadian Proceeds of Crime and Terrorist Financing Act and, to the extent we expand our offerings into the United Kingdom and the EU, EU money laundering directives. As part of our compliance efforts, we scan our customers against OFAC and other watch lists and have controls to monitor and mitigate these risks. If our services are accessed from a sanctioned country in violation of the trade and economic sanctions, we could be subject to fines or other enforcement action. We are also subject to various anti-money laundering and counter-terrorist financing laws and regulations in the U.S., Canada, Australia and around the world that prohibit, among other things, our involvement in transferring the proceeds of criminal activities.

In the United States, most of our services are subject to anti-money laundering laws and regulations, including the Bank Secrecy Act, as amended (BSA), and similar state laws and regulations. The BSA requires, among other things, money services businesses (MSBs) to develop and implement risk-based anti-money laundering programs, to report suspicious activity, and in some cases, to collect and maintain information about customers who use their services and maintain other transaction records. Regulators in the United States, Canada, Australia and in many other foreign jurisdictions continue to increase their scrutiny of compliance with these obligations, which may require us to further revise or expand our compliance program, including the procedures we use to verify the identity of our customers and to monitor transactions on our system, including payments to persons outside of the U.S., Canada and Australia. Regulators regularly re-examine the transaction volume thresholds at which we must obtain and keep applicable records or verify identities of customers, and any change in such thresholds could result in greater costs for compliance.

We are subject to anti-corruption, anti-bribery, and similar laws, and non-compliance with such laws can subject us to criminal or civil liability and harm our business.

We are subject to the FCPA, U.S. domestic bribery laws, and other anti-corruption laws, including Australia's anti-bribery laws, the Canadian Criminal Code and the Canadian Corruption of Foreign Public Officials Act. Anti-corruption and anti-bribery laws have been enforced aggressively in recent years and are interpreted broadly to generally prohibit companies, their employees, and their third-party intermediaries from authorizing, offering, or providing, directly or indirectly, improper payments or benefits to recipients in the public sector. These laws also require that we keep accurate books and records and maintain internal controls and compliance procedures designed to prevent any such actions. Although we currently only offer our payment and card products to customers in the U.S. and payment services in Canada, Invoice2go has international subscribers in approximately 150 countries, including Australia and several EU countries for which payment activity is conducted through third party payment providers. As we increase our international cross-border business and expand operations abroad, we may engage with business partners and third-party intermediaries to market our services and obtain necessary permits, licenses, and other regulatory approvals. In addition, we or our third-party intermediaries may have direct or indirect interactions with officials and employees of government agencies or state-owned or affiliated entities. We can be held liable for the corrupt or other illegal activities of these third-party intermediaries, our employees, representatives, contractors, partners, and agents, even if we do not explicitly authorize such activities.

We cannot assure you that all of our employees and agents will not take actions in violation of our policies and applicable law, for which we may be ultimately held responsible. As we increase our international business, our risks under these laws may increase.

Detecting, investigating, and resolving actual or alleged violations of anti-corruption laws can require a significant diversion of time, resources, and attention from senior management. In addition, noncompliance with anti-corruption or anti-bribery laws could subject us to whistleblower complaints, investigations, sanctions, settlements, prosecution, enforcement actions, fines, damages, other civil or criminal penalties, injunctions, suspension or debarment from contracting with certain persons, reputational harm, adverse media coverage, and other collateral consequences. If any subpoenas are received or investigations are launched, or governmental or other sanctions are imposed, or if we do not prevail in any possible civil or criminal proceeding, our business, operating results, and financial condition could be materially harmed. In addition, responding to any action will likely result in a materially significant diversion of management's attention and resources and significant defense costs and other professional fees.

If we cannot maintain our company culture as we grow, our success and our business may be harmed.

We believe our culture has been a key contributor to our success to date and that the critical nature of the platform that we provide promotes a sense of greater purpose and fulfillment in our employees. Inorganic growth through mergers and acquisitions may pose significant challenges to assimilating the company cultures of acquired companies. Any failure to preserve our culture could negatively affect our ability to retain and recruit personnel, which is critical to our growth, and to effectively focus on and pursue our corporate objectives. As we grow and develop the infrastructure of a public company, we may find it difficult to maintain these important aspects of our culture. If we fail to maintain our company culture, our business and competitive position may be adversely affected.

We are exposed to foreign currency exchange risk relating to our Australian operations.

We are exposed to foreign currency exchange risk relating to our Australian operations and Australian subsidiary. A change in foreign currency exchange rates, particularly in Australian dollars to U.S. dollars, can affect our financial results due to transaction gains or losses related to the remeasurement of certain monetary asset and monetary liability balances that are denominated in currencies other than U.S. dollars, which is the functional currency of our Australian subsidiary. In addition, we expect our exposure to foreign currency rate risks in the future to increase as our international operations increase.

Risks Related to Our Indebtedness

Our debt service obligations, including the Notes, may adversely affect our financial condition and results of operations.

As of September 30, 2022, we had \$1.15 billion aggregate principal amount of the 0% Convertible Notes outstanding (the 2025 Notes) due on December 1, 2025, \$575.0 million aggregate principal amount of the 0% convertible senior notes outstanding due on April 1, 2027 (the 2027 Notes) and had drawn \$75.0 million under our Revolving Credit Facility, as described in Note 8 to the consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q. Our ability to make payments of the principal of, to pay interest on or to refinance our indebtedness, including the 2025 Notes and 2027 Notes (collectively, the Notes) and our Revolving Credit Facility, depends on our future performance, which is subject to economic, financial, competitive, and other factors beyond our control. Moreover, our obligations under the Revolving Credit Facility are secured by our Divvy credit card receivables and certain other collateral. Our business may not generate cash flow from operations in the future sufficient to service our debt and make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt, or obtaining additional debt financing or equity capital on terms that may be onerous or highly dilutive. Our ability to refinance any future indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations. In addition, any of our future debt agreements may contain restrictive covenants that may prohibit us from adopting any of these alternatives. Our failure to comply with these covenants could result in an event of default which, if not cured or waived, could result in the acceleration of our debt.

In addition, our indebtedness, combined with our other financial obligations and contractual commitments, could have other important consequences. For example, it could:

- make us more vulnerable to adverse changes in general U.S. and worldwide economic, industry, and competitive conditions and adverse changes in government regulation;
- limit our flexibility in planning for, or reacting to, changes in our business and our industry;
- place us at a disadvantage compared to our competitors who have less debt;
- limit our ability to borrow additional amounts to fund acquisitions, for working capital, and for other general corporate purposes; and
- make an acquisition of our company less attractive or more difficult.

Any of these factors could harm our business, results of operations, and financial condition. In addition, if we incur additional indebtedness, the risks related to our business and our ability to service or repay our indebtedness would increase. We are also required to comply with the covenants set forth in the Indentures governing the Notes. Our ability to comply with these covenants may be affected by events beyond our control. If we breach any of the covenants and do not obtain a waiver from the note holders or lenders, then, subject to applicable cure periods, any outstanding indebtedness may be declared immediately due and payable. In addition, changes by any rating agency to our credit rating may negatively impact the value and liquidity of our securities. Downgrades in our credit ratings could restrict our ability to obtain additional financing in the future and could affect the terms of any such financing.

We may not have the ability to raise the funds necessary for cash settlement upon conversion of the Notes or to repurchase the Notes for cash upon a fundamental change, and our future debt may contain limitations on our ability to pay cash upon conversion of the Notes or to repurchase the Notes.

Holders of the Notes have the right to require us to repurchase their notes upon the occurrence of a fundamental change (as defined in the Indentures governing the 2025 Notes and 2027 Notes, respectively) at a repurchase price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid special interest, if any. In addition, upon conversion of the Notes, unless we elect to deliver solely shares of our common stock to settle such conversion (other than paying cash in lieu of delivering any fractional share), we will be required to make cash payments in respect of the Notes being converted. However, we may not have enough available cash or be able to obtain financing at the time we are required to make repurchases of the Notes surrendered or the Notes being converted. In addition, our ability to repurchase the Notes or to pay cash

upon conversions of the Notes may be limited by law, by regulatory authority or by agreements governing our future indebtedness.

In addition to the Notes, we and our subsidiaries may incur substantial additional debt in the future, subject to the restrictions contained in our current and future debt instruments, some of which may be secured debt. We are not restricted under the terms of the Indentures governing the Notes from incurring additional debt, securing existing or future debt, recapitalizing our debt or taking a number of other actions that could have the effect of diminishing our ability to make payments on the Notes when due.

Our failure to repurchase the Notes at a time when the repurchase is required by the applicable Indenture or to pay any cash payable on future conversions of the Notes as required by such Indenture would constitute a default under that Indenture. A default under one of the Indentures or the fundamental change itself could also lead to a default under the other Indenture or other agreements governing our existing or future indebtedness. If the repayment of the related indebtedness were to be accelerated after any applicable notice or grace periods, we may not have sufficient funds to repay the indebtedness and repurchase the Notes or make cash payments upon conversions thereof.

The conditional conversion feature of the Notes, when triggered, may adversely affect our financial condition and operating results.

Prior to the close of business on the business day immediately preceding September 1, 2025, in the case of the 2025 Notes, and January 1, 2027, in the case of the 2027 Notes, the holders of the applicable Notes may elect to convert their Notes during any calendar quarter (and only during such calendar quarter) if the last reported sale price of our common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day (Conversion Condition). The Conversion Condition for the 2025 Notes was not triggered as of September 30, 2022, but had been triggered in several prior quarters. In the event the Conversion Condition is triggered, holders of the Notes will be entitled to convert the Notes at any time during specified periods at their option. If one or more holders elect to convert their Notes, unless we elect to satisfy our conversion obligation by delivering solely shares of our common stock (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our conversion obligation through the payment of cash, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Notes as a current rather than long-term liability, which would result in a material reduction of our net working capital.

The Capped Calls may affect the value of our Notes and our common stock.

In connection with the sale of each of the 2025 Notes and the 2027 Notes, we entered into privately negotiated Capped Call transactions (collectively, the Capped Calls) with certain financial institutions (option counterparties). The Capped Call transactions are expected generally to reduce the potential dilution upon conversion of the Notes and/or offset any cash payments we are required to make in excess of the principal amount of converted Notes, as the case may be, with such reduction and/or offset subject to a cap.

The option counterparties and/or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions prior to the applicable maturity of the 2025 Notes and the 2027 Notes (and are likely to do so following any conversion, repurchase, or redemption of the Notes, to the extent we exercise the relevant election under the Capped Calls). This activity could also cause or avoid an increase or a decrease in the market price of our common stock or the Notes, which could affect note holders' ability to convert the Notes and, to the extent the activity occurs during any observation period related to a conversion of the Notes, it could affect the number of shares and value of the consideration that note holders will receive upon conversion of the Notes.

We do not make any representation or prediction as to the direction or magnitude of any potential effect that the transactions described above may have on the price of the Notes or our common stock. In addition, we do not make any representation that the option counterparties will engage in these transactions or that these transactions, once commenced, will not be discontinued without notice.

We are subject to counterparty risk with respect to the Capped Calls.

The option counterparties are financial institutions, and we are subject to the risk that any or all of them might default under the Capped Calls. Our exposure to the credit risk of the option counterparties will not be secured by any collateral. Past global economic conditions have resulted in the actual or perceived failure or financial difficulties of many financial institutions. If an option counterparty becomes subject to insolvency proceedings, we will become an unsecured creditor in those proceedings with a claim equal to our exposure at that time under the Capped Calls with such option counterparty. Our exposure will depend on many factors but, generally, an increase in our exposure will be correlated to an increase in the market price and in the volatility of our common stock. In addition, upon a default by an option counterparty, we may suffer adverse tax consequences and more dilution than we currently anticipate with respect to our common stock. We can provide no assurance as to the financial stability or viability of the option counterparties.

Risks Related to Ownership of Our Common Stock

The stock price of our common stock has been, and will likely continue to be volatile, and you may lose part or all of your investment.

The market for our common stock has been, and will likely continue to be, volatile. In addition to the factors discussed in this report, the market price of our common stock may fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- overall performance of the equity markets;
- actual or anticipated fluctuations in our revenue and other operating results;
- changes in the financial projections we may provide to the public or our failure to meet these projections;
- failure of securities analysts to initiate or maintain coverage of us, changes in financial estimates by any securities analysts who follow our company, or our failure to meet these estimates or the expectations of investors;
- recruitment or departure of key personnel;
- the economy as a whole and market conditions in our industry, such as high inflation, high interest rate and recessionary environments;
- the global macroeconomic impact of the COVID-19 pandemic;
- negative publicity related to the real or perceived quality of our platform, as well as the failure to timely launch new products and services that gain market acceptance;
- rumors and market speculation involving us or other companies in our industry;
- announcements by us or our competitors of new products or services, commercial relationships, or significant technical innovations;
- acquisitions, partnerships, joint ventures, or capital commitments;
- new laws or regulations or new interpretations of existing laws or regulations applicable to our business;
- lawsuits threatened or filed against us, litigation involving our industry, or both;
- developments or disputes concerning our or other parties' products, services or intellectual property rights;
- changes in accounting standards, policies, guidelines, interpretations, or principles;
- interpretations of any of the above or other factors by trading algorithms, including those that employ natural language processing and related methods to evaluate our public disclosures;
- other events or factors, including those resulting from war (such as the war in Ukraine), incidents of terrorism, or responses to these events;
- the expiration of contractual lock-up agreements; and
- sales of shares of our common stock by us or our stockholders.

In addition, the stock markets have experienced extreme price and volume fluctuations that have affected and continue to affect the market prices of equity securities of many companies. Stock prices of many companies, and technology companies in particular, have fluctuated in a manner unrelated or disproportionate to the operating performance of those companies. In the past, stockholders have instituted securities class action litigation following periods of market volatility. If we were to become involved in securities litigation, it could subject us to substantial costs, divert resources and the attention of management from our business, and adversely affect our business.

Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of our company more difficult, limit attempts by our stockholders to replace or remove our current management, and affect the market price of our common stock.

Provisions in our restated certificate of incorporation and restated bylaws may have the effect of delaying or preventing a change of control or changes in our management. Our restated certificate of incorporation and restated bylaws include provisions that:

- authorize our board of directors to issue, without further action by the stockholders, shares of undesignated preferred stock with terms, rights, and preferences determined by our board of directors that may be senior to our common stock;
- require that any action to be taken by our stockholders be affected at a duly called annual or special meeting and not by written consent;
- specify that special meetings of our stockholders can be called only by our board of directors, the chairperson of our board of directors, or our chief executive officer;
- establish an advance notice procedure for stockholder proposals to be brought before an annual meeting, including proposed nominations of persons for election to our board of directors;
- establish that our board of directors is divided into three classes, with each class serving three-year staggered terms;
- prohibit cumulative voting in the election of directors;
- provide that our directors may be removed for cause only upon the vote of sixty-six and two-thirds percent (66 2/3%) of our outstanding shares of common stock;
- provide that vacancies on our board of directors may be filled only by a majority vote of directors then in office, even though less than a quorum; and
- require the approval of our board of directors or the holders of at least sixty-six and two-thirds percent (66 2/3%) of our outstanding shares of common stock to amend our bylaws and certain provisions of our certificate of incorporation.

In addition, our restated certificate of incorporation provides that the Court of Chancery of the State of Delaware, to the fullest extent permitted by law, will be the exclusive forum for any derivative action or proceeding brought on our behalf, any action asserting a breach of fiduciary duty, any action asserting a claim against us arising pursuant to the Delaware General Corporation Law (DGCL), our restated certificate of incorporation, or our restated bylaws, or any action asserting a claim against us that is governed by the internal affairs doctrine. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, or other employees, which may discourage lawsuits against us and our directors, officers, and other employees. This exclusive forum provision will not apply to claims that are vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery of the State of Delaware, or for which the Court of Chancery of the State of Delaware does not have subject matter jurisdiction. For instance, the provision would not preclude the filing of claims brought to enforce any liability or duty created by the Exchange Act or Securities Act or the rules and regulations thereunder in federal court.

Moreover, Section 203 of the DGCL may discourage, delay, or prevent a change in control of our company. Section 203 imposes certain restrictions on mergers, business combinations, and other transactions between us and holders of 15% or more of our common stock.

We have incurred and will continue to incur increased costs as a result of operating as a public company, and our management is required to devote substantial time to compliance with our public company responsibilities and corporate governance practices.

As a public company, we will incur significant legal, accounting, and other expenses that we did not incur as a private company, which we expect to further increase. Sarbanes-Oxley, the Dodd-Frank Wall Street

Reform and Consumer Protection Act, the listing requirements of the NYSE, and other applicable securities rules and regulations impose various requirements on public companies. Our management and other personnel devote a substantial amount of time to compliance with these requirements. Moreover, these rules and regulations will increase our legal and financial compliance costs and will make some activities more time-consuming and costly compared to when we were a private company.

Our management team has limited experience managing a public company.

Our management team has limited experience managing a publicly traded company, interacting with public company investors and securities analysts, and complying with the increasingly complex laws pertaining to public companies. These new obligations and constituents require significant attention from our management team and could divert their attention away from the day-to-day management of our business, which could harm our business, operating results, and financial condition.

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

We have never declared or paid any cash dividends on our capital stock, and we do not intend to pay any cash dividends in the foreseeable future. Any determination to pay dividends in the future will be at the discretion of our board of directors. Accordingly, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investments.

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

Our stock price and trading volume is heavily influenced by the way analysts and investors interpret our financial information and other disclosures. If securities or industry analysts do not publish research or reports about our business, downgrade our common stock, or publish negative reports about our business, our stock price would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, demand for our common stock could decrease, which might cause our stock price to decline and could decrease the trading volume of our common stock.

Sales of substantial amounts of our common stock in the public markets, particularly sales by our directors, executive officers, and significant stockholders, or the perception that these sales could occur, could cause the market price of our common stock to decline and may make it more difficult for you to sell your common stock at a time and price that you deem appropriate.

The market price of our common stock could decline as a result of sales of a large number of shares of our common stock in the market. The perception that these sales might occur may also cause the market price of our common stock to decline. We had a total of 105,632,997 shares of our common stock outstanding as of September 30, 2022. All shares of our common stock are either freely tradable, generally without restrictions or further registration under the Securities Act, or have been registered for resale under the Securities Act by us, subject to certain exceptions for shares held by our “affiliates” as defined in Rule 144 under the Securities Act.

In addition, we have filed registration statements on Form S-8 to register shares reserved for future issuance under our equity compensation plans. Subject to the satisfaction of vesting conditions, the shares issued upon exercise of outstanding stock options or settlement of outstanding restricted stock units will be available for immediate resale in the United States in the open market.

In addition, we have in the past, and may in the future, issue our shares of common stock or securities convertible into our common stock from time to time in connection with financings, acquisitions, investments, or otherwise. We also expect to grant additional equity awards to employees and directors under our 2019 Equity Incentive Plan and rights to purchase our common stock under our 2019 Employee Stock Purchase Plan. Any such issuances could result in substantial dilution to our existing stockholders and cause the trading price of our common stock to decline.

ITEM 2: UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Recent Sales of Unregistered Equity Securities

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

Not applicable.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

Not applicable.

ITEM 6: EXHIBITS

Exhibit Number	Description	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit Number	Filing Date	
10.1†	Amendment No. 3 to Revolving Credit and Security Agreement, by and among Goldman Sachs Bank USA, the lenders party thereto and Divvy Peach, LLC, dated as of August 29, 2022.					X
31.1	Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002					X
31.2	Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002					X
32.1*	Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002					X
32.2*	Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002					X
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because XBRL tags are embedded within the Inline XBRL document.					X
101.SCH	Inline XBRL Taxonomy Extension Schema Document					X
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document					X
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document					X
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document					X
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document					X
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)					X

† Certain schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Registrant will furnish to the SEC copies of any such schedules upon request.

* The certifications furnished in Exhibits 32.1 and 32.2 hereto are deemed to accompany this Quarterly Report on Form 10-Q and are not deemed “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, nor shall they be deemed incorporated by reference into any filing under the Securities Act of the Exchange Act.

SIGNATURES

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

<div>November 4, 2022</div> <div>_____ (Date)</div>	By:	<div>/s/ René Lacerte</div> <div>_____ René Lacerte Chief Executive Officer (Principal Executive Officer)</div>
<div>November 4, 2022</div> <div>_____ (Date)</div>	By:	<div>/s/ John Rettig</div> <div>_____ John Rettig Chief Financial Officer and Executive Vice President, Finance and Operations (Principal Financial Officer)</div>

Amendment No. 3 to Revolving Credit and Security Agreement

This AMENDMENT NO. 3 TO REVOLVING CREDIT AND SECURITY AGREEMENT (this “*Agreement*”) is entered into as of August 29, 2022 by and among DIVVY PEACH, LLC, a Delaware limited liability company, as borrower (the “*Borrower*”), the Lenders party hereto and GOLDMAN SACHS BANK USA, as administrative agent for the Secured Parties (in such capacity, together with its successors and assigns, the “*Administrative Agent*”).

Recitals

WHEREAS, the Borrower has entered into that certain Revolving Credit and Security Agreement, dated as of March 2, 2021, by and among the Borrower, the Administrative Agent and the lenders party thereto from time to time (the “*Lenders*”) (as amended, restated, supplemented or otherwise modified from time to time, the “*Credit Agreement*”); and

WHEREAS, in accordance with the terms of the Credit Agreement, the Borrower has requested, and the Administrative Agent and the Lenders have agreed to, modify certain provisions of the Credit Agreement, upon the terms and subject to the conditions set forth herein.

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

Agreement

1. *Defined Terms.* Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Credit Agreement.

2. *Amendments to the Credit Agreement.* Upon satisfaction of the conditions set forth in Section 3 hereof, the Borrower, the Administrative Agent and the Lenders, hereby agree that the Credit Agreement is hereby amended by incorporating the changes shown on the marked copy of the Credit Agreement attached hereto as Exhibit A (it being understood that language which appears “~~struck-out~~” or “~~struck-out~~”, as applicable, has been deleted and language which appears as “double-underlined” or “double-underlined”, as applicable, has been added).

3. *Conditions Precedent.* The effectiveness of this Agreement is subject to the receipt by the Administrative Agent of the following, each in form and substance acceptable to the Administrative Agent:

- (a) this Agreement, duly executed and delivered by the parties hereto;
- (b) an amendment and restatement of the Class A Fee Letter, duly executed and delivered by the parties thereto;
- (c) an amendment and restatement of the Limited Guaranty and Indemnity Agreement, duly executed and delivered by the parties thereto;
- (d) a certificate of a Responsible Officer of the Borrower certifying (i) as to the

Borrower's Constituent Documents, (ii) as to resolutions or other action required under its Constituent Documents to approve the entering into by the Borrower of this Agreement and the other Facility Documents to which it is a party and the transactions contemplated thereby, (iii) that its representations and warranties set forth in the Facility Documents to which it is a party are true and correct in all material respects as of the date hereof (except to the extent such representations and warranties expressly relate to any earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date) (except for representations and warranties already qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects), (iv) that no Unmatured Event of Default, Event of Default or Accelerated Amortization Event has occurred and is continuing, and (v) as to the incumbency and specimen signature of each of its Responsible Officers authorized to execute the Facility Documents to which it is a party;

(a) a certificate of a Responsible Officer of Holdings certifying (i) as to Holdings' Constituent Documents, (ii) as to resolutions or other action required under its Constituent Documents to approve the entering into by Holdings of the Facility Documents to which it is a party and the transactions contemplated thereby, (iii) that its representations and warranties set forth in the Facility Documents to which it is a party are true and correct in all material respects as of the date hereof (except to the extent such representations and warranties expressly relate to any earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date) (except for representations and warranties already qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects), (iv) that no Limited Guaranty Event of Default has occurred and is continuing, and (v) as to the incumbency and specimen signature of each of its Responsible Officers authorized to execute the Facility Documents to which it is a party;

(b) a certificate of a Responsible Officer of the Permitted Holder certifying (i) as to the Permitted Holder's Constituent Documents, (ii) as to resolutions or other action required under its Constituent Documents to approve the entering into by the Permitted Holder of the Facility Documents to which it is a party and the transactions contemplated thereby, (iii) that its representations and warranties set forth in the Facility Documents to which it is a party are true and correct in all material respects as of the date hereof (except to the extent such representations and warranties expressly relate to any earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date) (except for representations and warranties already qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects), (iv) that no Limited Guaranty Event of Default has occurred and is continuing, and (v) as to the incumbency and specimen signature of each of its Responsible Officers authorized to execute the Facility Documents to which it is a party;

(c) with respect to the Borrower, Holdings and the Permitted Holder, a good standing certificate issued by the Secretary of State of Delaware as of a recent date;

(d) legal opinions (addressed to the Administrative Agent, the Lenders and their successors and assignees) of counsel to the Borrower, Holdings and the Permitted Holder reasonably acceptable to the Administrative Agent, covering such matters as the Administrative Agent, the Lenders and their respective counsel shall reasonably request, including but not limited to enforceability, authority, no conflicts and substantive consolidation; and

(e) evidence that (i) all fees to be received by the Administrative Agent and the Lender on or prior to the date hereof pursuant to the Class A Fee Letter or otherwise have been received in immediately available funds by the Administrative Agent and each Lender, as applicable and (ii) the accrued reasonable and documented fees and expenses of counsel to the Administrative Agent and the Initial Class A Lender, in connection with the transactions contemplated hereby, shall have been paid by the Borrower.

4. *Representations and Warranties of Borrower.* The Borrower hereby represents and warrants to the Administrative Agent and each Lender that:

(f) the representations and warranties of Borrower contained in the Credit Agreement are true and correct in all material respects (except in the case of any representation and warranty qualified by materiality or Material Adverse Effect, which is true and correct in all respects) as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (except in the case of any representation and warranty qualified by materiality or Material Adverse Effect, which is true and correct in all respects) as of such earlier date;

(g) no Unmatured Event of Default, Event of Default or Accelerated Amortization Event has occurred and is continuing;

(h) the Borrower has all requisite power and authority and all requisite governmental licenses, permits, authorizations, consents and approvals to execute, deliver and perform its obligations under this Agreement and the Facility Documents as amended hereby;

(i) no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, the Borrower of this Agreement; and

(j) this Agreement has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

5. *Effect on the Credit Agreement and Ratification.* (a) Except as expressly set forth herein, nothing contained herein shall be deemed to constitute a waiver of compliance with any term or condition contained in the Credit Agreement or any of the other Facility Documents or constitute a course of conduct or dealing among the parties. Except as expressly set forth herein, the Administrative Agent and the Lenders reserve all rights, privileges and remedies under the Facility Documents. The consents and waivers contained herein do not and shall not create (nor shall the Borrower rely upon the existence of or claim or assert that there exists) any obligation of the Administrative Agent or the Lenders to consider or agree to any further amendment or any waiver or consent and, in the event the Administrative Agent or the Lenders subsequently agree to consider any further amendments or any waiver or consent, neither the consents or waivers contained herein nor any other conduct of the Administrative Agent or the Lenders shall be of any

force or effect on the Administrative Agent's or the Lenders' consideration or decision with respect to any such requested waiver, consent or amendment and neither the Administrative Agent nor any Lender shall have any further obligation whatsoever to consider or agree to further waiver or consent or any amendment or other agreement. The Credit Agreement, as hereby amended, and all other Facility Documents are hereby ratified and re-affirmed in all respects and shall remain unmodified and in full force and effect. All references in the Facility Documents to the Credit Agreement shall be deemed to be references to the Credit Agreement as modified hereby. This Agreement shall constitute a Facility Document.

(b) The relationship of the Administrative Agent and the Lenders, on the one hand, and the Borrower, on the other hand, has been and shall continue to be, at all times, that of creditor and debtor and not as joint venturers or partners. Nothing contained in this Agreement, any instrument, document or agreement delivered in connection herewith or in the Credit Agreement or any of the other Facility Documents shall be deemed or construed to create a fiduciary relationship between or among the parties.

6. *No Novation.* This Agreement is not intended by the parties to be, and shall not be construed to be, a novation of the Credit Agreement or any other Facility Document or an accord and satisfaction in regard thereto.

7. *Successors and Assigns.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns; *provided* that the Borrower may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Administrative Agent.

8. *Headings.* The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

9. *Incorporation of Credit Agreement.* The provisions contained in Section 12.05 (Execution in Counterparts), Section 12.07 (Governing Law), Section 12.08 (Severability of Provisions), Section 12.12 (Submission to Jurisdiction; Waivers; Etc.) and Section 12.13 (Waiver of Jury Trial) of the Credit Agreement are incorporated herein by this reference, *mutatis mutandis*.

REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURES FOLLOW.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered by its duly authorized officer as of the day and year first above written.

DIVVY PEACH, LLC, as Borrower

By: /s/ Blakely Cragun
Name: Blakely Cragun
Title: Chief Financial Officer

GOLDMAN SACHS BANK USA,
as Administrative Agent and Class A Lender

By: /s/ Benjamin Case
Name: Benjamin Case
Title: Authorized Signatory

Exhibit A
Marked Credit Agreement
(See attached)

CONFORMED COPY – NOT EXECUTED IN THIS FORM

—Incorporating ~~that certain~~ Amendment No. 1 to Revolving Credit and Security Agreement, dated as of June 1, 2021; ~~and~~ Amendment No. 2 to Revolving Credit and Security Agreement, dated as of October 12, 2021. ; [and Amendment No. 3 to Revolving Credit and Security Agreement, dated as of August 29, 2022.](#)

Revolving Credit and Security Agreement

among

Divvy Peach, LLC,
as Borrower,

THE LENDERS FROM TIME TO TIME PARTIES HERETO,

and

Goldman Sachs Bank USA,
as Administrative Agent

Dated as of March 2, 2021

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Revolving Credit and Security Agreement

REVOLVING CREDIT AND SECURITY AGREEMENT, dated as of March 2, 2021, among DIVVY PEACH, LLC, a Delaware limited liability company, as borrower (together with its permitted successors and assigns, the “Borrower”), the LENDERS from time to time party hereto, and GOLDMAN SACHS BANK USA, as administrative agent for and on behalf of the Secured Parties (as hereinafter defined) (in such capacity, together with its successors and assigns, the “Administrative Agent”).

Recitals

WHEREAS, the Borrower desires that the Lenders make advances on a revolving basis to the Borrower on the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, each Lender may make such advances to the Borrower on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties hereto agree as follows:

Article I

Definitions; Rules of Construction; Computations

Section 1.01. Definitions. As used in this Agreement, the following terms shall have the meanings indicated:

“31-60-day Adjusted Balance” means, as of any date of determination, the excess of (a) the Aggregate Receivable Balance of all 31-60-day Delinquent Receivables over (b) any Excess Concentration Amount.

“31-60-day Delinquent Receivable” means, as of any date of determination, any Receivable, other than a Defaulted Receivable, as to which all or any portion of a scheduled payment is more than thirty (30) days but less than sixty-one (61) days past the scheduled Due Date for such payment as of such date of determination.

“60-day Delinquent Receivable” means, as of any date of determination, any Receivable, other than a Defaulted Receivable, as to which all or any portion of a scheduled payment is more than sixty (60) days past the scheduled Due Date for such payment as of such date of determination.

“Accelerated Amortization Event” means, as of any date of determination, the occurrence and continuance of any of the following:

- (a) on or after the date that is three (3) months following the Closing Date, the Two-Month Rolling Average Facility Pool Delinquency Ratio shall be greater than 3.65%;
-

provided, however, that if the Two-Month Rolling Average Facility Pool Delinquency Ratio is equal to or less than 3.65%, the related Accelerated Amortization Event shall cease to exist;

(b) on or after the date that is three (3) months following the Closing Date, the Two-Month Rolling Average Facility Pool Default Ratio shall be greater than 2.20%; *provided, however*, that if the Two-Month Rolling Average Facility Pool Default Ratio is equal to or less than 2.20%, the related Accelerated Amortization Event shall cease to exist;

(c) an Event of Default; *provided, however*, that if such Event of Default is waived, the related Accelerated Amortization Event shall cease to exist;

(d) the Servicing Agreement or the Backup Servicing Agreement expires or is otherwise terminated; *provided, however*, that if a successor Servicing Agreement or a successor Backup Servicing Agreement, as applicable, reasonably acceptable to the Administrative Agent is entered into within thirty (30) days following the date of such termination, the related Accelerated Amortization Event shall cease to exist; or

(e) a Regulatory Event that causes a Material Adverse Effect on the Borrower, Holdings, [the Permitted Holder](#) or the Collateral; *provided, however*, that if such Regulatory Event and the related Material Adverse Effect shall cease to exist, the related Accelerated Amortization Event shall cease to exist.

“*Adjusted Balance*” means, as of any date of determination, the excess of (a) the Aggregate Receivable Balance of all Available Eligible Receivables *over* (b) any Excess Concentration Amount.

“*Adjusted Benchmark Rate*” means, ~~for any Interest Accrual Period, an interest rate *per annum* equal to a fraction, expressed as a percentage, (a) the numerator of which is equal to the Benchmark for such Interest Accrual Period and (b) the denominator of which is equal to 100% minus the Applicable Reserve Percentage for such Interest Accrual Period~~ [the applicable Benchmark \(or the Benchmark Replacement as set forth in Section 2.12\)](#).

“*Administrative Agent*” has the meaning specified in the introduction to this Agreement.

“*Advance*” has the meaning specified in Section 2.01.

“*Affected Financial Institution*” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“*Affected Person*” means (a) each Lender and each of its Affiliates, and (b) any assignee or participant of any Lender permitted in accordance with Section 12.06.

“*Affiliate*” means, in respect of a referenced Person, another Person Controlling, Controlled by or under common Control with such referenced Person.

“Aggregate Receivable Balance” means, when used with respect to all or a portion of the Receivables as of any date of determination, the sum of the Receivable Balances of all or of such portion of such Receivables, as applicable, as of such date of determination.

“Agreement” means this Revolving Credit and Security Agreement.

“Amendment No. 3 Closing Date” means August 29, 2022.

“Applicable Law” means any Law of any Governmental Authority, including all federal, state and local laws and of other local regulatory authorities, to which the Person in question is subject or by which it or any of its assets or properties are bound, including, all federal, state and local laws in respect of the business of extending credit to borrowers, including (a) the Federal Truth-in-Lending Act (and Regulation Z of the Consumer Financial Protection Bureau) (but only to the extent applicable to the commercial credit cards); (b) the Equal Credit Opportunity Act and Regulation B of the Consumer Financial Protection Bureau; (c) the Federal Trade Commission Act; (d) all applicable state and federal securities laws; (e) all applicable usury laws (including any related fee or disclosure requirements); (f) the Federal Deposit Insurance Act and Federal Deposit Insurance Corporation regulations; (g) Privacy and Data Security Requirements; (h) Expedited Funds Availability Act and Regulation CC; (i) the Electronic Signatures in Global and National Commerce Act and any other applicable laws relating to the electronic execution of documents and instruments; (j) the Electronic Funds Transfer Act; (k) anti-money laundering and Bank Secrecy Act laws; (l) rules and regulations regarding the blocking of assets and the prohibition of transactions involving persons or countries designated by OFAC or the U.S. Department of State; (m) applicable laws relating to persons that are the subject of sanctions administered or enforced by OFAC or the U.S. Department of State, including those named on, or owned or controlled by those named on, the list of Specially Designated Nationals and Blocked Persons issued by OFAC and currently in effect; (n) the Fair and Accurate Credit Transactions Act; (o) the California Consumer Privacy Act; (p) PCI-DSS; (q) Network Rules; (r) National Automated Clearing House Association rules; (s) Americans With Disabilities Act; and (t) other anti-discrimination and fair credit laws, laws relating to servicing procedures or maximum charges and rates of interest, privacy laws and other similar laws, each to the extent applicable, and all applicable rules and regulations in respect of any of the foregoing.

“Applicable Margin” means, (a) with respect to the Class A Advances, ~~2.75%~~(i) on and prior to March 2, 2023, (x) with respect to the portion of the outstanding principal amount of Class A Advances that is less than or equal to \$75.0 million, 2.75%, and (y) with respect to the portion of the outstanding principal amount of Class A Advances that is greater than \$75.0 million, 2.65%, and (ii) after March 2, 2023, 2.65% and (b) with respect to the Class B Advances, 10.25%.

~~*“Applicable Reserve Percentage” means, for any period, the percentage, if any, applicable during such period (or, if more than one such percentage shall be so applicable, the daily average of such percentages for those days in such period during which any such percentage shall be so applicable) under regulations issued from time to time by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement (including any basic, emergency, supplemental, marginal or other reserve requirements) with respect to liabilities or assets consisting of or including Eurocurrency Liabilities having a term of one month.*~~

“Assigning Lender” has the meaning specified in Section 13.02(a).

“Assignment” has the meaning assigned to such term in the Receivable Purchase Agreement.

“Assignment and Acceptance” means an Assignment and Acceptance in substantially the form of Exhibit C hereto, entered into by a Lender, an assignee and the Administrative Agent and, if applicable, the Borrower.

“Available Eligible Receivable” means an Eligible Receivable that is not either a Defaulted Receivable or a 60-day Delinquent Receivable.

~~*“Available Tenor”* means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Accrual Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Accrual Period” pursuant to clause (d) of Section 2.12.~~

“Backup Servicer” means (a) Carmel Solutions LLC, an Indiana limited liability company, acting in such capacity pursuant to the Backup Servicing Agreement or (b) any other Person party to a backup servicing agreement acting as backup servicer with the prior written consent of the Administrative Agent.

“Backup Servicer Report” means the report specified as such in the Backup Servicing Agreement, in form and substance reasonably acceptable to the Administrative Agent.

“Backup Servicing Agreement” means (a) the Backup Servicing Agreement, dated as of the Closing Date, by and between the Borrower, the Administrative Agent, the Servicer and the Backup Servicer, or (b) such other backup servicing agreement among the Borrower, the Administrative Agent, the Servicer and a Backup Servicer, that is in form and substance satisfactory to the Administrative Agent.

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

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

“Bankruptcy Code” means Title 11 of the United States Code.

“Base Rate” means, on any date of determination, a fluctuating interest rate *per annum*

equal to the higher of (a) the Federal Funds Rate *plus* 0.50% and (b) the Prime Rate. Interest calculated pursuant to clause (a) above will be determined based on a year of 365 days or 366 days, as applicable, and the actual days elapsed. Interest calculated pursuant to clause (b) above will be determined based on a year of 360 days and the actual days elapsed.

“*Benchmark*” means, initially, the ~~LIBOR~~SOFR Rate; provided that if a Benchmark Transition Event ~~or an Early Opt-in Election, as applicable,~~ and its related Benchmark Replacement Date have occurred ~~with prior to the Reference Time in~~ respect to ~~the LIBOR Rate or the then-current Benchmark,~~ then “*Benchmark*” means of any determination of the Benchmark on any date, then, pursuant to terms and according to Section 2.12, the applicable Benchmark Replacement to the extent will replace the then-current Benchmark for all purposes hereunder in respect of such determination on such date and all determinations on all subsequent dates; provided further that such if the Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (a) of Section 2.12 as determined would be less than the Floor for any calculation period under the Agreement, the Benchmark will be the Floor for such period.

“*Benchmark Disruption Event*” means the occurrence of any of the following: (a) any Lender shall have notified the Administrative Agent of a determination by such Lender or any of its assignees or participants that it would be contrary to law or to the directive of any central bank or other governmental authority (whether or not having the force of law) ~~to obtain Dollars in the London interbank market~~ to fund any Advance under the then-current Benchmark, (b) any Lender shall have notified the Administrative Agent of the inability, for any reason, of such Lender or any of its assignees or participants to determine the Adjusted Benchmark Rate, (c) any Lender shall have notified the Administrative Agent of a determination by such Lender or any of its assignees or participants that the rate at which deposits of Dollars are being offered to such Lender or any of its assignees or participants ~~in the London interbank market~~ does not accurately reflect the cost to such Lender, such assignee or such participant of making, funding or maintaining any Advance under the then-current Benchmark, or (d) any Lender shall have notified the Administrative Agent of the inability of such Lender or any of its assignees or participants to obtain Dollars ~~in the London interbank market~~ to make, fund or maintain any Advance under the then-current Benchmark; *provided, however,* that a Benchmark Disruption Event shall not cover or be triggered by a Benchmark Transition Event ~~or an Early Opt-in Election, as applicable,~~ and its related Benchmark Replacement Date with respect to ~~the LIBOR Rate or~~ the then-current Benchmark.

“*Benchmark Replacement*” means, for any ~~Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:~~

- ~~(1) the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;~~
- ~~(2) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;~~

~~(3)~~ Interest Accrual Period, the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or

_____ recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for U.S. dollar- denominated syndicated or bilateral credit facilities at such time and (b) the related Benchmark Replacement Adjustment; ~~provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion. If~~ the Benchmark Replacement as determined ~~pursuant to clause (1), (2) or (3)~~ above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Facility Documents.

_____ “Benchmark Replacement Adjustment” means, ~~with respect to~~ for any ~~replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable~~ Interest Accrual Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(1) _____ for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” ~~the first alternative set forth in the order below that can be determined by the Administrative Agent:~~

(a) _____
_____ the spread adjustment, ~~or method for calculating or determining such~~ spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Accrual Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement ~~for the applicable Corresponding Tenor;~~

(b) _____
_____ the spread adjustment (which ~~may be a positive or negative value or zero~~) as of the Reference Time such Benchmark Replacement is first set for such Interest Accrual Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; ~~and~~

(1) _____
_____ ~~for purposes of clause (3) of the definition of “Benchmark Replacement,”~~ the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent ~~and the Borrower~~ for the applicable Corresponding Tenor ~~giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread~~

adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. ~~dollar-denominated syndicated or bilateral credit facilities at such time;~~

~~of clause (1) above, such adjustment is displayed on a screen or~~ *provided that, in the case* other information service that publishes such Benchmark Replacement Adjustment from time to

~~time as selected by the Administrative Agent~~ in its commercially reasonable discretion.

“*Benchmark Replacement Conforming Changes*” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Business Day,” the definition of “Interest Accrual Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Facility Documents.

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

(1) ~~—~~ in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of ~~such~~the Benchmark ~~(or the published component used in the calculation thereof)~~ permanently or indefinitely ceases to provide ~~all Available Tenors of such~~the Benchmark; ~~(or such component thereof);~~

(2) ~~=~~ in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein; ~~or~~

(3) ~~in the case of an Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to Borrower, so long as the Administrative Agent has not received, by 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to Borrower, written notice of objection to such Early Opt-in Election from Borrower.~~

For the avoidance of doubt, ~~(i)~~ if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination ~~and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).~~

“*Benchmark Transition Event*” means the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) ~~=~~ a public statement or publication of information by or on behalf of the administrator of ~~such~~the Benchmark ~~(or the published component used in the calculation~~

~~thereof~~) announcing that such administrator has ceased or will cease to provide ~~all Available Tenors of such the~~ Benchmark ~~(or such component thereof)~~, permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide ~~any Available Tenor of such the~~ Benchmark ~~(or such component thereof)~~;

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

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

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

~~“Benchmark Unavailability Period” means the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Facility Document in accordance with Section 2.12 and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Facility Document in accordance with Section 2.12.~~

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

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

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or

(c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“*BHC Act Affiliate*” of a party means an “affiliate” (as such term is defined under and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“*Borrower*” has the meaning specified in the introduction to this Agreement.

“*Borrower Information*” means the non-public or proprietary information provided hereunder by the Borrower with respect to the Borrower, Holdings, [the Permitted Holder](#), their respective Affiliates or any other non-public information relating to the foregoing furnished to any Secured Party pursuant to this Agreement or any other Facility Document. Notwithstanding the foregoing, the term “Borrower Information” shall not include any information which (a) is or becomes generally available to the public other than as a result of a breach of Section 12.09, (b) becomes available to the Administrative Agent, or any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower or (c) was available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower hereunder.

“*Borrower LLC Agreement*” means that certain Amended and Restated Limited Liability Company Agreement of the Borrower, dated as of the Closing Date, by and between Holdings, as sole member, and Kristine E. Eppes, as Independent Manager.

“*Borrowing*” has the meaning specified in Section 2.01.

“*Borrowing Base*” means the sum of the Class A Borrowing Base and the Class B Borrowing Base.

“*Borrowing Date*” means the date of a Borrowing.

- “*Business Day*” means ~~(a) any day other than (i)a Saturday or Sunday and (ii)b the days on which banks are authorized or required to close in New York, New York or Salt Lake City, Utah, or a legal or federal holiday~~ ~~and (b) if the applicable Business Day relates to the advance or continuation of, or conversion into, or payment of an Advance bearing interest at the Benchmark or the determination of the Benchmark, the days on which banks dealing in U.S. Dollar deposits in the interbank market in London, England, Wilmington, Delaware or New York, New York are authorized or required to be closed, shall not constitute Business Days.~~

“*Card Account*” means a commercial open-end, non-revolving credit account established by a Card Account Agreement.

“*Card Account Agreement*” means, in respect of a Program, a commercial credit agreement between an Originator and an Obligor that provides the terms and conditions and disclosures required by Applicable Law for a Card Account.

“*Card Account Transaction*” means any transaction on a Card Account, including purchases, cash advances, balance transfers, payments, deposits, withdrawals, refunds, chargebacks, or other credits or debits to a Card Account.

“*Cash*” means Dollars immediately available on the day in question.

“Change of Control” means, at any time, the occurrence of one or more of the following events: (a) prior to the consummation of the Permitted Holdings Transfer, (i) the legal and beneficial owners of the Equity Interests of Holdings as of the Closing Date, collectively, fail to directly own, legally or beneficially, at least 51% of the Equity Interests of Holdings at any time, or (ii) individuals who as of the Closing Date constitute the board of directors of Holdings cease for any reason (other than death or incapacity) to constitute a majority of the board of directors of Holdings at any time, (b) following the consummation of the Permitted Holdings Transfer, (i) at any time, any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) shall become, or obtain rights (whether by means of warrants, options or otherwise) to become, the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of 50% or more of the ordinary voting power for the election of directors of the Permitted Holder (determined on a fully diluted basis), (ii) during any twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Permitted Holder cease to be composed of individuals (A) who were members of that board or equivalent governing body on the first day of such period, (B) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (A) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (C) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (A) and (B) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body, (iii) the Permitted Holder fails to, directly or indirectly, own, legally and beneficially, 100% of the Equity Interests of Holdings at any time or (iv) the Permitted Holder ceases to have the power or authority to Control or direct the management and policies of Holdings at any time (including ceasing to have the power to appoint the members of the board of directors of Holdings at any time), (c) Holdings fails to directly own, legally and beneficially, 100% of the Equity Interests of the Borrower at any time or (d) Holdings ceases to have the power or authority to Control or direct the management and policies of the Borrower at any time.

“Class A Advance” has the meaning specified in Section 2.01.

“Class A Borrowing Base” means, as of any date of determination, the sum of (a) 75% of the Adjusted Balance (other than the 31-60-day Adjusted Balance) *plus* (b) the product of (x) the Collection Account Expected Cash Balance as of such date ((i) other than the Collection Account Required Amount on such date of determination and (ii) after giving pro forma effect to any proposed withdrawal on such date of determination pursuant to Section 9.02) *multiplied by* (y) the outstanding principal amount of Class A Advances *divided by* the outstanding principal amount of all Advances as of such date, *plus* (c) 37.5% of the 31-60-day Adjusted Balance. For purposes of calculating the Class A Borrowing Base, the Receivables Balance shall be reduced by any Collections actually received by the Borrower but considered “on hold” and unpaid by the Servicer as set forth in the most recent Data Tape delivered to the Administrative Agent.

“Class A Effective Advance Rate” means, as of any date of determination, the ratio (expressed as a percentage) of (a) the outstanding principal amount of all Class A Advances *minus* the product of (i) the Collection Account Expected Cash Balance *minus* the Collection Account Required Amount as of such date *multiplied by* (ii) the outstanding principal amount of Class A Advances *divided by* the outstanding principal amount of all Advances as of such date, *divided by* (b) the Adjusted Balance.

“Class A Facility Amount” means \$~~75,000,000~~225,000,000, as increased in connection with a Facility Increase.

“Class A Fee Letter” means the Amended and Restated Class A Fee Letter dated as of the Amendment No. 3 Closing Date, by and among the Borrower, the Administrative Agent and the Initial Class A Lender.

“Class A Interest” means, for each day during an Interest Accrual Period and each outstanding Class A Advance on such day, the sum of the products (for each day during such Interest Accrual Period) of:

$$IR \times P \times 1/D$$

where:

IR = the Interest Rate for such Class A Advance on such day;

P = the principal amount of such Class A Advance on such day; and D = 360.

“Class A Lender” means each Person listed on Schedule 1-B as a Class A Lender and any other Person that shall have become a party hereto as a Class A Lender in accordance with the terms hereof, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Acceptance.

“Class A Lender Interest Purchase Amount” has the meaning specified in Section 6.03(a).

-“Class A Lender Interests” means all present and future indebtedness and other liabilities and obligations (howsoever created or evidenced, whether direct or indirect, absolute or contingent, or due or to become due) of the Borrower to the Class A Lenders arising under this Agreement or any other Facility Document or the transactions contemplated hereby or thereby, including the repayment of the aggregate outstanding principal of the Class A Advances and the payment of Class A Interest, Class A Unused Fee, the Exit Fee under the Class A Fee Letter and all other amounts due or to become due from the Borrower to the Class A Lenders (or to the Administrative Agent, if the Administrative Agent is an Affiliate of a Class A Lender) under this Agreement and any other Facility Document (whether in respect of fees, expenses, indemnifications, breakage costs, increased costs or otherwise), interest, fees and other obligations that accrue after the commencement of any bankruptcy, insolvency or similar proceeding with respect to Borrower ~~or~~, Holdings or the Permitted Holder (in each case whether or not allowed as a claim in such proceeding), including, but not limited to, the amount of all liabilities (without duplication) that the Borrower has incurred or is expected to incur in the nature of indemnification obligations of the Borrower hereunder (including amounts due and owing or expected to be due and owing under Sections 2.09, 2.10, 12.03 and 12.04) which have resulted or could result in loss, cost, damage or expense to the Class A Lenders.

“Class A Maximum Advance Rate Test” means a test that will be satisfied at any time if (a)

the aggregate outstanding principal balance of the Class A Advances is less than or equal to (b) the Class A Maximum Available Amount at such time.

“Class A Maximum Available Amount” means, at any time, the lesser of (a) the Class A Facility Amount; and (b) the Class A Borrowing Base at such time. For the avoidance of any doubt, on any Borrowing Date the amount of any Borrowings hereunder against the Class A Maximum Available Amount shall be subject to the satisfaction of the condition precedent set forth in Section 3.02(b).

“Class A Minimum Utilization Amount” means, ~~as of~~

(a) ~~for any date of determination during the Minimum Utilization Period, 50~~ period beginning on the Closing Date and ending on (but excluding) the date that is three (3) months following the Amendment No. 3 Closing Date, \$37.5 million;

(b) ~~for any date of determination during the period beginning on the date that is three (3) months following the Amendment No. 3 Closing Date and ending on (but excluding) the date that is six (6) months following the Amendment No. 3 Closing Date, an amount equal to 50.0% of the Class A Facility Amount as of such date of determination. The; and~~

(c) for any date of determination on and after the date that is six (6) months following the Amendment No. 3 Closing Date, an amount equal to 60.0% of the Class A Facility Amount as of such date of determination;

provided, that the Class A Minimum Utilization Amount shall be zero for any date ~~after~~ following the termination of the Reinvestment Period.

“Class A Minimum Utilization Fee” means, with respect to each Minimum Utilization Period, the product of (a) the weighted average Applicable Margin in respect of Class A Advances,

(b) the greater of (i) zero and (ii) the excess, if any, of (A) the average of the Class A Minimum Utilization Amount for each day during such Minimum Utilization Period over (B) the average outstanding principal amount of all of the Class A Advances during such Minimum Utilization Period and (c) a fraction, the numerator of which is the number of days in such Minimum Utilization Period and the denominator of which is 360.

“Class A Obligations” means all Obligations owed to the Class A Lenders.

“Class A Unused Fee” means, for each Interest Accrual Period that occurs during the Reinvestment Period, the product of (a) the Class A Unused Premium, (b) the greater of (i) zero and (ii) the excess of (A) the average of the Class A Facility Amount for each day during such Interest Accrual Period over (B) the greater of (x) the average outstanding principal amount of all of the Class A Advances during such Interest Accrual Period and (y) the average of the Class A Minimum Utilization Amount for each day during such Interest Accrual Period, and (c) a fraction, the numerator of which is the number of days in such Interest Accrual Period and the denominator of which is 360.

“Class A Unused Premium” means, as of each Interest Accrual Period during the Reinvestment Period, 0.50%; *provided* that if the average outstanding principal amount of all of the Class A Advances during such Interest Accrual Period is greater than or equal to 75% of the Class A Facility Amount, 0.375%.

“Class B Advance” has the meaning specified in Section 2.01.

“Class B Borrowing Base” means, as of any date of determination, the sum of (a) 95% of the Adjusted Balance (other than the 31-60-day Adjusted Balance), *plus* (b) the Collection Account Expected Cash Balance as of such date ((i) other than the Collection Account Required Amount on such date of determination and (ii) after giving pro forma effect to any proposed withdrawal on such date of determination pursuant to Section 9.02), *plus* (c) 47.5% of the 31-60-day Adjusted Balance, *minus* (d) the outstanding principal amount of all Class A Advances as of such date. For purposes of calculating the Class B Borrowing Base, the Receivables Balance shall be reduced by any Collections actually received by the Borrower but considered “on hold” and unpaid by the Servicer as set forth in the most recent Data Tape delivered to the Administrative Agent.

“Class B Effective Advance Rate” means, as of any date of determination, the ratio (expressed as a percentage) of (a) the outstanding principal amount of all Advances *minus* the Collection Account Expected Cash Balance *plus* the Collection Account Required Amount as of such date, *divided by* (b) the Adjusted Balance.

“Class B Facility Amount” means ~~\$20,000,000~~0, as increased in connection with a Facility Increase.

“Class B Fee Letter” means a Class B Fee Letter to be entered into by and among the Borrower and a Class B Lender.

“Class B Interest” means, for each day during an Interest Accrual Period and each outstanding Class B Advance on such day, the sum of the products (for each day during such Interest Accrual Period) of:

$$IR \times P \times 1/D$$

where:

IR = the Interest Rate for such Class B Advance on such day;

P = the principal amount of such Class B Advance on such day; and D = 360.

“Class B Lender” means each Person listed on Schedule 1-B as a Class B Lender and any other Person that shall have become a party hereto as a Class B Lender in accordance with the terms hereof, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Acceptance.

“Class B Maximum Advance Rate Test” means a test that will be satisfied at any time if (a) the aggregate outstanding principal balance of the Class B Advances is less than or equal to (b) the Class B Maximum Available Amount at such time.

“Class B Maximum Available Amount” means the lesser of (a) the Class B Facility Amount; and (b) the Class B Borrowing Base at such time. For the avoidance of any doubt, on any Borrowing Date the amount of any Borrowings hereunder against the Class B Maximum Available Amount shall be subject to the satisfaction of the condition precedent set forth in Section 3.02(b).

“Class B Minimum Utilization Amount” means, as of any date of determination during the Minimum Utilization Period, 50% of the Class B Facility Amount as of such date of determination. The Class B Minimum Utilization Amount shall be zero for any date after the Reinvestment Period.

“Class B Minimum Utilization Fee” means, with respect to each Minimum Utilization Period, the product of (a) the [weighted average](#) Applicable Margin in respect of Class B Advances, (b) the greater of (i) zero and (ii) the excess, if any, of (A) the average of the Class B Minimum Utilization Amount for each day during such Minimum Utilization Period over (B) the average outstanding principal amount of all of the Class B Advances during such Minimum Utilization Period and (c) a fraction, the numerator of which is the number of days in such Minimum Utilization Period and the denominator of which is 360.

“Class B Purchase Option Exercise Date” has the meaning specified in Section 6.03(a). *“Class B Purchase Option*

Notice” has the meaning specified in Section 6.03(a). *“Class B Purchase Request”* has the meaning specified in Section 6.03(a).

“Class B Purchase Right” has the meaning specified in Section 6.03(a).

“Class B Purchase Right Termination Date” has the meaning specified in Section 6.03(a).

“Class B Purchase Right Trigger” has the meaning specified in Section 6.03(a).

“Class B Unused Fee” means, for each Interest Accrual Period that occurs during the Reinvestment Period, the product of (a) the Class B Unused Premium, (b) the greater of (i) zero and (ii) the excess of (A) the average of the Class B Facility Amount for each day during such Interest Accrual Period over (B) the greater of (x) the average outstanding principal amount of all of the Class B Advances during such Interest Accrual Period and (y) the average of the Class B Minimum Utilization Amount for each day during such Interest Accrual Period, and (c) a fraction, the numerator of which is the number of days in such Interest Accrual Period and the denominator of which is 360.

“Class B Unused Premium” means, as of each Interest Accrual Period during the Reinvestment Period, 0.50%; *provided* that if the average outstanding principal amount of all of the Class B Advances during such Interest Accrual Period is greater than or equal to 75% of the

Class B Facility Amount, 0.375%.

“*Closing Date*” means March 2, 2021.

“*CME Term SOFR Administrator*” means CME Group Benchmark Administration Limited (CBA) as administrator of the Term SOFR (or a successor administrator of Term SOFR as determined by the Administrative Agent in its reasonable discretion).

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

“*Collateral*” has the meaning specified in Section 7.01(a).

“*Collection Account*” means the account established at the Collection Account Bank in the name of the Borrower, which account has been designated as the Collection Account and which shall at all times be the subject of a Collection Account Control Agreement.

“*Collection Account Bank*” means (a) Zions Bank, (b) JPMorgan Chase Bank, N.A. or ~~(b)~~ another Qualified Institution reasonably acceptable to the Administrative Agent.

“*Collection Account Control Agreement*” means (a) the Deposit Account Control Agreement dated as of the Closing Date among the Borrower, the Administrative Agent and the Collection Account Bank in respect of the Collection Account, or (b) any other agreement in form reasonably acceptable to the Administrative Agent among the Borrower, the Administrative Agent and a Collection Account Bank establishing “control” within the meaning of the UCC over the Collection Account or such other account as may be applicable from time to time.

“*Collection Account Expected Cash Balance*” means, as of any date of determination, the aggregate amount of cash on deposit in the Collection Account as of such date *plus* amounts from ACH payments initiated by the Borrower or initiated by the Servicer on behalf of the Borrower that the Borrower reasonably expects (based on the related Obligor’s past performance) will clear by the end of such date.

“*Collection Account Required Amount*” means, as of any date of determination, the aggregate of the amounts applied (or, in the case of a shortfall in such application, should have been applied) in Sections 9.01(a), (b), (c) and (f) for the payment of interest and fees on the immediately preceding Payment Date, excluding, for the avoidance of doubt, any payments of principal or reimbursements.

“*Collection Period*” means (a) with respect to the first Payment Date occurring after the Closing Date, the period beginning on the Closing Date and ending on the last day of the first full calendar month ending after the Closing Date, and (b) with respect to any other Payment Date or other date, the prior calendar month.

“*Collection Policy*” means (a) with respect to the initial Servicer, the customer management and collections policy attached hereto as Exhibit G, which, subject to Sections 5.01(d)(viii) and 5.02(j), may be amended, modified, waived or supplemented by the Servicer from time to time, and (b) with respect to any successor servicer approved by the Administrative Agent, such servicer’s customary and standard collection policies and guidelines for servicing

corporate credit card receivables.

“*Collections*” means all cash collections, distributions, payments and other amounts received by an Originator, the Servicer, the Backup Servicer, the Seller or the Borrower, from any Person in respect of any Receivables and Related Documents, including all principal, interest, fees, and repurchase proceeds payable to the Borrower under or in connection with any such Receivables and Related Documents, all payments with respect to fees or other charges, any Interchange payable to Holdings or the Borrower, any risk-sharing payments payable to Holdings or the Borrower with respect to such Receivables or Related Documents and all Proceeds from any sale or disposition of any such Receivables or Related Documents.

“*Concentration Limitations*” means, as of any date of determination, commencing three (3) months from the Closing Date, the following limitations applied, without duplication, to the Available Eligible Receivables owned (or, in relation to a proposed purchase of a Receivable, proposed to be owned) by the Borrower, and in each case in accordance with the procedures set forth in Section 1.04:

(a) the amount by which the Aggregate Receivable Balance of such Available Eligible Receivables represented by Obligor (other than EyeCare) engaged in industries with the following North American Industry Classification System code 54 exceeds 35% of the Aggregate Receivable Balance of all Available Eligible Receivables on such date;

(b) the amount by which the Aggregate Receivable Balance of such Available Eligible Receivables represented by Obligor (other than EyeCare) in any single industry (other than the professional service industry) exceeds 25% of the Aggregate Receivable Balance of all Available Eligible Receivables on such date;

(c) the amount by which the Aggregate Receivable Balance of such Available Eligible Receivables represented by Obligor (other than EyeCare) in the top three (3) industries (measured by Aggregate Receivable Balance) exceeds 65% of the Aggregate Receivable Balance of all Available Eligible Receivables on such date;

(d) the amount by which the Aggregate Receivable Balance of such Available Eligible Receivables represented by Card Accounts with credit lines in excess of \$5.0 million (other than EyeCare) exceeds ~~45~~25% of the Aggregate Receivable Balance of all Available Eligible Receivables on such date;

(e) the amount by which the Aggregate Receivable Balance of such Available Eligible Receivables represented by Card Accounts with credit lines in excess of \$3.0 million (other than EyeCare) exceeds ~~20~~30% of the Aggregate Receivable Balance of all Available Eligible Receivables on such date;

(f) the amount by which the Aggregate Receivable Balance of such Available Eligible Receivables represented by any single Obligor Origination State (without giving effect to Receivables for which EyeCare is the Obligor) exceeds 30% of the Aggregate Receivable Balance of all Available Eligible Receivables on such date; and

(g) the amount by which the Aggregate Receivable Balance of such Available

Eligible Receivables represented by 31-60-day Delinquent Receivables exceeds 5% of the Aggregate Receivable Balance of all Available Eligible Receivables on such date; and

(h) the amount by which the Aggregate Receivable Balance of such Available Eligible Receivables for which EyeCare is the Obligor exceeds \$~~10.0~~20.0 million.

“*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.

“*Consent and Release*” means a consent and release letter executed by the Administrative Agent in substantially the form of Exhibit D hereto or any other form reasonably acceptable to the Administrative Agent.

“*Constituent Documents*” means in respect of any Person, the certificate or articles of formation or organization, trust agreement, limited liability company agreement, operating agreement, partnership agreement, joint venture agreement or other applicable agreement of formation or organization (or equivalent or comparable constituent documents) and other organizational documents and by-laws and any certificate of incorporation, certificate of formation, certificate of limited partnership and other agreement, similar instrument filed or made in connection with its formation or organization.

“*Control*” means the direct or indirect possession of the power to direct or cause the direction of the management or policies of a Person, whether through ownership, by contract, arrangement or understanding, or otherwise. “*Controlled*” and “*Controlling*” have the meaning correlative thereto.

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

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

“*Covered Party*” has the meaning specified in Section 12.22.

“*CRB*” means Cross River Bank, a New Jersey chartered commercial bank.

“*CRB Program*” means the “Card Program” as such term is defined in CRB Program Agreement.

“*CRB Program Agreement*” means the Master Services Agreement, dated October 16, 2020 by and between Holdings and CRB.

“*CRB Transfer Event*” means, in respect of any Receivable originated by CRB, a “Transfer Event” as such term is defined in CRB Program Agreement.

“*Credit Approval Date*” means, with respect to any Receivable, the date on which the Obligor was granted credit approval in accordance with the Credit Policy.

“*Credit Policy*” means the commercial underwriting and line management policy of Holdings attached hereto as Exhibit F, which, subject to Sections 5.01(d)(viii) and 5.02(j), may be amended, modified, waived or supplemented by Holdings from time to time.

“*Custodian*” means (a) Holdings, acting in such capacity pursuant to the Servicing Agreement, or (b) any other Person party to a custody and verification agreement acting as custodian with the written consent of the Administrative Agent.

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

“*Data Tape*” means a data tape, which shall include with respect to each Eligible Receivable the information set forth on Schedule 6.

“*Debtor Relief Laws*” means (a) the Bankruptcy Code and (b) all other applicable liquidation, conservatorship, bankruptcy, moratorium, arrangement, receivership, insolvency, reorganization, suspension of payments, adjustment of debt, marshaling of assets or similar debtor relief laws of the United States, any state or any foreign country from time to time in effect affecting the rights of creditors generally.

“*Default Right*” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“*Defaulted Receivable*” means a Receivable that (a) with respect to which all or any portion of a scheduled payment remains unpaid for more than one-hundred twenty (120) days or (b) has been charged-off or discharged or should have been charged-off or discharged under the charge-off policy set forth in and forming part of the Collection Policy.

“*Defaulting Lender*” shall mean any Lender (other than the Initial Class A Lender), (a) has failed to (i) fund all or any portion of its Advances on the date such Advances were required to be funded hereunder (and not otherwise funded by another Class A Lender or Class B Lender, as applicable) unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s good faith determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder (and not otherwise paid by another Lender) within three (3) Business Days of the date when due, (b) has notified the Borrower or the Administrative Agent in writing that it does not intend to

comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund an Advance hereunder and states that such position is based on such Lender's good faith determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), or (c) has become the subject of an Insolvency Event.

"Determination Date" means the last day of each Collection Period.

"Divvy Score" means a rating assigned by Divvy's risk team based on the parameters set forth in the Credit Policy.

"Dollars" and *"\$"* mean lawful money of the United States of America.

"Due Date" means each date on which any payment is due on a Receivable in accordance with its terms.

~~*"Early Opt-in Election"* means, if the then-current Benchmark is LIBOR Rate, the occurrence of:~~

~~(2) a notification by the Administrative Agent to (or the request by the Borrower to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding U.S. dollar-denominated syndicated or bilateral credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated or bilateral credit facilities are identified in such notice and are publicly available for review), and~~

~~(3) the joint election by the Administrative Agent and the Borrower to trigger a fallback from LIBOR Rate and the provision by the Administrative Agent of written notice of such election to the Lenders.~~

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

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

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

“Eligible Card Account” has the meaning set forth on Schedule 2 hereto.

“Eligible Receivable” has the meaning set forth on Schedule 2 hereto.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership (including beneficial ownership) or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership (including beneficial ownership) or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership (including beneficial ownership) or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership (including beneficial ownership) or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“ERISA” means the Employee Retirement Income Security Act of 1974, and the regulations promulgated and rulings issued thereunder.

“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 thirty (30) day notice requirement is waived); (b) the failure with respect to any Plan to satisfy the “minimum funding standard” (as defined in Section 412 of the Code or Section 302 of ERISA); (c) the filing pursuant to Section 412(c) of the Code or Section 302 of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) a determination that any Plan is, or is expected to be, in “at risk” status (as defined in Section 430 of the Code or Section 303 of ERISA); (e) the incurrence by the Borrower or any member of its ERISA Group of any liability under Title IV of ERISA with respect to the termination of any Plan; (f) (i) the receipt by the Borrower or any member of its ERISA Group from the PBGC of a notice of determination that the PBGC intends to seek termination of any Plan or to have a trustee appointed for any Plan, or (ii) the filing by the Borrower or any member of its ERISA Group of a notice of intent to terminate any Plan; (g) the incurrence by the Borrower or any member of its ERISA Group of any liability (i) with respect to a Plan pursuant to Sections 4063 and 4064 of ERISA, (ii) with respect to a facility

closing pursuant to Section 4062(e) of ERISA, or (iii) with respect to the withdrawal or partial withdrawal from any Multiemployer Plan; (h) the receipt by the Borrower or any member of its ERISA Group of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, in endangered status or critical status, within the meaning of Section 432 of the Code or Section 305 of ERISA or is or is expected to be insolvent, within the meaning of Title IV of ERISA; or (i) the failure of the Borrower or any member of its ERISA Group to make any required contribution to a Multiemployer Plan.

“*ERISA Group*” means each controlled group of corporations or trades or businesses (whether or not incorporated) under common control that is treated as a single employer under Section 414(b) or (c) of the Code (or Section 414(m) or (o) of the Code for purposes of provisions related to Section 412 of the Code) with the Borrower.

“*Erroneous Payment*” has the meaning set forth in Section 11.08(a).

“*Erroneous Payment Deficiency Assignment*” has the meaning set forth in Section 11.08(d).

“*Erroneous Payment Impacted Class*” has the meaning set forth in Section 11.08(d).

“*Erroneous Payment Return Deficiency*” has the meaning set forth in Section 11.08(d).

“*Escrow Account*” means the account established at the Escrow Account Bank in the name of the Borrower, which account holds solely Escrowed Amounts.

“*Escrow Account Bank*” means (a) Zions Bank, (b) JPMorgan Chase Bank, N.A. or ~~(b)~~ another Qualified Institution reasonably acceptable to the Administrative Agent.

“*Escrowed Amounts*” means, with respect to any Receivable, amounts deposited by the Obligors in trust with the Borrower pursuant to the applicable Card Account Agreement and applied from time to time to all or any portion of a scheduled payment on such Receivable that remains unpaid beyond the applicable Due Date.

“*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.

~~“*Eurocurrency Liabilities*” is defined in Regulation D of the Board of Governors of the Federal Reserve System, as in effect from time to time.~~

“*Event of Default*” has the meaning specified in Section 6.01.

“*Excess Concentration Amount*” means, at any time in respect of which any one or more of the Concentration Limitations are exceeded, the portion (calculated by the Borrower or the Servicer in accordance with Section 1.04) of the Receivable Balance of the Available Eligible Receivables that cause such Concentration Limitations to be exceeded.

“*Exchange Act*” means the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder, all as from time to time in effect, or any successor law, rules or

regulations, and any reference to any statutory or regulatory provision shall be deemed to be a reference to any successor statutory or regulatory provision.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Secured Party or required to be withheld or deducted from a payment to a Secured Party, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed in the case of any Secured Party, by the jurisdiction (or any political subdivision thereof) under the laws of which such Secured Party is organized or in which its principal office is located, or in the case of any Lender, in which its applicable lending office is located, or (ii) that are Other Connection Taxes, (b) in the case of any Lender, any U.S. federal withholding taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in an Obligation pursuant to a law in effect on the date on which (i) such Lender acquires such interest in an Obligation or otherwise becomes a party to this Agreement (other than pursuant to an assignment under Sections 2.09(b), 2.09(d), 2.11(b) or 12.03(h)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 12.03, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Secured Party’s failure to comply with Section 12.03(g), and (d) any withholding Taxes imposed under FATCA.

“Exit Fee” has the meaning specified in the Class A Fee Letter and the Class B Fee Letter, as applicable.

“Expected Class A Lender Interests” has the meaning specified in Section 6.03(a).

“EyeCare” means EyeCare Partners, LLC.

“Facility Amount” means the sum of the Class A Facility Amount and the Class B Facility Amount, as increased in connection with a Facility Increase.

“Facility Documents” means this Agreement, the Backup Servicing Agreement, the Borrower LLC Agreement, the Collection Account Control Agreement, each Fee Letter, the Limited Guaranty and Indemnity Agreement, each Program Agreement, the Receivable Purchase Agreement, the Servicing Agreement, and any other agreements, documents, security agreements and other instruments entered into or delivered by or on behalf of the Borrower, the Backup Servicer, the Collection Account Bank, the Custodian, Holdings, an Originator, [the Permitted Holder](#), the Seller or the Servicer, in connection with any of the foregoing agreements, this Agreement or pursuant to Section 5.01(c) to create, perfect or otherwise evidence the Administrative Agent’s security interest in the Collateral.

“Facility Increase” mean, following the Borrower’s written request, an increase in the Facility Amount, the Class A Facility Amount or the Class B Facility Amount, in each case, as the Administrative Agent may agree to in its sole discretion, to be allocated in accordance with Section 12.01(b)(iii).

“Facility Pool Default Ratio” means on any date of determination with respect to a Collection Period, the ratio (expressed as a percentage) equal to (a) the Aggregate Receivable

Balance of all Receivables that were Eligible Receivables on their respective Purchase Date that became Defaulted Receivables during such Collection Period, *divided* by (b) the Aggregate Receivable Balance of all Eligible Receivables acquired by the Borrower during the Collection Periods occurring either four or five calendar months, as applicable based on the Origination Date of such Receivables, immediately prior to such date of determination and which Receivables could have, based on their Origination Date, become Defaulted Receivables.

“Facility Pool Delinquency Ratio” means on any date of determination with respect to a Collection Period, the ratio (expressed as a percentage) equal to (a) the Aggregate Receivable Balance of all Eligible Receivables that are at such time more than 30 days past due (other than, subject to the Fraud Provision, Fraud Delinquent Receivables that were actually repurchased by the Seller) during such Collection Period, *divided* by (b) the Aggregate Receivable Balance of all Eligible Receivables acquired by the Borrower occurring one or two calendar months, as applicable based on the Origination Date of such Receivables, immediately prior to such date of determination and which Receivables could have, based on their Origination Date, become more than 30 days past the scheduled Due Date for a scheduled payment.

“FATCA” means Code Sections 1471 through 1474, 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 and any agreements entered into pursuant to Section 1471(b) 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 Rate” means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it; *provided* that, if at any time a Lender is borrowing overnight funds from a Federal Reserve Bank that day, the Federal Funds Rate for such Lender for such day shall be the average rate per annum at which such overnight borrowings are made on that day as promptly reported by such Lender to the Borrower and the Administrative Agent in writing. Each determination of the Federal Funds Rate by a Lender pursuant to the foregoing proviso shall be conclusive and binding except in the case of manifest error.

“Fee Letters” means, collectively, the Class A Fee Letter and the Class B Fee Letter.

“Final Maturity Date” means the earliest of (a) June 23, 2023 2024 (or such later date as may be agreed by the Borrower and each of the Lenders and notified in writing to the Administrative Agent), (b) the date of the acceleration of the Advances pursuant to Section 6.02, or (c) the date on which all Obligations shall have been paid in full (other than contingent indemnity obligations not yet due and owing).

“Floor” means 0.25%.

“Fraud Delinquent Receivable” means, as of any date of determination, (i) any Eligible Receivable subject to fraud on the part of the Obligor (as determined in the reasonable discretion of the Seller), other than a Defaulted Receivable, or (ii) as to which all or any portion of the first scheduled payment is past the scheduled Due Date for such payment as of such date of determination.

“Fraud Provision” means, the right (but not the obligation) of the Seller to repurchase any Fraud Delinquent Receivable pursuant to the Receivable Purchase Agreement; *provided* that in no event shall the number of Fraud Delinquent Receivables so repurchased exceed \$10,000,000 during the term of this Agreement.

“Fundamental Amendment” means any amendment, modification, waiver or supplement of or to this Agreement or any Facility Document that would (a) increase the term of the commitments (other than an increase in the commitment of a particular Lender or addition of a new Lender hereunder agreed to by the relevant Lender(s) and the Administrative Agent pursuant to the terms of this Agreement) or change the Final Maturity Date, (b) extend the date fixed for the payment of principal of or interest on any Advance or any fee due and owing to a Lender, (c) reduce the amount of any such payment of principal, (d) reduce the rate at which interest is payable thereon or any fee is payable hereunder, (e) release any material portion of the Collateral, except in connection with dispositions permitted hereunder, (f) alter the terms of Section 2.04, Section 3.02, Section 6.01 (*provided, however*, that, notwithstanding anything to the contrary in Section 6.01 or the foregoing clause (b), the Administrative Agent and the Required Lenders, in their sole discretion, may allow the Borrower to cure any Event of Default within no more than three (3) Business Days after the occurrence of such Event of Default (including the lapse of any applicable grace period) and, if the Borrower cures such Event of Default to the satisfaction of the Administrative Agent and the Required Lenders within such period of time, such Event of Default shall be deemed waived by the Lenders), Section 6.02, Section 6.03, Section 7.02, Section 9.01, Section 12.01(b), Section 12.06 or Article XIII, (g) modify the definition of the terms “31-60-day Delinquent Receivable,” “60-day Delinquent Receivable,” “Accelerated Amortization Event,” “Borrowing Base,” “Change of Control,” “Class A Borrowing Base,” “Class A Facility Amount,” “Class A Interest Rate,” “Class A Lender,” “Class A Effective Advance Rate,” “Class A Maximum Advance Rate Test,” “Class A Maximum Available Amount,” “Class A Unused Fee,” “Class B Borrowing Base,” “Class B Effective Advance Rate,” “Class B Maximum Advance Rate Test,” “Class B Maximum Available Amount,” “Defaulted Receivable,” “Eligible Card Account,” “Facility Pool Default Ratio,” “Facility Pool Delinquency Ratio,” “Fraud Delinquent Receivable,” “Fraud Provision,” “Fundamental Amendment,” “Maximum Available Amount,” “Maximum Advance Rate Test,” “Permitted Sale,” “Required Lenders,” “Servicer Event of Default,” “Three-Month Rolling Average Facility Pool Default Ratio,” “Three-Month Rolling Average Facility Pool Delinquency Ratio,” “Two-Month Rolling Average Facility Pool Default Ratio,” “Two-Month Rolling Average Facility Pool Delinquency Ratio,” or modify in any other manner the number or percentage of the Lenders required to make any determinations or waive any rights hereunder or to modify any provision hereof, (h) extend the Reinvestment Period, (i) release ~~Holdings~~any Limited Guarantor from its obligations under the Limited Guaranty and Indemnity Agreement, (j) terminate or remove Seller’s obligations to repurchase Receivables pursuant to the Receivable Purchase Agreement, (k) change the currency required for payments of Obligations under this Agreement, or (l) consent to or permit the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement or its rights, title or interest in or to all or any

material portion of the Collateral (except, in each case, as permitted under this Agreement); *provided, however*, that (i) no amendment, waiver, supplement or other modification of the provisions or definitions described above which solely relate to or affect the rights or obligations of the Borrower or the Class A Lenders and will have no effect on the rights or obligations of the Class B Lenders (whether directly or indirectly), in each, case, relating thereto shall be deemed to be a Fundamental Amendment and (ii) no amendment, waiver, supplement or other modification to the proviso in Section 2.01(a) shall be deemed a Fundamental Amendment.

“GAAP” means generally accepted accounting principles in effect from time to time in the United States of America.

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, quasi-regulatory authority, administrative tribunal, central bank, public office, court, arbitration or mediation panel, or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of government, including the SEC, the stock exchanges, any federal, state, territorial, county, municipal or other government or governmental agency, arbitrator, board, body, branch, bureau, commission, court, department, instrumentality, master, mediator, panel, referee, system or other political unit or subdivision or other entity of any of the foregoing, whether domestic or foreign.

“Governmental Authorizations” means all franchises, permits, licenses, approvals, consents and other authorizations of all Governmental Authorities.

“Governmental Filings” means all filings, including franchise and similar tax filings, and the payment of all fees, assessments, interests and penalties associated with such filings with all Governmental Authorities. For the avoidance of doubt, “Governmental Filings” do not include filings of financing statements under the UCC or comparable laws.

“Holdings” means DivvyPay, LLC (successor in interest to DivvyPay, Inc.).

“Indemnified Party” has the meaning specified in Section 12.04(b).

“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 the Borrower under any Facility Document and (b) to the extent not otherwise described in (a), Other Taxes.

“Independent Manager” means an individual who is natural person and who: (i) for the five-year period prior to such person’s appointment as Independent Manager has not been, and during the continuation of such person’s service as Independent Manager is not: (A) an employee, director, stockholder, member, manager, partner or officer of Holdings or any of its Affiliates (other than such person’s service as an Independent Manager of or Special Member to the Borrower); (B) a customer or supplier of Holdings or any of its Affiliates (other than such person’s service as an Independent Manager of or Special Member to the Borrower); or (C) any member of the immediate family of a person described in the foregoing clause (A) or (B); and (ii) has (A) prior experience as an Independent Manager for a corporation or limited liability company whose charter or organizational documents required the unanimous consent of all Independent Managers thereof before such corporation or limited liability company could consent to the institution of

bankruptcy or insolvency proceedings against it or could file a petition seeking relief under any applicable federal or state law relating to bankruptcy; and (B) at least three years of employment experience with one or more entities that provide, in the ordinary course of their respective businesses, advisory, management or placement services (including providing independent managers or Managers) to issuers of securitization or structured finance instruments, agreements or securities.

“Ineligible Receivable” means, as of any date of determination, any Receivable that is not an Eligible Receivable.

“Information” has the meaning specified in Section 13.03(b).

“Initial Class A Lender” means Goldman Sachs Bank USA.

“Initial Class B Lender” means Powerscourt Investments XX, L.P., so long as such Person is a Class B Lender and if Powerscourt Investments XX, L.P. (or an Affiliate of Powerscourt Investments XX, L.P.) is no longer a Class B Lender, no consents or notices will be required to be obtained or delivered to the Initial Class B Lender thereafter under this Agreement.

“Insolvency Event” means with respect to a specified Person, (a) the commencement of a proceeding by the filing of a petition seeking the entry of a decree or order for relief by a court having jurisdiction in the premises in respect of such Person or any substantial part of its property in an involuntary case under the Bankruptcy Code or any other applicable insolvency law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or ordering the winding-up or liquidation of such Person’s affairs, and such proceeding shall remain unstayed and in effect for a period of sixty (60) consecutive days, or immediately upon entry of such decree or order in such proceeding; or (b) the commencement by such Person of a voluntary case under the Bankruptcy Code or any other applicable insolvency law now or hereafter in effect, or the consent by such Person to the entry of an order for relief in an involuntary case under any such law, or the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or the making by such Person of any general assignment for the benefit of creditors, or the failure by such Person generally to pay its debts as such debts become due, or the taking of action by such Person in furtherance of any of the foregoing.

“Interchange” means all interchange fees or issuer rate fees payable to an Originator in its capacity as card issuer through any system in connection with charges for goods and services by holders of cards (as such term is defined in a Program Agreement).

“Interest” means, for each day during an Interest Accrual Period and each outstanding Advance on such day, the sum of the products (for each day during such Interest Accrual Period) of:

$$IR \times P \times 1/D$$

where:

IR = the Interest Rate for such Advance on such day;
P = the principal amount of such Advance on such day; and
D = 360.

“Interest Accrual Period” means,

(a) with respect to each Advance (or portion thereof) (i) with respect to the initial Payment Date for such Advance (or portion thereof), the period from and including the related Borrowing Date to, and including, the last day of the Collection Period ending immediately after such Borrowing Date and (ii) with respect to any subsequent Payment Date for such Advance (or portion thereof), the applicable Collection Period preceding such Payment Date; *provided*, that the final Interest Accrual Period for all outstanding Advances hereunder shall end on and include the day prior to the payment in full of the Advances hereunder;

(b) any Interest Accrual Period with respect to any Advance which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day; and

(c) in the case of any Interest Accrual Period for any Advance which commences before an Event of Default and would otherwise end on a date occurring after the occurrence of an Event of Default, the Administrative Agent may, in its sole discretion, cause such Interest Accrual Period to end upon the occurrence of an Event of Default and the duration of each Interest Accrual Period which commences on or after the occurrence of an Event of Default shall be of such duration as selected by the Administrative Agent.

“Interest Rate” means, for any Interest Accrual Period and for each Advance outstanding by a Lender for each day during such Interest Accrual Period:

(a) prior to the Scheduled Reinvestment Period Termination Date, so long as no Accelerated Amortization Event or Event of Default (which has not otherwise been waived by the Required Lenders pursuant to the terms hereof) has occurred and is continuing, and so long as no Benchmark Disruption Event has occurred and is continuing, a rate equal to the Adjusted Benchmark Rate *plus* the Applicable Margin, and, in the event that a Benchmark Disruption Event has occurred and is continuing, a rate equal to the Base Rate *plus* the Applicable Margin; or

(b) on and after the Scheduled Reinvestment Period Termination Date, so long as no Accelerated Amortization Event or Event of Default (which has not otherwise been waived by the Required Lenders pursuant to the terms hereof) has occurred and is continuing, the Interest Rate shall be the Post-Reinvestment Period Rate *plus* the Applicable Margin; or

(c) upon the occurrence and during the continuance of an Accelerated Amortization Event or an Event of Default (which has not otherwise been waived by the Required Lenders pursuant to the terms hereof), the Interest Rate shall be the Post-Default

Rate *plus* the Applicable Margin.

“*Investment Company Act*” means the Investment Company Act of 1940, and the rules and regulations promulgated thereunder, all as from time to time in effect, or any successor law, rules or regulations, and any reference to any statutory or regulatory provision shall be deemed to be a reference to any successor statutory or regulatory provision.

“*ISDA Definitions*” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time.

“*Law*” means any action, code, consent decree, constitution, decree, directive, enactment, finding, guideline, law, injunction, interpretation, judgment, order, ordinance, policy statement, proclamation, promulgation, regulation, requirement, rule, rule of law, rule of public policy, settlement agreement, statute, or writ, of any Governmental Authority, or any particular section, part or provision thereof.

“*Lender*” means, (a) any Class A Lender and any Class B Lender, and (b) “*Lenders*” means, collectively, all of the foregoing lenders.

~~“*LIBOR Determination Date*” means, with respect to any Interest Accrual Period, the day that is two (2) Business Days before the commencement of such Interest Accrual Period.~~

~~“*LIBOR Rate*” means, for any Payment Date and determined by the Administrative Agent on the LIBOR Determination Date with respect to any Interest Accrual Period with respect to which interest is to be calculated by reference to the “LIBOR Rate”, the greater of (a) the Floor and~~

~~(b) the Offered Rate. For the purposes hereof, the “Offered Rate” shall mean the offered rate for three-month U.S. dollar deposits, as the applicable rate appears on Reuters Screen LIBOR03 Page as of 11:00 a.m. (London, England time) on such date (rounded upwards, if necessary, to the nearest whole multiple of 1/100 of 1%); provided that if the applicable rate does not appear on Reuters Screen LIBOR03 Page, the rate for such date will be based upon the offered rates of the reference banks selected by Goldman Sachs Bank USA for U.S. dollar deposits as of 11:00 a.m. (London, England time) on such date. In such event, the Administrative Agent will request the principal London office of each of at least three reference banks selected by the Administrative Agent to provide a quotation of its rate. If on such date, two or more of such reference banks provide such offered quotations, the Offered Rate shall be the arithmetic mean of all such offered quotations (rounded to the nearest whole multiple of 1/100 of 1%). In on such date, fewer than two of such reference banks provide such offered quotations, the Offered Rate shall be the offered rate for three-month U.S. dollar deposits as determined on the immediately preceding day that such rate appeared on Reuters Screen LIBOR03 Page.~~

“*Lien*” means any mortgage, pledge, hypothecation, assignment, encumbrance, lien or security interest (statutory or other), or preference, priority or other security agreement, charge or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing authorized by the Borrower of any financing statement under the

UCC or comparable law of any jurisdiction).

“Limited Guarantors” means each of Holdings and the Permitted Holder, each in its capacity as a limited guarantor under the Limited Guaranty and Indemnity Agreement, on a joint and several basis.

“Limited Guaranty and Indemnity Agreement” means that certain Amended and Restated Limited Guaranty and Indemnity Agreement made by ~~Holdings~~the Limited Guarantors for the benefit of the Administrative Agent, dated as of the Amendment No. 3 Closing Date.

“Limited Guaranty Event of Default” has the meaning assigned to such term in the Limited Guaranty and Indemnity Agreement.

“Margin Stock” has the meaning specified in Regulation U.

“Material Adverse Effect” means, with respect to any Person, an action or an event that could have a material adverse effect on (a) the business, assets, financial condition, operations, performance or properties of such Person, (b) the validity, enforceability or collectability of this Agreement or any other Facility Document against such Person or the validity, enforceability or collectability of all or any material portion of the Eligible Receivables, (c) the rights and remedies of the Administrative Agent, the Lenders and the Secured Parties with respect to matters arising under this Agreement or any other Facility Document, (d) the ability of such Person to perform its obligations under any Facility Document to which it is a party, or (e) the validity, perfection, priority or enforceability of the Lien of the Administrative Agent on the Collateral.

“Maximum Advance Rate Test” means a Class A Maximum Advance Rate Test or a Class B Maximum Advance Rate Test, as the context requires.

“Maximum Advance Rate Test Calculation Statement” means a statement in substantially the form attached to the form of Notice of Borrowing, form of Notice of Withdrawal and form of Notice of Prepayment attached hereto as Exhibit A-1, Exhibit A-2 and Exhibit B, respectively, as such form of Maximum Advance Rate Test Calculation Statement may be modified by the Administrative Agent from time to time with the consent of the Borrower (not to be unreasonably withheld, conditioned or delayed) to the extent modifications to such form would, in the good faith opinion of the Administrative Agent, improve the accuracy of the calculation of the Maximum Advance Rate Test, the Class A Maximum Advance Rate Test or the Class B Maximum Advance Rate Test, as applicable, and any other calculations necessary to satisfy the conditions precedent to each Borrowing required hereunder, in each case, in a manner consistent with the other terms of this Agreement.

“Maximum Available Amount” means, at any time, the lesser of:

- (a) the Facility Amount; and
- (b) the Borrowing Base at such time.

For the avoidance of any doubt, on any Borrowing Date the amount of any Borrowings hereunder against the Maximum Available Amount shall be subject to the satisfaction of the conditions

precedent set forth in Section 3.02(b).

“Measurement Date” means (a) the Closing Date, (b) each Borrowing Date and (c) each Determination Date.

“Minimum Utilization Fees” means, collectively, the Class A Minimum Utilization Fees and the Class B Minimum Utilization Fees.

“Minimum Utilization Period” means (a) initially, the period commencing on the date that is three (3) months following the Closing Date and ending on (and including) the earlier to occur of the date that is nine (9) months following the Closing Date and the Termination Date, and (b) thereafter, each successive six (6) consecutive calendar month period commencing on (and excluding) the last day of the immediately preceding Minimum Utilization Period and ending on (and excluding) the earlier to occur of the six (6) month anniversary of such commencement and the Termination Date; *provided*, that for the avoidance of doubt, no Minimum Utilization Period shall exist, or include any day, on or after the Termination Date.

“Money” has the meaning specified in Section 1-201(b)(24) of the UCC.

“Monthly Report” has the meaning specified in Section 5.01(g).

“Moody’s” means Moody’s Investors Service, Inc., together with its successors.

“Multiemployer Plan” means an employee pension benefit plan within the meaning of Section 4001(a)(3) of ERISA that is sponsored by the Borrower or a member of its ERISA Group or to which the Borrower or a member of its ERISA Group is obligated to make contributions or has any liability.

“Network” means any card association or network utilized for the settlement of Card Account Transactions.

“Network Rules” means the bylaws, operating rules and regulations of any applicable Network, including the PCI-DSS.

“Next Available Term SOFR” means at any time, for any Interest Accrual Period, Term SOFR for the longest tenor that can be determined by the Administrative Agent that is shorter than the Corresponding Tenor, at approximately 5:00 a.m., Chicago time, two (2) Business Days prior to the commencement of such Interest Accrual Period, as such rate is published by the CME Term SOFR Administrator.

“Notice of Borrowing” has the meaning specified in Section 2.02. *“Notice of Prepayment”* has the

meaning specified in Section 2.05. *“Notice of Withdrawal”* has the meaning specified in Section 9.02.

“Obligations” means all indebtedness, liabilities and obligations, whether absolute, fixed or contingent, at any time or from time to time owing by the Borrower to any Secured Party or any

Affected Person under or in connection with this Agreement or any other Facility Document, including, but not limited to, all amounts payable by the Borrower in respect of the Advances, with interest thereon, Prepayment Premium, Exit Fees, Minimum Utilization Fees, Unused Fees and all other amounts payable hereunder.

“*Obligor*” means, with respect to any Receivable, the Person primarily obligated to satisfy the payment obligations in respect of such Receivable.

“*Obligor Origination State*” means, with respect to any Receivable, one of the fifty states of the United States, the District of Columbia, a United States territory or a United States military base in which the related Obligor resided on the related Origination Date.

“*OFAC*” has the meaning specified in Section 4.01(f).

“*Origination Date*” means, with respect to any Receivable, the first date on which both the Obligor and the Originator have executed the Card Account Agreement with respect to such Receivable.

“*Originator*” means CRB or WEX, as applicable.

“*Other Connection Taxes*” means, with respect to any Secured Party, Taxes imposed as a result of a present or former connection between such Secured Party and the jurisdiction imposing such Tax (other than a connection arising from such Secured Party 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 this Agreement or any other Facility Document, or sold or assigned an interest in the rights under any Facility Document).

“*Other Taxes*” has the meaning specified in Section 12.03(b). “*Participant*” has the meaning specified in

Section 13.02(h). “*Participant Register*” has the meaning specified in Section 13.02(i). “*PATRIOT Act*”

has the meaning specified in Section 12.16.

“*Payment Date*” means, the 25th day of each calendar month in each year commencing April 26, 2021; *provided that*, if any such day is not a Business Day, then such date shall be the next succeeding Business Day.

“*Payment Recipient*” has the meaning specified in Section 11.08(a).

“*PBGC*” means the Pension Benefit Guaranty Corporation, or any successor agency or entity performing substantially the same functions.

“*PCI-DSS*” means the Payment Card Industry Data Security Standards, as they may be revised from time to time and as then-currently in effect and includes, to the extent applicable, the Payment Application Data Security Standard (PA-DSS).

“Percentage” means, (a) with respect to any Lender party hereto on the date hereof, the percentage set forth opposite such Lender’s name on Schedule 1-A hereto, or with respect to each particular class, Schedule 1-B hereto, as such amount is reduced by any Assignment and Acceptance entered into by such Lender with an assignee or increased by any Assignment and Acceptance entered into by such Lender with an assignor or as such amount is either reduced or increased based on any Facility Increase provided or not provided by such Lender, or (b) with respect to a Lender that has become a party hereto pursuant to an Assignment and Acceptance, the percentage set forth therein as such Lender’s Percentage, as such amount is reduced by an Assignment and Acceptance entered into between such Lender and an assignee or increased by any Assignment and Acceptance entered into by such Lender with an assignor or as such amount is either reduced or increased based on any Facility Increase provided or not provided by such Lender.

“Permitted Holder” means Bill.com Holdings, Inc., a Delaware corporation.

“Permitted Holdings Transfer” means, the transfer, sale, assignment or other disposition of 100% of the Equity Interests of Holdings to the Permitted Holder (or a wholly-owned subsidiary of the Permitted Holder).

“Permitted Liens” means: (a) Liens created in favor of the Administrative Agent hereunder or under the other Facility Documents for the benefit of the Secured Parties; (b) Liens in favor of the Borrower pursuant to the Receivable Purchase Agreement, (c) Liens imposed by any Governmental Authority for taxes, assessments or charges not yet delinquent or which are being contested in good faith and by appropriate proceedings if adequate reserves with respect thereto are maintained on the books of the Borrower in accordance with GAAP; and (d) in connection with maintaining deposit accounts established in accordance with this Agreement, bankers’ liens, rights of setoff and similar Liens granted to financial institutions maintaining such accounts.

“Permitted Sale” means, subject to compliance with Section 8.02, any sale by Borrower of (a) Receivables in connection with either (i) the repurchase by the Seller of a Receivable if required pursuant to the Receivable Purchase Agreement, or (ii) a transfer of Receivables to a Securitization Vehicle in connection with a broadly marketed and distributed issuance of asset-backed securities, (b) Ineligible Receivables, other than Ineligible Receivables that were Eligible Receivables on their Purchase Date or (c) Eligible Receivables with the prior written consent of all Lenders; *provided, however*, that no sale of any Eligible Receivables shall be a Permitted Sale if, immediately following such sale, any Maximum Advance Rate Test is no longer satisfied; *provided further* that no sale of Eligible Receivables shall be a Permitted Sale if the Administrative Agent has provided notice within two (2) Business Days of receipt of notice pursuant to Section 8.02(a) of this Agreement, that such sale will, as reasonably determined by Administrative Agent, result in a materially adverse selection of Receivables to remain in the Borrowing Base following such sale.

“Person” means an individual or a corporation (including a business trust), sole proprietor, partnership, trust, incorporated or unincorporated association, firm, joint venture, enterprise, joint stock company, limited liability company, government (or an agency or political subdivision thereof) or other entity of any kind.

“Plan” means an employee pension benefit plan (other than a Multiemployer Plan) which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code that is sponsored by the Borrower or a member of its ERISA Group or to which the Borrower or a member of its ERISA Group is obligated to make contributions or has any liability.

“Post Accelerated Amortization Event Rate” means a rate per annum equal to the sum of (a) the Adjusted Benchmark Rate or, if a Benchmark Disruption Event has occurred, the Base Rate plus (b) (i) prior to the Scheduled Reinvestment Period Termination Date, 1.00% per annum, and (ii) on and after the Scheduled Reinvestment Period Termination Date, 1.50% per annum.

“Post-Default Rate” means (a) upon the occurrence and during the continuance of an Accelerated Amortization Event (other than an Event of Default), the Post-Accelerated Amortization Event Rate and (b) upon the occurrence and during the continuance of an Event of Default, the Post-Event of Default Rate.

“Post Event of Default Rate” means a rate per annum equal to the sum of (a) the Adjusted Benchmark Rate or, if a Benchmark Disruption Event has occurred, the Base Rate plus (b) (i) prior to the Scheduled Reinvestment Period Termination Date, 3.00% per annum, and (ii) on and after the Scheduled Reinvestment Period Termination Date, 3.50% per annum.

“Post-Reinvestment Period Rate” means a rate per annum equal to the sum of (a) the Adjusted Benchmark Rate or, if a Benchmark Disruption Event has occurred, the Base Rate plus (b) 0.50% per annum.

“Prepayment Premium” has the meaning specified in Section 2.06.

“Prime Rate” means the rate announced by Goldman Sachs Bank USA from time to time as its prime rate in the United States of America, such rate to change as and when such designated rate changes. The Prime Rate is not intended to be the lowest rate of interest charged by Goldman Sachs Bank USA in connection with extensions of credit to debtors. Goldman Sachs Bank USA may make commercial loans or other loans at rates of interest at, above, or below the Prime Rate.

“Priority of Payments” has the meaning specified in Section 9.01.

“Privacy and Data Security Requirements” means the obligations imposed by (but only to the extent applicable): (a) Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 et seq., (b) the applicable federal regulations implementing such act, (c) the Interagency Guidelines Establishing Standards For Safeguarding Customer Information, (d) all other applicable federal, state and local laws, rules, regulations, and orders relating to the privacy and security of customer Information, including the federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., and similar state laws; and (e) all privacy, consumer protection or security policies and procedures of an Originator, to the extent written copies of such policies and procedures are shared with the Borrower.

“Private Authorizations” means all franchises, permits, licenses, approvals, consents and other authorizations of all Persons (other than Governmental Authorities).

“Proceeds” has, with reference to any asset or property, the meaning assigned to it under

the UCC and, in any event, shall include, but not be limited to, any and all amounts from time to time paid or payable under or in connection with such asset or property.

“Program” means the CRB Program or the WEX Program.

“Program Agreement” means the CRB Program Agreement or the WEX Program Agreement.

“Prohibited Transaction” means a transaction described in Section 406(a) of ERISA, that is not exempted by a statutory or administrative or individual exemption pursuant to Section 408 of ERISA.

“Projections” has the meaning specified in Section 13.03(b).

“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Purchase Date” means, with respect to any Receivable, the date on which such Receivable was sold by the Seller to the Borrower under the Receivable Purchase Agreement.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“QFC Credit Support” has the meaning specified in Section 12.22.

“Qualified Institution” means a depository institution or trust company organized under the laws of the United States of America or any one of the States thereof or the District of Columbia (or any domestic branch of a foreign bank), (i)(A) that has either (1) a long-term unsecured debt rating of “A” or better by S&P and “A2” or better by Moody’s or (2) a short-term unsecured debt rating or certificate of deposit rating of “A-1” or better by S&P or “P-1” or better by Moody’s, (B) the parent corporation of which has either (1) a long-term unsecured debt rating of “A” or better by S&P and “A2” or better by Moody’s or (2) a short-term unsecured debt rating or certificate of deposit rating of “A-1” or better by S&P and “P-1” or better by Moody’s or (C) is otherwise acceptable to the Administrative Agent and (ii) the deposits of which are insured by the Federal Deposit Insurance Corporation.

“Receivable” means, with respect to any Card Account, (i) (a) all rights to payment of principal, interest, fees (including without limitation late payment fees) unless such fees are waived in accordance with the Servicing Agreement and Collection Policy, all other charges and assessments, and all other amounts due or to become due (regardless of the accrual period but excluding amounts already paid) from or on behalf of the Obligor under such Card Account, (b) all Collections received or receivable with respect to such Card Account, (c) all other rights, interests, benefits, proceeds, remedies and claims in favor or for the benefit of an Originator (or its successors or assigns) arising from or relating to such Receivable; (d) all claims (including “claims” as defined the Bankruptcy Code), suits, causes of action, and any other right of an Originator, whether known or unknown, against any Obligor thereunder, or any of its or their respective affiliates, agents, representatives, contractors, advisors, or any other entity or person

that in any way is based upon, arises out of or is related to any of the foregoing, including, to the extent permitted to be assigned under Applicable Law, all claims (including contract claims, tort claims, malpractice claims and claims under any law governing the purchase and sale of, or indentures for, securities) suits, causes of action, (e) all rights to service such Receivable in accordance with the Program Agreements and the Servicing Agreement, and (f) all Proceeds of any and all of the foregoing, or (ii) with respect to a 100% undivided participation interest in one of the items enumerated in clause (i) of this definition, purchased by the Seller from an Originator pursuant to a Program Agreement, and sold by Seller to the Borrower pursuant to the Receivable Purchase Agreement, the items enumerated in clause (i) of this definition underlying such 100% participation interest.

“Receivable Balance” means, with respect to any Eligible Receivable, that is a Receivable described in clause (i) of the definition of Receivable, as of any date of determination, the outstanding amount of such Eligible Receivable, or with respect to any Eligible Receivable described in clause (ii) of the definition of Receivable, the outstanding amount of the Eligible Receivable underlying such 100% participation interest.

“Receivable Purchase Agreement” means (a) the Receivable Purchase Agreement, dated as of the Closing Date, by and between the Seller and the Borrower, in form and substance acceptable to the Administrative Agent or (b) such other Receivable Purchase Agreement among the Seller and the Borrower, that is in form and substance satisfactory to the Administrative Agent.

“Reference Time” with respect to any ~~setting~~determination of the ~~then-current~~ Benchmark means ~~(1) if such Benchmark is LIBOR Rate, 11:00 a.m. (London time) on the day that is two London banking days preceding the date of such setting, and (2) if such Benchmark is not LIBOR Rate,~~ the time determined by the Administrative Agent in ~~its reasonable discretion~~accordance with the Benchmark Replacement Conforming Changes.

“Register” has the meaning specified in Section 13.02(g).

“Regulation T,” “Regulation U” and “Regulation X” mean Regulation T, U and X, respectively, of the Board of Governors of the Federal Reserve System, as in effect from time to time.

“Regulatory Change” has the meaning specified in Section 2.09(a).

“Regulatory Event” means any one of the following events: a rule, order, decree, enactment, proclamation or publication of any guidance, guideline, interpretation, injunction, directive, proclamation, promulgation, requirement, order, judgment, policy statement, law, regulation, rule, statute, writ or finding by a Governmental Authority, in the context of an action, suit, proceeding, investigation, claim, allegation or otherwise that would either (a) have a material adverse effect on the validity, enforceability or collectability (including by the assignee of such Eligible Receivable) of any Eligible Receivable as reasonably determined by the Administrative Agent or (b) have a Material Adverse Effect on any of the Borrower, Holdings, the Permitted Holder, the Seller, the Servicer or the Backup Servicer.

“Reinvestment Period” means the period from and including the Closing Date to and

including the earliest of (a) the Scheduled Reinvestment Period Termination Date, (b) the occurrence and continuation of an Event of Default, (c) the Final Maturity Date and (d) the termination of the Receivable Purchase Agreement.

“Related Documents” means, with respect to a Receivable, (a) the related Card Account Agreement, (b) if any, all other agreements and documents evidencing, guaranteeing, securing, governing or giving rise to such Receivable, including any third-party guarantees and any other credit enhancement rights and (c) the endorsements or assignments showing the chain of ownership (including any bill of sale or assignment agreement delivered pursuant to a Transfer Event or under the Receivable Purchase Agreement) thereof.

“Relevant Governmental Body” means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

“Reporting Date” means the date that is three (3) Business Days prior to each Payment

Date.

“*Requested Amount*” has the meaning specified in Section 2.02.

“*Required Lenders*” means, as of any date of determination,

(a) *first*, if any Class A Advances are then outstanding, one or more Class A Lenders having Class A Advances in an amount greater than 50% of the aggregate outstanding principal amount of all Class A Advances;

(b) *second*, if no Class A Advances are then outstanding, and the availability of the Class A Advances has not been terminated hereunder, one or more Class A Lenders holding in the aggregate more than 50% of the aggregate Percentages of all Class A Lenders; or

(c) *third*, if no Class A Advances are then outstanding and the availability of the Class A Advances has been terminated hereunder,

(i) if any Class B Advances are then outstanding, one or more Class B Lenders having Class B Advances in an amount greater than 50% of the aggregate outstanding principal amount of all Class B Advances; or

(ii) if no Class B Advances are then outstanding, one or more Class B Lenders holding in the aggregate more than 50% of the aggregate Percentages of all Class B Lenders.

“*Resolution Authority*” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“*Responsible Officer*” means (a) in the case of a corporation, partnership or limited liability company that, pursuant to its Constituent Documents, has officers, any chief executive officer, chief financial officer, chief administrative officer, president, senior vice president, vice

president, treasurer, director or manager, and, in any case where two Responsible Officers are acting on behalf of such entity, the second such Responsible Officer may be a secretary or assistant secretary, (b) in the case of a limited partnership, the Responsible Officer of the general partner, acting on behalf of such general partner in its capacity as general partner, (c) in the case of a limited liability company, any Responsible Officer of the sole member or managing member, acting on behalf of the sole member or managing member in its capacity as sole member or managing member, (d) in the case of a trust, the Responsible Officer of the trustee or the administrator of the trust, acting on behalf of such trust in its capacity as trustee and (e) in the case of the Administrative Agent, an officer of the Administrative Agent responsible for the administration of this Agreement.

“Restricted Payments” means the declaration of any distribution or dividends or the payment of any other amount (including in respect of redemptions permitted by the Constituent Documents of the Borrower) to any beneficiary or other equity investor in the Borrower on account of any Equity Interest in respect of the Borrower, or the payment on account of, or the setting apart of assets for a sinking or other analogous fund for, or the purchase or other acquisition of any Equity Interest in the Borrower or of any warrants, options or other rights to acquire the same (or to make any “phantom stock” or other similar payments in the nature of distributions or dividends in respect of equity to any Person), whether now or hereafter outstanding, either directly or indirectly, whether in cash, property (including marketable securities), or any payment or setting apart of assets for the redemption, withdrawal, retirement, acquisition, cancellation or termination of any Equity Interest in respect of the Borrower.

“S&P” means S&P Global Ratings.

“Sanctioned Country” means, at any time, a country or territory that is, or whose government is, the subject or target of any Sanctions, including a country subject to a sanctions program identified on the list maintained by OFAC and available at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>, or as otherwise published from time to time.

“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 or any EU member state, including the “Specially Designated Nationals and Blocked Persons” maintained by OFAC available at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>, or as otherwise published from time to time (b) (i) an agency of the government of a Sanctioned Country, (ii) an organization controlled by a Sanctioned Country or (iii) any Person located, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

“Sanctions” means economic or financial sanctions or trade embargoes 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 or Her Majesty’s Treasury of the United Kingdom.

“Sanctions Laws” means, collectively, (a) the rules and regulations regarding the blocking of assets and the prohibition of transactions involving Persons or countries designated by OFAC or

the U.S. Department of State; and (b) any other Applicable Laws relating to economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time.

“*Schedule of Receivables*” means Schedule A to any Assignment (which shall be in the form of an electronic data tape or other medium in each case reasonably acceptable to the Administrative Agent) delivered with respect to Receivables sold to the Borrower on a Purchase Date, together with the information listed on Schedule 6 to this Agreement and such other information that is reasonably requested by the Administrative Agent from time to time, as such listing may be amended, restated, supplemented or otherwise modified from time to time in accordance with this Agreement and the Receivable Purchase Agreement.

“*Scheduled Reinvestment Period Termination Date*” means March ~~24, 2023~~2024 or such later date as may be agreed by the Borrower and each of the Lenders in writing and notified in writing to the Administrative Agent.

“*SEC*” means the Securities and Exchange Commission or any other Governmental Authority of the United States of America at the time administering the Securities Act, the Investment Company Act or the Exchange Act.

“*Secured Parties*” means the Administrative Agent, the Lenders, any Affected Person and each Indemnified Party and their respective permitted successors and assigns.

“*Securities Act*” means the Securities Act of 1933, and the rules and regulations promulgated thereunder, all as from time to time in effect, or any successor law, rules or regulations, and any reference to any statutory or regulatory provision shall be deemed to be a reference to any successor statutory or regulatory provision.

“*Securitization Vehicle*” means a special purpose bankruptcy remote entity formed for the purpose of directly or indirectly purchasing Receivables from the Borrower and issuing debt in the capital markets secured by such Receivables.

“*Seller*” means Holdings, in its capacity as seller under the Receivable Purchase Agreement, or any successor seller approved in writing by the Administrative Agent.

“*Servicer*” means Holdings, in its capacity as servicer under the Servicing Agreement, any Backup Servicer under the Backup Servicing Agreement or any successor servicer approved in writing by the Administrative Agent.

“*Servicer Event of Default*” means (a) a “Servicer Default” as such term is defined in the Servicing Agreement or (b) a Regulatory Event that causes a Material Adverse Effect on the Servicer.

“*Servicer Fee*” means, for each Collection Period, a fee payable to the Servicer in arrears on each Payment Date (in accordance with the Priority of Payments) in an amount equal to the amount provided for in the Servicing Agreement.

“*Servicing Agreement*” means (a) that certain Servicing Agreement dated as of the Closing Date, by and between the Borrower and the Servicer or (b) any servicing agreement between the

Borrower and the Backup Servicer, as successor servicer, or a successor servicer that is approved in writing by the Administrative Agent.

~~“SOFR” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator’s Website at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day.~~ Adjustment” means 0.28%.

~~“SOFR Administrator” means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).~~ “SOFR Rate” means the sum of (a) Term SOFR or, if the Administrative Agent determines that Term SOFR for the Corresponding Tenor cannot be determined, Next Available Term SOFR, and (b) the SOFR Adjustment.

~~“SOFR Administrator’s Website” means the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.~~

“Solvent” means, with respect to any Person, that as of the date of determination, both (a) (i) the sum of such Person’s debt (including contingent liabilities) does not exceed the present fair saleable value of such Person’s present assets; (ii) such Person’s capital is not unreasonably small in relation to its business as contemplated on the Closing Date and reflected in any of its financial projections; and (iii) such Person has not incurred and does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due (whether at maturity or otherwise); and (b) such Person is “solvent” within the meaning given that term and similar terms under the Bankruptcy Code, Section 271 of the Debtor and Creditor Law of the State of New York or other Applicable Laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standards No. 5).

“Subject Laws” has the meaning specified in Section 4.01(f). “Supported QFC” has the meaning

specified in Section 12.22. “Syndication” has the meaning specified in Section 13.02(a).

“Taxes” means all present or future taxes, levies, imposts, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, and all liabilities (including penalties, additions, interest and expenses) with respect thereto.

“Term SOFR” means, for ~~the applicable Corresponding Tenor as of the applicable~~

~~Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body~~ each Interest Accrual Period, the forward-looking term rate for a three-month tenor (or the Corresponding Tenor, as applicable) that is based on the secured overnight financing rate of the Federal Reserve Bank of New York (or its successor), as published by the CME Term SOFR Administrator two Business Days prior to the commencement of such period; provided, that if, as of 5:00 p.m. (New York City time) on such Business Day, such rate has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to Term SOFR has not occurred, then Term SOFR will be determined as of the first preceding U.S. Government Securities Business Day for which such rate was published by the CME Term SOFR Administrator, so long as such first preceding U.S. Government Securities Business Day is not more than three U.S. Government Securities Business Days prior to such Business Day.

“Termination Date” means the last day of the Reinvestment Period or, if the Reinvestment Period has been reinstated, the last day of such reinstated Reinvestment Period; *provided* that, if the Termination Date would otherwise not be a Business Day, then the Termination Date shall be the immediately succeeding Business Day.

“Three-Month Rolling Average Facility Pool Default Ratio” means, as of any date of determination, the average of the Facility Pool Default Ratios for each of the three most recently ended Collection Periods.

“Three-Month Rolling Average Facility Pool Delinquency Ratio” means, as of any date of determination, the average of the Facility Pool Delinquency Ratios for each of the three most recently ended Collection Periods.

“Transfer Event” means a CRB Transfer Event or a WEX Transfer Event.

“Two-Month Rolling Average Facility Pool Default Ratio” means, as of any date of determination, the average of the Facility Pool Default Ratios for each of the two most recently ended Collection Periods.

“Two-Month Rolling Average Facility Pool Delinquency Ratio” means, as of any date of determination, the average of the Facility Pool Delinquency Ratios for each of the two most recently ended Collection Periods.

“UCC” means the Uniform Commercial Code, as from time to time in effect in the State of New York; *provided* that if, by reason of any mandatory provisions of law, the perfection, the effect of perfection or non-perfection or priority of the security interests granted to the Administrative Agent pursuant to this Agreement are governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States of America other than the State of New York, then *“UCC”* means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of such perfection, effect of perfection or non-perfection or priority.

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook

(as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“*UK Resolution Authority*” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

~~“*Unadjusted Benchmark Replacement*” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.~~

Fees. “Unused Fees” means, collectively, the Class A Unused Fees and the Class B Unused

giving of notice, or both, would constitute an Event of Default. “Unmatured Event of Default” means any event which, with the passage of time, the

“U.S.” means the United States of America.

“U.S. Government Securities Business Day” means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“U.S. Special Resolution Regimes” has the meaning specified in Section 12.22. “U.S. Tax Compliance Certificate”

has the meaning specified in Section 12.03(g). “WEX” means WEX Bank, a Utah industrial bank.

“WEX Program” means the “Card Program” as such term is defined in WEX Program Agreement.

“WEX Program Agreement” means the WEX Card Program and Participation Agreement dated January 3, 2019, by and between Holdings and WEX.

“WEX Transfer Event” means, in respect of any Receivable originated by WEX, a “Transfer Event” as such term is defined in WEX Program Agreement.

“Withdrawal Date” has the meaning specified in Section 9.02.

“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.

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down

and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

“Zions Account Closure Date” means the date on which (a) the Borrower delivers to the Administrative Agent evidence, in form and substance acceptable to the Administrative Agent, that all funds on deposit in the deposit account established by the Borrower at Zions Bank and previously designated the Collection Account (the “Zions Account”) have been transferred to the account established by the Borrower at JPMorgan Chase Bank, N.A., and designated the Collection Account (the “JPM Account”), and the Zions Account has been closed and (b) (i) a Collection Account Control Agreement in respect of the JPM Account has been delivered to the Administrative Agent and is in full force and effect and (ii) a legal opinion of counsel to the Borrower reasonably acceptable to the Administrative Agent, covering such matters as the Administrative Agent, the Lenders and their respective counsel shall reasonably request in respect of such Collection Account Control Agreement, including but not limited to enforceability, authority, no conflicts and UCC matters, in form and substance acceptable to the Administrative Agent.

Section 1.02. Rules of Construction. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires (a) singular words shall connote the plural as well as the singular, and vice versa (except as indicated), as may be appropriate, and “or” is not exclusive, (b) the words “herein,” “hereof” and “hereunder” and other words of similar import used in this Agreement refer to this Agreement as a whole and not to any particular article, schedule, section, paragraph, clause, exhibit or other subdivision, (c) the headings, subheadings and table of contents set forth in this Agreement are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect the meaning, construction or effect of any provision hereof, (d) references in this Agreement to “include” or “including” shall mean include or including, as applicable, without limiting the generality of any description preceding such term, and for purposes hereof the rule of ejusdem generis shall not be applicable to limit a general statement, followed by or referable to an enumeration of specific matters, to matters similar to those specifically mentioned, (e) each of the parties to this Agreement and its counsel have reviewed and revised, or requested revisions to, this Agreement, and the rule of construction that any ambiguities are to be resolved against the drafting party shall be inapplicable in the construction and interpretation of this Agreement, (f) any definition of or reference to any Facility Document, agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (g) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions set forth herein or in any other applicable agreement), (h) any reference to any law or regulation herein shall refer to such law or regulation as amended, modified or supplemented

from time to time and (i) each reference to time without further specification shall mean the local time in New York, New York.

Section 1.03. Computation of Time Periods. Unless otherwise stated in this Agreement, in the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” both mean “to but excluding.” Periods of days referred to in this Agreement shall be counted in calendar days unless Business Days are expressly prescribed.

Section 1.04. Collateral Value Calculation Procedures. In connection with all calculations required to be made pursuant to this Agreement with respect to any payments on any other assets included in the Collateral, with respect to the sale of and reinvestment in Eligible Receivables, and with respect to the income that can be earned on any other amounts that may be received for deposit in the Collection Account, the provisions set forth in this Section 1.04 shall be applied. The provisions of this Section 1.04 shall be applicable to any determination or calculation that is covered by this Agreement, whether or not reference is specifically made to Section 1.04, unless some other method of calculation or determination is expressly specified in the particular provision.

(a) References in the Priority of Payments to calculations made on a “pro forma basis” shall mean such calculations after giving effect to all payments, in accordance with the Priority of Payments, that precede (in priority of payment) or include the clause in which such calculation is made.

(b) For purposes of calculating all Concentration Limitations, in any component of the Concentration Limitations, 60-day Delinquent Receivables, Defaulted Receivables and Ineligible Receivables shall be deemed to have a Receivable Balance equal to zero.

(c) Determinations of the Eligible Receivables, or portions thereof, that constitute Excess Concentration Amounts will be determined in the way that produces the lowest Borrowing Base at the time of determination, it being understood that an Eligible Receivable (or portion thereof) that falls into more than one such category of Eligible Receivables will be deemed, solely for purposes of such determinations, to fall only into the category that produces the lowest such Borrowing Base at such time (without duplication).

(d) For the purposes of calculating compliance with each of the Concentration Limitations, all calculations will be rounded to the nearest 0.01% (in the aggregate and not by Card Account), with 0.005% rounded upwards.

(e) Notwithstanding any other provision of this Agreement to the contrary, all monetary calculations under this Agreement shall be in Dollars. For purposes of this Agreement, calculations with respect to all amounts received or required to be paid in a currency other than Dollars shall be valued at zero.

(f) References in this Agreement to the Borrower's "purchase" or "acquisition" of an Eligible Receivable include references to the Borrower's acquisition of such Eligible Receivable by way of a sale or contribution from the Seller.

Section 1.05. Divisions. For all purposes under the Facility Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its equity interests at such time.

Article II Advances

Section 2.01. Revolving Credit Facility. (a) On the terms and subject to the conditions herein set forth, including Article III, (i) each Class A Lender severally agrees to make loans to the Borrower (each, a "*Class A Advance*") on any Business Day during the period from the Closing Date until but excluding the Termination Date, on a *pro rata* basis in each case based on and limited to the Percentage applicable to such Class A Lender and, as to all Class A Lenders, in an amount that would not cause the aggregate principal balance of the Class A Advances to exceed the Class A Maximum Available Amount as then in effect and (ii) each Class B Lender severally agrees to make loans to the Borrower (each, a "*Class B Advance*" and, together with any Class A Advance, an "*Advance*") on any Business Day during the period from the Closing Date until but excluding the Termination Date, on a *pro rata* basis in each case based on and limited to the Percentage applicable to such Class B Lender and, as to all Class B Lenders, in an amount that would not cause the aggregate principal balance of the Class B Advances to exceed the Class B Maximum Available Amount as then in effect; *provided, however*, that, in each case, except with respect to the initial Class A Advance hereunder, the aggregate principal amount of any such Advance shall not, by itself or when combined with the principal amounts of all Advances made by the Lenders to the Borrower during the thirty (30) days immediately preceding the proposed Borrowing Date for such Class A Advance or Class B Advance, as applicable, exceed 30% of the Facility Amount. No Lender shall make any Advance or portion thereof if it would cause the aggregate outstanding principal amount of the Advances to exceed the Maximum Available Amount as then in effect.

(b) Each such borrowing under this Section 2.01 of an Advance on any single day is referred to herein as a "*Borrowing*." Within such limits and subject to the other terms and conditions of this Agreement, the Borrower may borrow (and re-borrow) Advances under this Section 2.01 and prepay Advances under Section 2.05.

Section 2.02. Making of the Advances. (a) Subject to the terms and conditions of Section 2.01, if the Borrower desires to request a Borrowing under this Agreement, the Borrower shall give the Administrative Agent and the Lenders a written notice (each, a "*Notice of Borrowing*") for such Borrowing (which notice shall be irrevocable and effective upon receipt) not later than 3:00

p.m. at least two (2) Business Days prior to the day of the requested Borrowing. A Notice of Borrowing received after 3:00 p.m. shall be deemed received on the following Business Day.

Promptly following receipt of a Notice of Borrowing in accordance with this Section 2.02, the Administrative Agent shall advise each applicable Lender of the details thereof and of the amounts of such Lender's Advance requested to be made as part of the requested Borrowing. Each Notice of Borrowing shall be substantially in the form of Exhibit A-1 hereto, dated the date the request for the related Borrowing is being made, signed by a Responsible Officer of the Borrower, shall attach a Maximum Advance Rate Test Calculation Statement and shall otherwise be appropriately completed. The proposed Borrowing Date specified in each Notice of Borrowing shall be a Business Day falling prior to the Termination Date, and the amount of the Borrowing requested in such Notice of Borrowing (the "*Requested Amount*") shall be equal to at least \$500,000 (or, less, if agreed to by the Administrative Agent and the Lenders in their sole and absolute discretion).

Unless otherwise permitted by the Administrative Agent in its sole and absolute discretion, there shall be no more than two (2) Borrowing Dates per calendar week.

(b) *Funding by Lenders.* Subject to the terms and conditions herein, each Lender providing an Advance shall make its Percentage (as such Percentage may be reduced or increased from time to time in accordance with the terms hereof) of the applicable Requested Amount on each Borrowing Date (x) by wire shall transfer of immediately available funds by 11:00 a.m. on such Borrowing Date to the Administrative Agent pursuant to wiring instructions provided by the Administrative Agent and the Administrative Agent will hold and pay such funds to the Borrower by wire transfer of immediately available funds by 2:00 p.m. on such Borrowing Date to the Borrower, on behalf of the Lenders or (y) if requested in writing (email is acceptable) by the Administrative Agent, by wire transfer of immediately available funds by 2:00 p.m. on such Borrowing Date directly to the Borrower pursuant to wiring instructions provided by the Administrative Agent.

(c) *Presumption by the Administrative Agent.* The Administrative Agent may not assume that a Lender has made or will make its Percentage of any applicable Requested Amount and shall not be obligated to make available to the Borrower a corresponding amount unless the Administrative Agent has received from all Lenders the funds corresponding to their relevant Percentages with respect to the applicable Requested Amount.

Section 2.03. Evidence of Indebtedness.

(a) *Maintenance of Records by Lenders.* Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to it and resulting from the Advances made by such Lender to the Borrower, from time to time, including the amounts of principal and interest thereon and paid to it, from time to time hereunder; *provided, however,* that in case of a conflict between the records of the Administrative Agent and those of such Lender, the records of the Administrative Agent shall prevail absent manifest error.

(b) *Maintenance of Records by Administrative Agent.* The Administrative Agent shall

maintain records in which it shall record (i) the amount of each Advance made hereunder, (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. Notwithstanding anything to the contrary herein, the Administrative Agent shall be responsible for calculating and confirming any and all amounts due, interest, compliance with financial covenants, eligibility criteria and each other trigger or rate hereunder and under the other Facility Documents and each such calculation and confirmation shall be conclusive and binding for all purposes, absent manifest error.

(c) *Effect of Entries.* The entries made in the records maintained pursuant to paragraph (a) or (b) of this Section shall be prima facie evidence, absent obvious error, of the existence and amounts of the obligations recorded therein; *provided* that the failure of any Lender or the Administrative Agent to maintain such records or any error therein shall not in any manner affect the obligation of the Borrower to repay the Advances and other Obligations hereunder in accordance with the terms of this Agreement.

Section 2.04. Payment of Principal, Interest and Certain Fees. The Borrower shall pay principal and Interest on the Advances as follows:

(k) 100% of the outstanding principal amount of each Advance, together with all accrued and unpaid Interest thereon, shall be due and payable on the Final Maturity Date.

(l) Class A Interest shall accrue on the unpaid principal amount of each Class A Advance from the date of such Class A Advance until such principal amount is paid in full and Class B Interest shall accrue on the unpaid principal amount of each Class B Advance from the date of such Class B Advance until such principal amount is paid in full.

(m) Accrued Class A Interest on each Class A Advance or accrued Class B Interest on each Class B Advance, as applicable, shall be due and payable in arrears (x) on each Payment Date, and (y) in connection with any prepayment in full of the Advances pursuant to Section 2.05(a); *provided* that (i) with respect to any prepayment in full of the Advances outstanding, accrued Interest on such amount to but excluding the date of prepayment may be payable on such date or as otherwise agreed to between the Lenders and the Borrower and (ii) with respect to any partial prepayment of the Advances outstanding, accrued Interest on such amount to but excluding the date of prepayment shall be payable following such prepayment on the applicable Payment Date in accordance with the Priority of Payments for the Collection Period in which such prepayment occurred.

(n) Subject to clause (e) below, the obligation of the Borrower to pay the Obligations, including, but not limited to, the obligation of the Borrower to pay the Lenders the outstanding principal amount of the Advances, accrued Interest thereon, to pay the applicable Lenders the Prepayment Premium, Exit Fees, Minimum Utilization Fees and Unused Fees, and to pay any other fees as set forth hereunder and in the Fee

Letters, shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the

terms hereof (including Section 2.14 and Article IX) and thereof, under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Borrower or any other Person may have or have had against any Secured Party or any other Person (other than a defense that payment was made).

(o) As a condition to the payment of Interest on any Advance, Class A Interest on any Class A Advance or Class B Interest on any Class B Advance, as applicable, and principal of any Advance, any Prepayment Premium, any Exit Fee, any Minimum Utilization Fees, any Unused Fee and any other amounts due pursuant to the Facility Documents without the imposition of withholding tax, the Borrower or the Administrative Agent may require certification acceptable to it to enable the Borrower and the Administrative Agent to determine their duties and liabilities with respect to any taxes or other charges that they may be required to deduct or withhold from payments in respect of such Advance under any present or future law or regulation of the United States of America and any other applicable jurisdiction, or any present or future law or regulation of any political subdivision thereof or taxing authority therein or to comply with any reporting or other requirements under any such law or regulation.

(p) Minimum Utilization Fees shall accrue beginning on the date that is three (3) months following the Closing Date until the Termination Date and shall be payable by the Borrower to the Lenders in arrears on each Payment Date immediately following each Minimum Utilization Period in accordance with the Priority of Payments. Unused Fees shall accrue from the Closing Date until the Termination Date and shall be payable by the Borrower to the Lenders in arrears on each Payment Date.

Section 2.05. Prepayment of Advances.

(a) *Optional Prepayments.* The Borrower may, from time to time on any Business Day, subject to payment of the Prepayment Premium or Exit Fee (if any) as set forth in Section 2.06, voluntarily prepay any outstanding Advances in whole or in part, together with all amounts due pursuant to Sections 2.04(c) and 2.10; *provided* that the Borrower shall have delivered to the Administrative Agent and the Lenders written notice of such prepayment (such notice, a “*Notice of Prepayment*”) in the form of Exhibit B hereto by no later than 3:00 p.m. at least two (2) Business Days prior to the day of such prepayment. Any Notice of Prepayment received by the Administrative Agent or the Lenders after 3:00 p.m. shall be deemed received on the next Business Day. Each such Notice of Prepayment shall be irrevocable and effective upon the date received and shall be dated the date such notice is given, signed by a Responsible Officer of the Borrower and otherwise appropriately completed. Each prepayment of any Advance by the Borrower pursuant to this Section 2.05(a) shall in each case be in a principal amount of at least \$500,000 or, if less, the entire outstanding principal amount of the Advances of the Borrower. If a Notice of Prepayment is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein (including, but not limited to, any Prepayment Premium or Exit Fee). The Borrower shall make the payment amount specified in such notice by wire transfer of immediately available funds by 11:00 a.m. on the date of prepayment to the account of the Administrative Agent, which will hold the funds on behalf of the Lenders. To the extent payment was made to the Administrative Agent, the

Administrative Agent promptly will make such payment amount specified in such notice available to each Lender in the amount of each Lender's Percentage of the payment amount by wire transfer to such Lender's account. Any funds for purposes of a voluntary prepayment received by the Administrative Agent after 3:00 p.m. shall be deemed received on the next Business Day. For the avoidance of any doubt, the Borrower may only provide a Notice of Prepayment to prepay Advances that are outstanding on the date such Notice of Prepayment is delivered and may not provide a Notice of Prepayment to prepay any future Advances.

(b) *Additional Prepayment Provisions.* Each prepayment pursuant to this Section 2.05 shall be subject to Sections 2.04(c) and 2.10 and applied to the Advances in accordance with the relevant Lenders' respective Percentages.

(c) *Interest on Prepaid Advances.* The Borrower shall pay all accrued and unpaid Interest on the Advances that are prepaid on the next Payment Date; *provided, however*, that in the case of a prepayment of all of the outstanding principal amount of Advances on any date, the Borrower shall pay all accrued and unpaid Interest on the date of such prepayment.

Section 2.06. Prepayment Premium and Exit Fee.

(a) If the Borrower terminates this Agreement or otherwise voluntarily prepays all or any portion of the outstanding principal balance of any Advances prior to the Scheduled Reinvestment Period Termination Date, the Borrower shall pay, to the Administrative Agent, for the benefit and account of each Lender, in immediately available funds, a non-refundable prepayment fee equal to the product of (i) the outstanding principal amount of the Advances being prepaid as of the date of such prepayment, (ii) the Applicable Margin plus the Post-Default Rate (if applicable), and (iii) a fraction (expressed as a percentage) having a numerator equal to the number of days from and including the date of such prepayment to the Scheduled Reinvestment Period Termination Date and a denominator equal to 360 (collectively, the "*Prepayment Premiums*"); *provided, however*, that no such Prepayment Premium shall be payable in connection with any prepayment made (A) to satisfy any breach of the Maximum Advance Rate Test, (B) with respect to any payments required pursuant to Section 9.01 of the Agreement, (C) in connection with a Permitted Sale to a Securitization Vehicle in connection with a broadly marketed and distributed issuance of asset-backed securities (but the Exit Fees shall be due and payable in the case of this clause (C)),

(D) in connection with a prepayment using amounts available in the Collection Account which are attributable to an Obligor's payment of any Receivable in accordance with the terms and conditions of the related Card Account Agreement, (E) in connection with a prepayment to reduce the outstanding amount of Class A Advances or Class B Advances, as applicable, to an amount no less than the Class A Minimum Utilization Amount or Class B Minimum Utilization Amount, as applicable, (F) as a result of a request by a Lender of payment of increased costs pursuant to Section 2.09, (G) in connection with the failure by a Lender to make available its pro-rata share of Advances requested by Borrower hereunder if all the conditions precedent to such Advance have been fully satisfied or (H) as a result of a payment to a Defaulting Lender.

(b) For the avoidance of doubt, any applicable Prepayment Premium shall be due and payable at any time the Advances become due and payable prior to the Scheduled Reinvestment Period Termination Date, whether due to acceleration pursuant to the terms of the Agreement (in

which case it shall be due immediately), by operation of law or otherwise (including, without limitation, on account of the commencement of an Insolvency Event), and whether such acceleration occurs prior to, upon or subsequent to the commencement of an Insolvency Event. In view of the impracticability and extreme difficulty of ascertaining the actual amount of damages to the Lenders or profits lost by the Lenders as a result of acceleration or prepayment, and by mutual agreement of the parties as to a reasonable estimation and calculation of the lost profits or damages of the Lenders, the Prepayment Premiums constitute liquidated damages which shall be due and payable upon such date. The Borrower hereby waives any defense to payment other than payment on performance, whether such defense may be based in public policy, ambiguity, or otherwise. The Borrower and the Lenders acknowledge and agree that any Prepayment Premium due and payable hereunder shall not constitute unmatured interest, whether under Section 502(b)(3) of the Bankruptcy Code or otherwise. The Borrower further acknowledges and agrees, and waives any argument to the contrary, that payment of such amount does not constitute a penalty or an otherwise unenforceable or invalid obligation.

(c) If the Borrower terminates this Agreement or otherwise voluntarily prepays all of the outstanding principal balance of any Advances, the Borrower shall pay the Exit Fees in accordance with the terms and provisions set forth in the Fee Letters; *provided that*, notwithstanding anything to the contrary contained in this Agreement, if (i) a Change of Control under clauses (a) (i) or (b)(i) of the definition thereof occurs, (ii) an Event of Default occurs from a Change of Control under clauses (a)(ii), (b)(ii), (b)(iii), (b)(iv), (c) or (d) of the definition thereof occurs (which is not otherwise waived by the Lenders) or (iii) the Initial Class A Lender defaults on its obligation to fund all or any portion of its Advances on the date such Advances were required to be funded hereunder (and not otherwise funded by another Lender) other than as a result of the Initial Class A Lender's good faith determination that one or more conditions precedent to funding has not been satisfied, then, in the case of each of clauses (i) through (iii), the Borrower shall be permitted to terminate this Agreement and voluntarily prepay all of the outstanding principal balance of the Advances and the Borrower shall not be required to pay the Exit Fees, any Prepayment Premium or any other penalty or fee in relation to such exit and prepayment.

(d) Any amount payable under this Section 2.06 that is not paid when due shall bear interest at the Post-Default Rate plus the Applicable Margin from the date such amount is due until the date paid, in accordance with this Section 2.06.

Section 2.07. Maximum Lawful Rate. It is the intention of the parties hereto that the Interest on the Advances shall not exceed the maximum rate permissible under Applicable Law. Accordingly, anything herein to the contrary notwithstanding, in the event any Interest is charged to, collected from or received from or on behalf of the Borrower by the Lenders pursuant hereto or thereto in excess of such maximum lawful rate, then the excess of such payment over that maximum shall be applied first to the payment of amounts then due and owing by the Borrower to the Secured Parties under this Agreement (other than in respect of principal of and interest on the Advances) and then to the reduction of the outstanding principal amount of the Advances of the Borrower.

Section 2.08. Several Obligations. The failure of any Lender to make any Advance to be made by it on the date specified therefor shall not relieve any other Lender of its obligation to make

its Advance on such date, the Administrative Agent shall not be responsible for the failure of any Lender to make any Advance, and no Lender shall be responsible for the failure of any other Lender to make an Advance to be made by such other Lender.

Section 2.09. Increased Costs; Replacement of Lenders. (a) If (i) the introduction of or any change in or in the interpretation, application or implementation of any Applicable Law after the date hereof, or (ii) the compliance with any guideline or change in the interpretation, application or implementation of any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law) after the date hereof, (a “Regulatory Change”):

(A) shall impose, modify or deem applicable any reserve (including any reserve imposed by the Board of Governors of the Federal Reserve System, but excluding any reserve included in the determination of interest on the Advances), special deposit or similar requirement against assets of any Affected Person, deposits or obligations with or for the account of any Affected Person or with or for the account of any Affiliate (or entity deemed by the Federal Reserve Board to be an Affiliate) of any Affected Person, or credit extended by any Affected Person;

(B) shall change the amount of capital maintained or required or requested or directed to be maintained by any Affected Person;

(C) shall subject any Affected Person 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;

(D) shall impose any other condition (other than Taxes) affecting any Advance owned or funded in whole or in part by any Affected Person, or its obligations or rights, if any, to make Advances or to provide funding therefor;

(E) shall change the rate for, or the manner in which the Federal Deposit Insurance Corporation (or a successor thereto) assesses, deposit insurance premiums or similar charges; or

(F) shall cause an internal capital or liquidity charge or other imputed cost to be assessed upon any Affected Person which, in the sole discretion of such Affected Person, is allocable to the Borrower or to the transactions contemplated by this Agreement;

and the result of any of the foregoing is or would be

(x) to increase the cost to or to impose a cost on an Affected Person funding or making or maintaining any Advance, or

(y) to reduce the amount of any sum received or receivable by an Affected Person under this Agreement, or

(z) to reduce the rate of return on the capital of an Affected Person as a consequence of its obligations hereunder,

then within thirty (30) days after demand by such Affected Person (which demand shall be accompanied by a statement setting forth in reasonable detail the basis of such demand and the additional amount required fully to compensate the Affected Person for such increased cost or reduced amount of return), the Borrower shall pay directly to such Affected Person such additional amount or amounts as will compensate such Affected Person for such additional or increased cost or such reduction. For the avoidance of doubt, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act ("*Dodd Frank Act*"); (ii) the revised Basel Accord prepared by the Basel Committee on Banking Supervision as set out in the publication entitled "Basel II: International Convergence of Capital Measurements and Capital Standards: A Revised Framework," as updated from time to time ("*Basel II*"); (iii) the publication entitled "Basel III: A global regulatory framework for more resilient banks and banking systems," as updated from time to time ("*Basel III*"), including any publications addressing the liquidity coverage ratio ("*LCR*") or the supplementary leverage ratio ("*SLR*"); or (iv) any implementing laws, rules, regulations, guidance, interpretations or directives from any Governmental Authority relating to the Dodd Frank Act, Basel II or Basel III (whether or not having the force of law), and in each case all rules and regulations promulgated thereunder or issued in connection therewith shall be deemed to have been introduced after the Closing Date, thereby constituting a Regulatory Change hereunder with respect to the Affected Persons as of the Closing Date, regardless of the date enacted, adopted or issued, and such additional amounts which are sufficient to compensate such Affected Person for such increase in capital or liquidity or reduced return in accordance with the Priority of Payments.

(b) Upon the occurrence of any event giving rise to the Borrower's obligation to pay additional amounts to a Lender pursuant to clause (a) of this Section 2.09 or any amounts in respect of Indemnified Taxes pursuant to Section 12.03, such Lender will (i) use reasonable efforts (subject to overall policy considerations of such Lender) to designate a different lending office if such designation would reduce or obviate the obligations of the Borrower to make future payments of such additional amounts or Indemnified Taxes; *provided* that such designation is made on such terms that such Lender and its lending office suffer no unreimbursed cost or material legal or regulatory disadvantage (as reasonably determined by such Lender), with the object of avoiding future consequence of the event giving rise to the operation of any such provision or (ii) take such other measures as such Lender may deem reasonable, if as a result thereof the circumstances which would cause such Lender to be an Affected Person would cease to exist or the additional amounts or Indemnified Taxes which would otherwise be required to be paid to such Lender pursuant to this Section 2.09 or Section 12.03, as the case may be, would be materially reduced and if, as determined by such Lender in its sole discretion, the making, issuing, funding or maintaining of such Advances through such other office or in accordance with such other measures, as the case may be, would not otherwise adversely affect such Advances or the interests of such Lender.

(c) Failure or delay on the part of an Affected Person to demand compensation pursuant to this Section shall not constitute a waiver of such Affected Person's right to demand such compensation.

(d) If any Lender, requests compensation under this Section 2.09 or Section 12.03, or if

the Borrower is required to pay additional amounts or amounts in respect of Indemnified Taxes to any such Lender pursuant this Section 2.09 or Section 12.03 and such Lender has declined or is unable to designate a different lending office in accordance with this Section 2.09, or if any such Lender is a Defaulting Lender, then the Borrower may, at its sole expense, upon notice to such Lender and the Administrative Agent, require, subject to Sections 12.06 and 13.02, such Lender to assign and delegate, without recourse, all of its interests, rights (other than its existing rights to payments pursuant to this Section 2.09 and Section 12.03) and obligations under this Agreement and the related Facility Documents to an assignee that shall assume such obligations (which, assignee may be another Lender, if a Lender accepts such assignment) without any Prepayment Premium or termination penalty; *provided* that such Lender shall have received payment of an amount equal to the outstanding principal of its Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Facility Documents 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). A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Section 2.10. Compensation; Breakage Payments. The Borrower agrees to compensate each Affected Person from time to time, on the Payment Dates, following such Affected Person's written request (which request shall set forth the basis for requesting such amounts), in accordance with the Priority of Payments for all reasonable losses, expenses and liabilities (including any interest paid by such Affected Person to lenders of funds borrowed to make or carry an Advance and any loss sustained by such Affected Person in connection with the re-employment of such funds but excluding loss of anticipated profits), which such Affected Person may sustain: (i) if for any reason (including any failure of a condition precedent set forth in Article III but excluding a default by the applicable Lender) a Borrowing of any Advance by the Borrower does not occur on the Borrowing Date specified therefor in the applicable Notice of Borrowing delivered by the Borrower, (ii) if any payment, prepayment or conversion of any of the Borrower's Advances occurs on a date that is not the last day of the relevant Interest Accrual Period, or (iii) as a consequence of any other default by the Borrower to repay its Advances when required by the terms of this Agreement. A certificate as to any amounts payable pursuant to this Section 2.10 submitted to the Borrower by any Lender (with a copy to the Administrative Agent and accompanied by a reasonably detailed calculation of such amounts and a description of the basis for requesting such amounts) shall be conclusive in the absence of manifest error.

Section 2.11. Illegality; Inability to Determine Rates. (a) Notwithstanding any other provision in this Agreement, in the event of a Benchmark Disruption Event, then the affected Lender shall promptly notify the Administrative Agent and the Borrower thereof, and such Lender's obligation to make or maintain Advances hereunder based on the Adjusted Benchmark Rate shall be suspended until such time as such Lender may again make and maintain Advances based on the Adjusted Benchmark Rate and the Advances of each Interest Accrual Period in which such Person owns an interest shall either (1) if such Lender may lawfully continue to maintain such Advances at the Adjusted Benchmark Rate until the last day of the applicable Interest Accrual Period, be reallocated on the last day of such Interest Accrual Period to another Interest Accrual Period in respect of which the Advances allocated thereto accrues interest

determined other than with respect to the Adjusted Benchmark Rate or (2) if such Lender shall determine that it may not

lawfully continue to maintain such Advances at the Adjusted Benchmark Rate until the end of the applicable Interest Accrual Period, such Lender's share of the Advances allocated to such Interest Accrual Period shall be deemed to accrue interest at the Base Rate from the effective date of such notice until the end of such Interest Accrual Period.

(b) Upon the occurrence of any event giving rise to a Lender's suspending its obligation to make or maintain Advances based on the Adjusted Benchmark Rate pursuant to Section 2.11(a), such Lender will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate a different lending office if such designation would enable such Lender to again make and maintain Advances based on the Adjusted Benchmark Rate; *provided* that such designation is made on such terms that such Lender and its lending office suffer no unreimbursed cost or material legal or regulatory disadvantage (as reasonably determined by such Lender), with the object of avoiding future consequence of the event giving rise to the operation of any such provision.

(c) If, prior to the first day of any Interest Accrual Period or prior to the date of any Advance, as applicable, either (i) the Administrative Agent determines that for any reason adequate and reasonable means do not exist for determining the Benchmark for the applicable Advances, or (ii) the Required Lenders determine and notify the Administrative Agent that the Adjusted Benchmark Rate with respect to such Advances does not adequately and fairly reflect the cost to such Lenders of funding such Advances, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain Advances based on the Adjusted Benchmark Rate shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice.

Section 2.12. ~~Effect of Benchmark Transition Event~~ Benchmark Replacement.

(a) _____

Notwithstanding anything to the contrary ~~herein~~ in this Agreement or in any other Facility Document, if a Benchmark Transition Event ~~or an Early Opt-in Election, as applicable,~~ and its related Benchmark Replacement Date have occurred ~~prior to~~, the ~~Reference Time in respect of any setting of the then-current Benchmark~~, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace ~~such Benchmark~~ the then-current Benchmark for all purposes hereunder, ~~and~~ or under any ~~Facility~~ Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Facility Document and (y) if a Benchmark Replacement is determined in accordance with clause

_____ (3) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any ~~Facility Document~~ other Facility Document, in respect of ~~any~~ all determinations of the Benchmark ~~setting~~ at ~~or after~~ any time following 5:00 p.m. on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided ~~to the Borrower~~ by the Administrative Agent

to the other parties hereto without any amendment to, this Agreement or further action or consent of any other party ~~to, this Agreement or any other Facility Document~~ so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from ~~the Borrower~~.

(b) *Benchmark Replacement Conforming Changes.* In connection with the implementation and administration of a Benchmark Replacement, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Facility Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Facility Document.

(c) _____ Notices;
Standards for Decisions and Determinations. The Administrative Agent will promptly notify the ~~Borrower~~ other parties hereto of (i) any occurrence of a Benchmark Transition Event ~~or an Early Opt-in Election, as applicable,~~ and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, and (iii) the effectiveness of any Benchmark Replacement Conforming Changes, ~~(iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (d) below and (v) the commencement or conclusion of any Benchmark Unavailability Period.~~ Any determination, decision or election that may be made by the Administrative Agent pursuant to this Section 2.12, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from any other party ~~to this Agreement or any other Facility Document, except, in each case, as expressly required pursuant to this Section 2.12.~~

(d) _____

_____ ~~Unavailability of Tenor of Term SOFR.~~ Notwithstanding anything to the contrary herein or in any other Facility Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Term SOFR or LIBOR Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Accrual Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Accrual Period" for all Benchmark settings at or after ~~such time to reinstate such previously removed tenor.~~

Section 2.13. Rescission or Return of Payment. The Borrower agrees that, if at any time (including after the occurrence of the Final Maturity Date) all or any part of any payment theretofore made by it to any Secured Party or any designee of a Secured Party is or must be rescinded or returned for any reason whatsoever (including the insolvency, bankruptcy or reorganization of the Borrower or any of its Affiliates), the obligation of the Borrower to make such payment to such Secured Party shall, for the purposes of this Agreement, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence and this Agreement shall continue to be effective or be reinstated, as the case maybe, as to such

obligations, all as though such payment had not been made.

Section 2.14. Post-Default or Post-Reinvestment Period Interest. The Borrower shall pay interest on all Obligations that are not paid when due for the period from the due date thereof until the date the same is paid in full at the rate set forth under clause (c) of the definition of “Interest Rate”. Interest payable at the Post-Default Rate or the Post-Reinvestment Period Rate shall be payable on each Payment Date in accordance with the Priority of Payments.

Section 2.15. Payments Generally. (a) All amounts owing and payable to any Secured Party, any Affected Person or any Indemnified Party, in respect of the Advances and other Obligations, including the principal thereof, interest, fees, indemnities, expenses or other amounts payable under this Agreement or any other Facility Document, shall be paid by the Borrower to the Administrative Agent for the account of the applicable recipient in Dollars, in immediately available funds, in accordance with the Priority of Payments, and all without counterclaim, setoff, deduction, defense, abatement, suspension or deferment. The Administrative Agent and each Lender shall provide wire instructions to the Borrower and the Administrative Agent. Payments must be received by the Administrative Agent for the account of the Lenders on or prior to 3:00

p.m. on a Business Day; *provided that*, payments received by the Administrative Agent after 3:00

p.m. on a Business Day will be deemed to have been paid on the next following Business Day. To the extent payment was made to the Administrative Agent, the Administrative Agent promptly will make such payment amount available to each Lender on a *pro rata basis* based on the amount due and owed to each Lender at such time by wire transfer to such Lender’s account.

(b) Except as otherwise expressly provided herein, all computations of interest, fees and other Obligations shall be made on the basis of a year of 360 days for the actual number of days elapsed. In computing interest on any Advance, the date of the making of the Advance shall be included and the date of payment shall be excluded; *provided that*, if an Advance is repaid on the same day on which it is made, one day’s Interest shall be paid on such Advance. All computations made by the Administrative Agent under this Agreement shall be conclusive absent manifest error.

Article III Conditions Precedent

Section 3.01. Conditions Precedent to this Agreement. This Agreement shall become effective once the Administrative Agent shall have received, prior to or currently with the making of the initial Advance hereunder, the following, each in form and substance reasonably satisfactory to the Administrative Agent:

(q) each of the Facility Documents, duly executed and delivered by the parties thereto, which shall each be in full force and effect;

(r) true and complete copies of the Constituent Documents of the Borrower and Holdings as in effect on the Closing Date;

(s) true and complete copies certified by a Responsible Officer of the Borrower

of all Governmental Authorizations, Private Authorizations and Governmental Filings, if any, required in connection with the transactions contemplated by this Agreement;

(t) a certificate of a Responsible Officer of the Borrower certifying (i) as to the Borrower's Constituent Documents, (ii) as to resolutions or other action required under its Constituent Documents to approve the entering into by the Borrower of this Agreement and the other Facility Documents to which it is a party and the transactions contemplated thereby, (iii) that its representations and warranties set forth in the Facility Documents to which it is a party are true and correct in all material respects as of the Closing Date (except to the extent such representations and warranties expressly relate to any earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date) (except for representations and warranties already qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects), (iv) that no Unmatured Event of Default, Event of Default or Accelerated Amortization Event has occurred and is continuing, and (v) as to the incumbency and specimen signature of each of its Responsible Officers authorized to execute the Facility Documents to which it is a party;

(u) a certificate of a Responsible Officer of Holdings certifying (i) as to its Constituent Documents, (ii) as to its resolutions or other action required under its Constituent Documents to approve the Facility Documents to which it is a party and the transactions contemplated thereby, (iii) that its representations and warranties set forth in the Facility Documents to which it is a party are true and correct in all material respects as of the Closing Date (except to the extent such representations and warranties expressly relate to any earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date) (except for representations and warranties already qualified by materiality or Material Adverse Effect, which shall be true and correct in all respects), (iv) that no Limited Guaranty Event of Default or Servicer Event of Default has occurred and is continuing, and (v) as to the incumbency and specimen signature of each of its Responsible Officers authorized to execute the Facility Documents to which it is a party;

(v) proper financing statements, to be duly filed under the UCC in all jurisdictions that the Administrative Agent deems necessary or desirable in order to perfect the Liens on the Collateral contemplated by this Agreement;

(w) copies of proper financing statements, if any, necessary to release all security interests and other rights of any Person in the Collateral previously granted by the Borrower or the Seller;

(x) legal opinions (addressed to the Administrative Agent, the Lenders and their successors and assignees) of Orrick Herrington & Sutcliffe LLP, as counsel to the Borrower and Holdings (including in its capacities as the Seller and the Servicer), covering such matters as the Administrative Agent, the Lenders and their respective counsel shall reasonably request, including but not limited to enforceability, authority, no

conflicts, Investment Company Act, substantive consolidation, true sale matters, UCC matters,

“ownership interest” for purposes of the Volcker Rule;

(y) evidence reasonably satisfactory to it that the Collection Account has been established;

(z) receipt of (i) all fees to be received by the Administrative Agent and each Lender on or prior to the Closing Date pursuant to the Fee Letters or otherwise have been received; and (ii) the accrued reasonable and documented fees and expenses of counsel to the Administrative Agent, in connection with the transactions contemplated hereby, shall have been paid by the Borrower;

(aa) good standing certificates (or the federal or local law equivalent) with respect to each of the jurisdictions where the Borrower and Holdings, are organized or chartered;

(ab) evidence reasonably satisfactory to the Administrative Agent and each Lender that all due diligence and credit approval processes required to be completed prior to the Closing Date have been completed (including a duly executed Beneficial Ownership Certification); and

(ac) such other opinions, instruments, certificates and documents as the Administrative Agent or any Lender may reasonably request.

Section 3.02. Conditions Precedent to Each Borrowing. Each Advance to be made hereunder (including the initial Class A Advance and the initial Class B Advance), if any, on each Borrowing Date shall be subject to the fulfillment of the following conditions:

(a) the Administrative Agent shall have received a Notice of Borrowing with respect to such Advance (including the Maximum Advance Rate Test Calculation Statement attached thereto, all duly completed) delivered in accordance with Section 2.02;

(b) immediately after the making of such Advance on the applicable Borrowing Date, (i) the aggregate outstanding principal balance of the Advances shall be less than or equal to the Maximum Available Amount at such time, (ii) the aggregate outstanding principal balance of the Class A Advances shall be less than or equal to the Class A Maximum Available Amount at such time and (iii) the aggregate outstanding principal balance of the Class B Advances shall be less than or equal to the Class B Maximum Available Amount at such time, in each case, as demonstrated in the calculations attached to the applicable Notice of Borrowing;

(c) each of the representations and warranties of the Borrower contained in this Agreement shall be true and correct in all material respects (except for representations and warranties already qualified by materiality or Material Adverse Effect, which shall be true and correct) as of such Borrowing Date (except to the extent such representations and warranties expressly relate to any earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date as if made

on such date);

(d) (i) no Unmatured Event of Default or Event of Default shall have occurred and be continuing at the time of the making of such Advance or shall result upon the making of such Advance and (ii) if prior to or after giving pro forma effect to the making of such Advance, the Class A Effective Advance Rate is greater than 68% or the Class B Effective Advance Rate is greater than 85%, no Accelerated Amortization Event shall have occurred and be continuing at the time of the making of such Advance or shall result upon the making of such Advance;

(e) all terms and conditions of the Receivable Purchase Agreement required to be satisfied in connection with the assignment of each Receivable being pledged hereunder on such Borrowing Date (and the Receivable and Related Documents related thereto), including the perfection of the Borrower's interests therein, shall have been satisfied in full, and all filings (including UCC filings) required to be made by any Person and all actions required to be taken or performed by any Person in any jurisdiction to give the Administrative Agent, for the benefit of the Secured Parties, a first priority perfected security interest in all of the Borrower's right, title and interest in the related Receivables all payments from related Obligors, the Related Documents and all rights of the Borrower under the Receivable Purchase Agreement, excluding any Collateral in which a security interest cannot be perfected under the UCC, shall have been made, taken or performed;

(f) the Borrower shall have taken all steps necessary under all Applicable Law in order to cause to exist in favor of the Administrative Agent, for the benefit of the Secured Parties, a valid, subsisting and enforceable first priority perfected security interest in the Borrower's right, title and interest in the Collateral related to each Receivable being pledged hereunder on such Borrowing Date, including receipt by the Administrative Agent of evidence reasonably satisfactory to the Administrative Agent that all Liens (except for Permitted Liens) have been released on such Collateral;

(g) the Borrower shall have delivered to (i) the Administrative Agent and the Backup Servicer a fully executed copy of the Assignment and Schedule of Receivables and (ii) the Backup Servicer the Related Documents, in each case, relating to the Eligible Receivables in connection with such Borrowing; and

(h) the Administrative Agent shall have received satisfactory evidence that the Seller has received such amounts of the purchase price in excess of the requested Advance in respect of the Receivables to be acquired by the Borrower on such Borrowing Date.

Article IV Representations and Warranties

Section 4.01. Representations and Warranties of the Borrower. The Borrower represents and warrants to each of the Secured Parties on and as of each Measurement Date (and, in respect of

clause (i) below, each date such information is provided by or on behalf of it), as follows:

(a) *Due Organization.* The Borrower is a limited liability company duly organized and validly existing under the laws of the State of Delaware, with full power and authority to own and operate its assets and properties, conduct the business in which it is now engaged and to execute and deliver and perform its obligations under this Agreement and the other Facility Documents to which it is a party.

(b) *Due Qualification and Good Standing.* The Borrower is in good standing in the State of Delaware. The Borrower is duly qualified to do business and, to the extent applicable, is in good standing in each other jurisdiction in which the nature of its business, assets and properties, including the performance of its obligations under this Agreement, the other Facility Documents to which it is a party and its Constituent Documents, requires such qualification.

(c) *Due Authorization; Execution and Delivery; Legal, Valid and Binding; Enforceability.* The execution and delivery by the Borrower of, and the performance of its obligations under the Facility Documents to which it is a party and the other instruments, certificates and agreements contemplated thereby are within its powers and have been duly authorized by all requisite action by it and have been duly executed and delivered by it and constitute its legal, valid and binding obligations enforceable against it in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally or general principles of equity (to the extent not related to inequitable conduct of the Borrower), regardless of whether considered in a proceeding in equity or at law.

(d) *Non-Contravention.* None of the execution and delivery by the Borrower of this Agreement or the other Facility Documents to which it is a party, the Borrowings or the pledge of the Collateral hereunder, the consummation of the transactions herein or therein contemplated, or compliance by it with the terms, conditions and provisions hereof or thereof, will (i) conflict with, or result in a breach or violation of, or constitute (with or without notice of lapse of time or both) a default under its Constituent Documents, (ii) conflict with or contravene (A) any Applicable Law in any material respect, (B) any indenture, agreement or other contractual restriction binding on or affecting it or any of its assets, including any Related Documents, or (C) any order, writ, judgment, award, injunction or decree binding on or affecting it or any of its assets or properties or (iii) result in a breach or violation of, or constitute a default under, or permit the acceleration of any obligation or liability in, or but for any requirement of the giving of notice or the passage of time (or both) would constitute such a conflict with, breach or violation of, or default under, or permit any such acceleration in, any contractual obligation or any agreement or document to which it is a party or by which it or any of its assets are bound (or to which any such obligation, agreement or document relates). Without limiting any restrictions or other covenants hereunder, the Borrower is not in default under any such indenture, agreement or other contractual restriction binding on or affecting it or any of its assets, including any Related Document, with respect to which

such default, either individually or in the aggregate with other defaults, would reasonably be expected to have a Material Adverse

Effect on the Borrower. The Borrower is not subject to any proceeding, action, litigation or investigation pending, or to the knowledge of the such Person, overtly threatened in writing against or affecting it or its assets, before any Governmental Authority (y) seeking to prevent the consummation or performance of any of the transactions contemplated by this Agreement and the other Facility Documents or (z) that could result in a Material Adverse Effect on the Borrower.

(e) *Governmental Authorizations; Private Authorizations; Governmental Filings.* The Borrower has obtained or applied for, maintained and kept in full force and effect all Governmental Authorizations and Private Authorizations which are necessary for it to properly carry out its business and made all material Governmental Filings necessary for the execution and delivery by it of the Facility Documents to which it is a party, the Borrowings by the Borrower under this Agreement, the pledge of the Collateral by the Borrower under this Agreement and the performance by the Borrower of its obligations under this Agreement, the other Facility Documents, and no material Governmental Authorization, Private Authorization or Governmental Filing which has not been obtained, applied for or made, is required to be obtained or made by it in connection with the execution and delivery by it of any Facility Document to which it is a party, the Borrowings by the Borrower under this Agreement, the pledge of the Collateral by the Borrower under this Agreement or the performance of its obligations under this Agreement and the other Facility Documents to which it is a party.

(f) *Compliance with Agreements, Laws, Etc.* The Borrower has duly observed and complied (i) in all material respects with all Applicable Laws relating to the conduct of its business and its assets, including, without limitation, all credit, servicing and debt collection laws applicable to the Eligible Receivables and its activities contemplated by the Facility Documents, (ii) in all material respects with its Constituent Document, (iii) with any judgment, decree, writ, injunction, order, award or other action of any Governmental Authority having or asserting jurisdiction over it or any of its properties, unless a failure to do so could not result in a Material Adverse Effect on the Borrower and (iv) with the terms and provisions of this Agreement and each other Facility Document to which it is a party. The Borrower has preserved and kept in full force and effect its legal existence, rights, privileges, qualifications and franchises in all material respects. Without limiting the foregoing, (x) to the extent applicable, the Borrower is in compliance in all material respects with the regulations and rules promulgated by the U.S. Department of Treasury or administered by the U.S. Office of Foreign Asset Controls (“OFAC”), including U.S. Executive Order No. 13224, and other related statutes, laws and regulations (collectively, the “Subject Laws”), (y) the Borrower has adopted internal controls and procedures designed to ensure its continued compliance with the applicable provisions of the Subject Laws and to the extent applicable, will adopt procedures consistent with the PATRIOT Act and implementing regulations, and (z) to the knowledge of the Borrower (based on the implementation of its internal procedures and controls), no direct investor in the Borrower is a Person whose name appears on the “List of Specially Designated Nationals” and “Blocked Persons” maintained by the OFAC.

(g) *Location and Legal Name.* The Borrower’s chief executive office and

principal place of business is located in the State of Utah, County of Salt Lake and the Borrower maintains its books and records in the State of Utah, County of Salt Lake. The Borrower's registered office and the jurisdiction of organization of the Borrower is the jurisdiction referred to in Section 4.01(a). The Borrower's tax identification number is 81-2444657. The Borrower has not changed its name, changed its corporate structure, changed its jurisdiction of organization, changed its chief place of business/chief executive office or used any name other than its exact legal name at any time during the past five years.

(h) *Investment Company Act; Volcker Rule.* The Borrower is not required to register as an "investment company" or a company controlled by an "investment company" within the meaning of the Investment Company Act other than in reliance on either Section 3(c)(1) or Section 3(c)(7) of the Investment Company Act.

(i) *Information and Reports.* Each Notice of Borrowing, each Monthly Report and all other written information, reports, certificates and statements (other than projections and forward-looking statements) furnished by the Borrower or the Servicer to any Secured Party for purposes of or in connection with this Agreement, the other Facility Documents or the transactions contemplated hereby or thereby are true, complete and correct in all material respects as of the date such information is stated or certified and the Borrower and the Servicer do not omit any material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which they are made, not misleading. All projections and forward-looking statements furnished by or on behalf of the Borrower were prepared reasonably and in good faith as the date stated herein or as of which they were provided.

(j) *ERISA.* Neither the Borrower nor any member of the ERISA Group has, or during the past six years has had, any liability or obligation with respect to any Plan or Multiemployer Plan (including any actual liability on account of a member of the ERISA Group).

(k) *Taxes.* The Borrower has filed all income tax returns and all other material tax returns which are required to be filed by it, if any, and has paid all income and other material taxes, assessments, fees and other governmental charges levied or imposed upon it or its properties, income or assets otherwise due and payable, except for any taxes which are being contested in good faith by appropriate proceedings and with respect thereto adequate reserves have been established in accordance with GAAP.

(l) *Tax Status.* For U.S. federal income tax purposes (i) neither the Borrower nor any record or beneficial owner of the Borrower has made an election under U.S. Treasury Regulation Section 301.7701-3 for the Borrower to be classified as an association taxable as a corporation and (ii) the Borrower is owned by a single "United States person" as defined by Section 7701(a)(30) of the Code.

(m) *Collections.* The conditions and requirements set forth in Section 5.01(k) have been satisfied from and after the first Borrowing Date. The Borrower has directed the

Servicer to pay and deposit all Collections on the Receivables to the Collection Account upon receipt. The correct name and address of the Collection Account Bank, together with the account number of the Collection Account is listed on Schedule 4 hereto. The Borrower has no other deposit or securities accounts other than (i) the Escrow Account and (ii) the ones listed on Schedule 4 and subject to Liens in favor of the Secured Parties. The Borrower has not assigned or granted an interest in any rights it may have in the Collection Account to any Person other than the Administrative Agent pursuant to the terms hereof. No Person, other than as contemplated by and subject to this Agreement, has been granted dominion and control of the Collection Account, or the right to take dominion and control of the Collection Account at a future time or upon the occurrence of a future event.

(n) *Plan Assets.* The assets of the Borrower are not, and shall not be, treated as “plan assets” for purposes of Section 3(42) of ERISA and the Collateral is not deemed to be “plan assets” for purposes of Section 3(42) of ERISA. The Borrower has not taken, or omitted to take, and shall not take or omit to take, any action which would reasonably be expected to result in any of the Collateral being treated as “plan assets” for purposes of Section 3(42) of ERISA or the occurrence of any Prohibited Transaction in connection with the transactions contemplated hereunder.

(o) *Solvency.* After giving effect to each Advance hereunder, and the disbursement of the proceeds of such Advance, the Borrower ~~and~~, Holdings ~~on a consolidated basis~~ and the Permitted Holder are Solvent.

(p) *Prior Business Activity and Indebtedness.* The Borrower has no business activity except as contemplated in this Agreement and the other Facility Documents and upon the date hereof is not party to any other debt, financing or other transaction or agreement other than the Facility Documents and its Constituent Documents. The Borrower has not incurred, created or assumed any indebtedness except for that arising under or expressly permitted by this Agreement or the other Facility Documents.

(q) *Subsidiaries; Investments.* The Borrower has no subsidiaries. The Borrower does not own or hold directly or indirectly, any capital stock or equity security of, or any equity interest in, any Person.

(r) *Ordinary Course of Business.* Each payment of interest and principal on the Advances will have been (i) in payment of a debt incurred in the ordinary course of business or financial affairs on the part of the Borrower and (ii) made in the ordinary course of business or financial affairs of the Borrower.

(s) *Material Adverse Effect.* No Material Adverse Effect on the Borrower has occurred since its date of formation, and since such date, no event or circumstance has occurred which is reasonably likely to have a Material Adverse Effect on the Borrower.

(t) *Representations Relating to the Collateral.*

(iii) The Borrower owns and has legal and beneficial title to all

Receivables and other Collateral free and clear of any Lien, claim or encumbrance of any person, other than Permitted Liens.

(iv) This Agreement creates a valid and continuing security interest (as defined in the applicable UCC) in favor of the Administrative Agent, on behalf of the Secured Parties, in the Collateral, which is enforceable in accordance with its terms under the Applicable Law, is prior to all other Liens and is enforceable as such against creditors of and purchasers from the Borrower subject to Permitted Liens. All filings (including such UCC filings) as are necessary in any jurisdiction to perfect the interest of the Administrative Agent on behalf of the Secured Parties, in the Collateral have been made and are effective.

(v) This Agreement constitutes a security agreement within the meaning of Section 9-102(a)(73) of the UCC as in effect from time to time in the State of New York.

(vi) Other than Permitted Liens, the Borrower has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Collateral. The Borrower has not authorized the filing of and is not aware of any financing statements against the Borrower that include a description of collateral covering the Collateral other than any financing statement relating to the security interest granted to the Administrative Agent hereunder or that has been terminated; and the Borrower is not aware of any judgment liens, PBGC liens or tax lien filings against the Borrower.

(vii) The Collateral constitutes Money, accounts, instruments, general intangibles, uncertificated securities, certificated securities or security entitlements to financial assets resulting from the crediting of financial assets to a securities account, or in each case, the proceeds thereof or supporting obligations related thereto, in each case, as such assets are defined in the UCC, as applicable.

(viii) The Collection Account constitutes a “deposit account” under Section 9-102(a)(2) of the UCC and the Borrower has taken all steps necessary to enable the Administrative Agent to obtain “control” (within the meaning of the UCC) with respect to the Collection Account.

(ix) This Agreement creates a valid, continuing and, upon the filing of the financing statements referred to in clause (ix) and execution of the Collection Account Control Agreement, a perfected security interest (as defined in Section 1-201(b)(35) of the UCC) in the Collateral in favor of the Administrative Agent, for the benefit and security of the Secured Parties, which security interest is prior to all other Liens (other than Permitted Liens), claims and encumbrances and is enforceable as such against creditors of and purchasers from the Borrower and no further action (other than the filing of the financing statement referred to in clause

(ix) and execution of the Collection Account Control Agreement), including any filing or recording of any document, is necessary in order to establish and perfect

the first priority security interest of the Administrative Agent, for the benefit of the Secured Parties, in the Collateral as against any third party in any applicable jurisdiction, including, any purchaser from, or creditor of, the Borrower.

(x) The Borrower has received all consents and approvals required by the terms of the Related Documents in respect of such Collateral to the pledge hereunder to the Administrative Agent of its interest and rights in such Collateral and such documents do not require either notice or consent to any Person for the enforcement or exercise of the rights and remedies of the Secured Parties following an Event of Default.

(xi) With respect to Collateral referred to in clause (v) above over which a security interest may be perfected by the filing of a financing statement, the Borrower has authorized, caused or will have caused, on or prior to the Closing Date, the filing of all appropriate financing statements in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect the security interest in the Collateral granted to the Administrative Agent, for the benefit and security of the Secured Parties, hereunder (which the Borrower hereby agrees may be an “all assets” filing).

(xii) The sale of each Receivable by the Seller to the Borrower was, as of the related Purchase Date, permitted under all applicable documents governing the creation, sale or possession of such Receivable in effect at such time.

(xiii) As of the related Purchase Date, each Receivable sold to the Borrower and listed as an “Eligible Receivable” satisfied each of the criteria set forth in the definition of Eligible Receivable.

(xiv) Each Receivable listed as an “Eligible Receivable” on any Monthly Report, Notice of Borrowing, Notice of Withdrawal or Notice of Prepayment, delivered from time to time to the Administrative Agent or the other Secured Parties satisfies each of the criteria set forth in the definition of Eligible Receivable as of the date of such delivery.

(xv) Upon the delivery to the Custodian of all Collateral constituting “instruments” and “certificated securities” (as defined in the UCC as in effect from time to time in the jurisdiction where the vault of the Custodian in which such assets will be held is located), if any, the crediting of all Collateral that constitutes financial assets to the Collection Account and the filing of the financing statements in the jurisdiction in which the Borrower is located, such security interest shall be a valid and first priority perfected security interest in all of the Collateral in that portion of the Collateral in which a security interest may be created and perfected in such manner under Article 9 of the UCC.

(xvi) Each Eligible Receivable was originated by an Originator pursuant to the applicable Program and (x) was sold by such Originator to the Seller and (y)

was sold or contributed to the Borrower by the Seller, in each case, for a price at least equal to fair market value.

(u) *USA PATRIOT Act.* None of the Borrower, Holdings, [the Permitted Holder](#) or any of their respective Affiliates is (1) a Sanctioned Person; (2) a Person that resides or has a place of business in a country or territory named on such lists or which is designated as a “non-cooperative jurisdiction” by the Financial Action Task Force on Money Laundering, or whose subscription funds are transferred from or through such a jurisdiction; (3) a “Foreign Shell Bank” within the meaning of the PATRIOT Act, *i.e.*, a foreign bank that does not have a physical presence in any country and that is not affiliated with a bank that has a physical presence and an acceptable level of regulation and supervision; or (4) a person or entity that resides in or is organized under the laws of a jurisdiction designated by the United States Secretary of the Treasury under Section 311 or 312 of the PATRIOT Act as warranting special measures due to money laundering concerns.

(v) *Program Agreements.* Borrower has provided the Administrative Agent and Initial Class B Lender with true, correct and complete copies of each Program Agreement, together with all amendments, supplements or other modifications thereto and each such Program Agreement is in full force and effect. To the best of Borrower’s knowledge, neither the Seller nor any Originator is in default of its respective obligations under any Program Agreement.

Section 4.02. Representations and Warranties Relating to the Collateral in Connection with a Borrowing or Withdrawal. The Borrower acknowledges and agrees that, by delivering a Notice of Borrowing or a Notice of Withdrawal to the Administrative Agent, the Borrower will be deemed to have represented, warranted and certified for all purposes hereunder that in the case of each item of Collateral pledged to the Administrative Agent, on the date thereof and on the relevant Borrowing Date or Withdrawal Date, as applicable:

(a) the Borrower is the owner of such Collateral free and clear of any Liens, claims or encumbrances of any nature whatsoever except for (i) those which are being released on the related Borrowing Date or Withdrawal Date, as applicable, and (ii) Permitted Liens;

(b) the Borrower has acquired its ownership in such Collateral in good faith without notice of any adverse claim, except as described in clause (a) above;

(c) the Borrower has not assigned, pledged or otherwise encumbered any interest in such Collateral (or, if any such interest has been assigned, pledged or otherwise encumbered, it has been released) other than interests granted or permitted pursuant to this Agreement;

(d) the Borrower has full right to grant a security interest in and assign and pledge such Collateral to the Administrative Agent for the benefit of the Secured Parties; or

(e) the Administrative Agent has a first priority perfected security interest in the Collateral, except as otherwise permitted by this Agreement.

Article V Covenants

Section 5.01. Affirmative Covenants of the Borrower. The Borrower covenants and agrees that until the date that all Obligations have been paid in full (other than contingent indemnity obligations not yet due and owing):

(a) *Compliance with Agreements, Laws, Etc.* It shall (i) duly observe and comply in all material respects with all Applicable Laws relative to the conduct of its business or to its assets, including all credit, servicing and debt collection laws applicable to the Receivables and its activities and obligations as contemplated by the Facility Documents, (ii) preserve and keep in full force and effect its legal existence, (iii) preserve and keep in full force and effect its rights, privileges, qualifications and franchises (including all credit, servicing and debt collection licenses or qualifications applicable to the Receivables and its activities contemplated by the Facility Documents), except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect on the Borrower, (iv) comply with the terms and conditions of each Facility Document to which it is a party and in all material respects with its Constituent

Documents and (v) obtain, maintain and keep in full force and effect all Governmental Authorizations, Private

Authorizations and Governmental Filings which are necessary or appropriate to properly carry out its business and the transactions contemplated to be performed by it under the Facility Documents and Related Documents to which it is a party and its Constituent Documents, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect on the Borrower.

(b) *Enforcement.* (i) It shall not take any action, and will use commercially reasonable efforts not to permit any action to be taken, that would release any Obligor from any of such Obligor's covenants or obligations under any Related Document, except in the case of (A) repayment of Receivables, (B) subject to the terms of this Agreement, (1) amendments to the Related Documents, Defaulted Receivables or Ineligible Receivables or that are otherwise reasonably deemed by the Servicer to be necessary, immaterial, or beneficial, taken as a whole, to the Borrower and not detrimental to the Administrative Agent and the Lenders, (2) amendments, waivers or modifications of or relief extended to the Obligors in relation to Related Documents in accordance with the Servicing Agreement and (3) enforcement actions taken or work-outs with respect to any Defaulted Receivable by the Servicer in accordance with the provisions hereof and the Servicing Agreement, (C) actions by the Servicer in conformity with this Agreement or any other Facility Document or as otherwise required hereby or thereby, as the case may be, or (D) as required pursuant to Applicable Law or, unless in violation of this Agreement, any other Facility Documents or the Related Documents.

(ii) The Borrower shall punctually perform, and shall use its commercially reasonable efforts to cause the Seller, the Servicer and the Backup Servicer to perform, all of their respective obligations and agreements contained in this Agreement or any other Facility Document.

(c) *Further Assurances.* The Borrower shall take such reasonable action from time to time as shall be necessary to ensure that all assets (including the Collection Account) of the Borrower constitute "Collateral" hereunder. The Borrower will, and promptly upon the reasonable request of the Administrative Agent or the Required Lenders (through the Administrative Agent) shall, at the Borrower's expense, execute and deliver such further instruments and take such further action in order to maintain and protect the Administrative Agent's first-priority perfected security interest in the Collateral pledged by the Borrower for the benefit of the Secured Parties free and clear of any Liens (other than Permitted Liens), including all further actions which are necessary to (x) enable the Secured Parties to enforce their rights and remedies under this Agreement and the other Facility Documents, and (y) effectuate the intent and purpose of, and to carry out the terms of, the Facility Documents. Subject to Section 7.02, and without limiting its obligation to maintain and protect the Administrative Agent's first priority security interest in the Collateral, the Borrower authorizes the Administrative Agent to file or record financing statements (including financing statements describing the Collateral as "all assets" or the equivalent) and other filing or recording documents or instruments with respect to the Collateral in such form and in such offices as are necessary to perfect the security interests of the Administrative Agent under this Agreement under each method of perfection required herein with respect to the Collateral, *provided*, that the Administrative Agent does

not hereby assume any obligation of the Borrower to maintain and protect its security interest under this Section 5.01 or Section 7.07. The Borrower will, in connection therewith, deliver such proof of corporate action, incumbency of officers or other documents as are reasonably requested by the Administrative Agent to evidence appropriate authority of the officers signing or authorizing any such documents, instruments or filings.

(d) *Other Information.* It shall provide to the Administrative Agent and the Initial Class B Lender or cause to be provided to the Administrative Agent (with enough additional copies for the Administrative Agent to distribute for each Lender) and the Initial Class B Lender, as applicable:

(xvii) within ten (10) Business Days after the Permitted Holder files any Form 10-Q with the SEC, the Permitted Holder's unaudited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of such prior fiscal quarter;

(xviii) within ten (10) Business Days after the Permitted Holder files Form 10-K with the SEC, Permitted Holder's audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the corresponding fiscal year, all certified as to fairness of presentation and conformity with GAAP by a Responsible Officer of such Person;

(xix) all such financial statements shall be prepared in reasonable detail and in accordance with GAAP in all material respects applied consistently throughout the periods reflected therein and with prior periods (except as approved by such accountants or officer, as the case may be, and disclosed therein);

(xx)– simultaneously with the delivery of each set of financial statements and financial information referred to in clauses (i) and (ii) above, a certificate of a Responsible Officer of the Borrower certifying (A) that the Borrower ~~and~~, Holdings and the Permitted Holder have complied with all covenants and agreements in the Facility Documents, (B) that no Accelerated Amortization Event, Unmatured Event of Default or Event of Default then exists and, otherwise, setting forth the details thereof and the action which the Borrower ~~or~~, Holdings or the Permitted Holder is taking or proposes to take with respect thereto and (C) attaching a Maximum Advance Rate Test Calculation Statement;

(xxi) as soon as possible and no later than three (3) Business Days after a Responsible Officer of the Borrower obtains actual knowledge of the occurrence and continuance of any (x) Unmatured Event of Default or (y) Event of Default, a certificate of a Responsible Officer of the Borrower setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(xxii) from time to time such additional information or documents regarding the Borrower's financial position or business and the Collateral (including reasonably detailed calculations of the Maximum Advance Rate Test, the Facility Pool Delinquency Ratio and the Facility Pool Default Ratio) as the Administrative Agent or the Required Lenders (through the Administrative Agent) may reasonably request;

(xxiii) promptly after the occurrence of any ERISA Event, notice of such ERISA Event and copies of any communications with all Governmental Authorities or any Multiemployer Plan with respect to such ERISA Event;

(xxiv) promptly, and in any event within one (1) Business Day of receipt thereof, deliver to the Administrative Agent each written notice of (A) without limiting the provisions of Section 5.02(j), any amendment, modification, supplement or waiver of the Credit Policy delivered by the Seller, as applicable, to the Borrower and any related information provided by the Seller to the Borrower pursuant to the Receivable Purchase Agreement and (B) without limiting the provisions of Section 5.02(j), any amendment, modification, supplement or waiver of the Collection Policy delivered by the Servicer to the Borrower and any related information provided by the Servicer to the Borrower pursuant to the Servicing Agreement;

(xxv) upon the earlier of (x) the date a Maximum Advance Rate Test Calculation Statement is due and (y) within ten (10) Business Days following actual knowledge thereof by the Borrower, a written notice to the Administrative Agent and the Initial Class B Lender if any Obligor of a Card Account with a Receivables Balance greater than \$3,000,000 became subject to an Insolvency Event, is deceased or fraud is discovered in connection with the origination of the relevant Card Account or Receivable, and (B) at any time upon the reasonable request by the Administrative Agent or the Required Lenders, the Borrower shall provide, or cause to be provided, to the Administrative Agent any information or document relating to the Collateral;

(xxvi) if any information provided to the Administrative Agent or the Lenders pursuant to Section 4.01(i) hereof for any reason is not true, complete and correct in any material respect, the Borrower shall provide the true, complete and correct information to the Administrative Agent within seven (7) Business Days following the earlier of (x) written notice to the Borrower by the Administrative Agent or (y) actual knowledge of a Responsible Officer of the Borrower;

(xxvii) promptly following any request therefor, the Borrower shall provide, to the extent commercially reasonable, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under the PATRIOT Act, the Beneficial Ownership Regulation or other applicable anti-money laundering laws, including but not limited to a beneficial ownership

certification in form reasonably acceptable to the Administrative Agent or the relevant Lender, as applicable;

(xxviii) promptly upon a Responsible Officer of the Borrower obtaining actual knowledge thereof, notice of any development that results in, or could reasonably be expected to result in, a Material Adverse Effect with respect to the Borrower, Holdings, [the Permitted Holder](#), the Seller or the Servicer, including, without limitation, the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any of its Affiliates or any Receivable or any portion of the Collateral that could reasonably be expected to result in a Material Adverse Effect with respect to the Borrower, Holdings, [the Permitted Holder](#), the Seller or the Servicer;

(xxix) (A) on a monthly basis, simultaneously with the delivery of the Monthly Report, any reports and calculations prepared by the Seller and the Servicer and received by the Borrower with regard to the Receivables during the related Collection Period, if any, and (B) all reports and notices (including any compliance certificate delivered in connection with the Servicer's financial covenants) it receives pursuant to the Receivable Purchase Agreement and the Servicing Agreement within two (2) Business Days of the receipt thereof or within any shorter period as otherwise requested hereunder; and

(xxx) upon request by the Administrative Agent or any Lender, but no less frequently than on each Reporting Date, the Data Tape.

(e) *Access to Records and Documents.*

(i) Upon reasonable advance written notice and during normal business hours, the Borrower shall permit the Administrative Agent, jointly with any Lender (or any Person designated by the Administrative Agent or such Lender) to visit and inspect and make copies thereof at reasonable intervals and conduct evaluations and appraisals of the Borrower's and the Servicer's, as applicable, computation of the Borrowing Base and the assets sold by the Seller included in the Borrowing Base and the components of the Monthly Report (including cash receipt and application and calculation of ratios), but in any event no more than once during any fiscal year of the Borrower (or as often and at any time in the sole discretion of the Administrative Agent or the Initial Class B Lender following the occurrence and continuation of an Event of Default), of (x) the Borrower's books, records and accounts relating to its business, financial condition, operations, assets, the Collateral and its performance under the Facility Documents and the Related Documents and to discuss the foregoing with its and such Person's officers, partners, employees and accountants, (y) all of the Related Documents, including access to each electronic portal maintained by the Borrower or any third-party service provider and (z) a list of all Receivables then owned by the Borrower, together with the Servicer's reconciliation of such list to that set forth

in each of the Monthly Reports, indicating the cumulative addition, subtraction and repurchase of

Receivables under the Receivable Purchase Agreement.

(ii) The Borrower shall be responsible for the reasonable costs and expenses for one visit per calendar year requested by the Administrative Agent, unless an Event of Default has occurred and is continuing, in which case the Borrower shall be responsible for all reasonable costs and expenses for each visit.

(iii) The Borrower shall (A) obtain and maintain similar inspection and audit rights under the Facility Documents with the Seller, the Servicer, the Backup Servicer and the Custodian, (B) consult with the Administrative Agent and the Initial Class B Lender (or any Person designated by the Administrative Agent or the Initial Class B Lender) in connection with, and allow the Administrative Agent and the Initial Class B Lender (or any Person designated by the Administrative Agent or the Initial Class B Lender) to join the Borrower in, any exercise of any similar inspection or audit rights granted to it with respect to the Seller, the Servicer, Backup Servicer or the Custodian, and (C) use commercially reasonable efforts to have the findings of any such inspection provided directly to the Administrative Agent and the Initial Class B Lender, or promptly provide any such findings provided to it in connection with the exercise of such inspection rights to the Administrative Agent and the Initial Class B Lender. In the event the Borrower has not exercised any such inspection rights granted to it, the Administrative Agent may request the Borrower to exercise such rights, and the Borrower shall comply with any such reasonable request to exercise inspection and audit rights.

(f) *Use of Proceeds.* It shall use the proceeds of each Advance in a manner that does not, directly or indirectly, violate any provision of its Constituent Documents or any Applicable Law, including Regulation T, Regulation U and Regulation X.

(g) *Monthly Report; Backup Servicer Report; Accountings.* The Borrower shall provide (or cause to be compiled and provided) to the Administrative Agent, the Initial Class B Lender and the Backup Servicer a monthly report (each, a “Monthly Report”) for the previous Collection Period no later than 3:00 p.m. on each Reporting Date. The Monthly Report delivered for any Collection Period shall contain the information with respect to the Eligible Receivables included in the Collateral set forth in Schedule 5 hereto (including, a Data Tape and a calculation of the Maximum Available Amount), and shall be determined as of the last day of the Collection Period applicable to such Reporting Date. Each Monthly Report shall also include a Maximum Advance Rate Test Calculation Statement as well as the calculation of the Two-Month Rolling Average Facility Pool Delinquency Ratio, the Two-Month Rolling Average Facility Pool Default Ratio, the Three-Month Rolling Average Facility Pool Delinquency Ratio and the Three-Month Rolling Average Facility Pool Default Ratio, in each case, as determined as of the last day of the Collection Period applicable to such Reporting Date. Within five (5) Business Days of delivery of the Monthly Report, the Borrower shall also deliver, or caused to be delivered, to the Administrative Agent and the Initial Class B Lender, the Backup Servicer Report. Each delivery of a Monthly Report shall be deemed a

representation and warranty by the Borrower that each of the Eligible Receivables set forth

therein satisfies each of the criteria set forth in the definition of Eligible Receivable as of the last day of the relevant Collection Period covered by such Monthly Report.

(h) *Notice of Proceedings.* It shall provide written notice to the Administrative Agent and the Initial Class B Lender of the occurrence of any proceeding, action, litigation or investigation pending before any Governmental Authority, or, to the actual knowledge of the Borrower, any non-frivolous threat thereof against the Borrower, which, if adversely determined, could reasonably be expected to have a Material Adverse Effect on the Borrower, within five (5) Business Days of receiving notice thereof or the Borrower obtaining actual knowledge of the commencement thereof, except to the extent that a relevant Government Authority requires that the such proceeding, action, litigation or investigation be kept confidential or that the Borrower is prohibited by Applicable Law from communicating information about such proceeding, action, litigation or investigation to the Administrative Agent.

(i) *No Other Business.* The Borrower shall not engage in any business or activity other than borrowing Advances pursuant to this Agreement, funding, acquiring, owning, holding, administering, selling, enforcing, exchanging, redeeming, pledging, contracting for the management of and otherwise dealing with Receivables and the other Collateral in connection therewith and entering into the Facility Documents, any applicable Related Documents and any other agreements contemplated by this Agreement, and shall not engage in any other activity or take any other action that would cause the Borrower to be subject to U.S. federal, state or local income tax on a net income basis.

(j) *Tax Matters.* The Borrower shall (and each Lender hereby agrees to) treat the Advances as debt for U.S. federal income tax purposes and will take no contrary position except to the extent required by a change in Applicable Law occurring after the date hereof, a closing agreement with an applicable tax authority or a final judgement of a court of competent jurisdiction. Neither the Borrower nor any record or beneficial owner of the Borrower shall make an election under U.S. Treasury Regulation Section 301.7701-3 for the Borrower to be classified as an association taxable as a corporation. The Borrower shall at all times ensure that it is owned by a single "United States person" as defined by Section 7701(a)(30) of the Code. In the event that the Borrower is classified as a partnership for U.S. federal income tax purposes, (i) the partnership representative (or comparable person under state or local law, as applicable) shall, to the extent eligible, make the election under Section 6221(b) of the Code (or any similar comparable provision of state or local tax law) with respect to the Borrower and take any other action such as filings, disclosures and notifications necessary to effectuate such election, and (ii) if the election described in the preceding clause (i) is not available, the partnership representative (or comparable person under state or local law, as applicable) shall, to the extent eligible, make the election under Section 6226(a) of the Code (or any similar comparable provision of state or local tax law) with respect to the Borrower and take any other action such as filings, disclosures and notifications necessary to effectuate such election.

(k) *Collections*. The Borrower shall, and shall cause the Servicer and Servicer's Affiliates to, cause all Collections on account of Receivables received as ACH

payments initiated by the Borrower or initiated by the Servicer on behalf of the Borrower to be paid directly to the Collection Account. The Borrower shall, and shall cause the Servicer and Servicer's Affiliates to (i) insure that at least 70% of Card Accounts with Receivables owned by the Borrower utilize ACH payments initiated by the Borrower or initiated by the Servicer on behalf of the Borrower and (ii) use commercially reasonable efforts to identify all Collections received by it on account of Receivables in the form of cash, checks, notes, drafts, bills of exchange, money orders or otherwise and promptly (and in any event, within the timing specified in the immediately following sentence) deposit all such identifiable Collections into the Collection Account in the form in which they are received (but with any endorsements of the Borrower, the Servicer or such Servicer's Affiliates, as applicable, necessary for deposit or collection). If for any reason the Borrower, the Servicer or any of the Servicer's Affiliates receives any Collections, the Borrower the Servicer or such Servicer's Affiliate, as applicable, shall deposit such Collections directly into the Collection Account as soon as practicable, and in any event, within two (2) Business Days, following actual knowledge of the receipt and identification thereof. Any such Collections received by the Borrower, the Servicer or such Servicer's Affiliate while in the possession of the Borrower, the Servicer or such Servicer's Affiliate shall be held in trust for the benefit of the Secured Parties. The Borrower shall ensure that no Person, other than as contemplated by and subject to this Agreement, has been granted dominion and control of the Collection Account, or the right to take dominion and control of the Collection Account at a future time or upon the occurrence of a future event; *provided, however*, that the Borrower may permit the Servicer and the Backup Servicer to have access to the Collection Account pursuant to the Servicing Agreement and the Backup Servicing Agreement.

(l) *Priority of Payments.* The Borrower shall ensure all Collections are applied solely in accordance with Section 9.01 and the other provisions of this Agreement.

(m) *Borrower May Own Ineligible Receivables.* For the avoidance of doubt, nothing in this Agreement shall prevent Borrower from purchasing Ineligible Receivables under the Receivable Purchase Agreement; *provided* that (i) such purchase will not result in the occurrence of an Unmatured Event of Default or Event of Default or trigger an Accelerated Amortization Event; and (ii) no Unmatured Event of Default, Event of Default or Accelerated Amortization Event has occurred and remains continuing at the time of such purchase.

(n) *Solvency.* After giving effect to each Advance hereunder, and the disbursement of the proceeds of such Advance, the Borrower ~~and, Holdings on a consolidated basis~~ and the Permitted Holder shall remain Solvent.

(o) *Insolvency Events.* The Borrower shall timely object to all proceedings of the type described in clause (a) of the definition of "Insolvency Event" instituted against it.

(p) *Insurance.* The Borrower shall maintain, or cause to be maintained (which for the avoidance of doubt may be maintained by way of the Borrower having been

named as a “named insured” under an insurance policy maintained by Holdings), insurance with

financially sound and reputable insurers reasonably acceptable to the Administrative Agent providing coverages for (i) comprehensive “all risk” or special causes of loss form insurance, (ii) commercial general liability insurance, (iii) if applicable, worker’s compensation and employer’s liability subject to the worker’s compensation and employer liability laws of the applicable state, (iv) umbrella and excess liability insurance in an amount not less than \$5,000,000 per occurrence and (v) upon sixty (60) days’ written notice, such other reasonable insurance, and in such reasonable amounts as the Administrative Agent from time to time may reasonably request against such other insurable hazards which at the time are commonly insured against for property similar to the Collateral located in or around the region in which the Collateral is located.

Section 5.02. Negative Covenants of the Borrower. The Borrower covenants and agrees that, until the Final Maturity Date (and thereafter until the date that all Obligations have been paid in full (other than contingent indemnity obligations not yet due and owing)):

(a) *Restrictive Agreements.* It shall not enter into or suffer to exist or become effective any agreement that prohibits, limits or imposes any condition upon its ability to create, incur, assume or suffer to exist any Lien (other than Permitted Liens) upon any of its property or revenues constituting Collateral, whether now owned or hereafter acquired, to secure its obligations under the Facility Documents other than this Agreement and the other Facility Documents.

(b) *Liquidation; Merger; Sale of Collateral.* Other than following repayment in full of the Obligations, it shall not consummate any plan of liquidation, dissolution, partial liquidation, merger or consolidation (or suffer any liquidation, dissolution or partial liquidation) nor sell, transfer, exchange or otherwise dispose of any of its assets, or enter into an agreement or commitment to do so or enter into or engage in any business with respect to any part of its assets, nor undertake any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws), except as expressly permitted by this Agreement and the other Facility Documents (including in connection with a Permitted Sale).

(c) *Amendments to Constituent Documents and Facility Documents.* Without the written consent of the Administrative Agent, (i) it shall not amend, modify or take any action inconsistent with its Constituent Documents other than as permitted under Section 5.02(h) or any other amendment or modification of its Constituent Documents that could reasonably be expected to adversely affect the rights of the Administrative Agent or any Lender hereunder or under any other Facility Document (*provided, however*, that any amendments or modifications relating to the Independent Manager shall be subject to the Administrative Agent’s prior written consent), and (ii) it shall not amend, modify or waive any term or provision in any Facility Document, or cause or permit any term or provision in any Facility Document to be amended, modified or waived; *provided, however*, that such consent shall not be required (but prior written notice to the Administrative Agent and the Initial Class B Lender shall be delivered by the Borrower) in the case of an amendment, modification or waiver of any term or provision in any Facility Document that is solely administrative or operational in nature and does not otherwise affect the Collateral, the

Borrower's obligations, rights or remedies under the Facility Documents or the rights and remedies of the Secured Parties.

(d) *ERISA*. Neither it nor any member of the ERISA Group shall establish any Plan or Multiemployer Plan or incur any liability with regard to a Plan or Multiemployer Plan (including any actual liability on account of a member of the ERISA Group).

(e) *Liens*. It shall not create, assume or suffer to exist any Lien on any of its assets now owned or hereafter acquired by it at any time, except for Permitted Liens or as otherwise expressly permitted by this Agreement and the other Facility Documents.

(f) *Margin Requirements*. It shall not (i) extend credit to others for the purpose of buying or carrying any Margin Stock in such a manner as to violate Regulation T or Regulation U or (ii) use all or any part of the proceeds of any Advance, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that violates the provisions of the Regulations of the Board of Governors, including, to the extent applicable, Regulation U and Regulation X.

(g) *Restricted Payments*. It shall not make, directly or indirectly, any Restricted Payment (whether in the form of cash or other assets) or incur any obligation (contingent or otherwise) to do so; *provided, however*, that the Borrower shall be permitted to make Restricted Payments from funds distributed to it pursuant to the Priority of Payments and funds withdrawn from the Collection Account pursuant to Section 9.02.

(h) *Changes to Corporate Information*. Without not less than thirty (30) days' prior written notice to the Administrative Agent and the Initial Class B Lender (or such shorter period as the Administrative Agent may agree in writing), the Borrower shall not change (a) its corporate name, (b) the location of its chief executive office, its principal place of business, or the location of any office in which it maintains books or records relating to Collateral owned by it or any office or facility at which Collateral owned by it is located (including the establishment of any such new office or facility), (c) its identity, jurisdiction of organization or organizational structure or (d) its tax identification number, as applicable, and, in any event, no such change shall be effected or permitted unless all filings have been made (or will be made on a timely basis) under Applicable Laws or otherwise and all other actions have been taken (or will be taken on a timely basis) that are required in order for the Administrative Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral, in each case, at the sole cost and expense of the Borrower.

(i) *Transactions with Affiliates*. It shall not sell, lease or otherwise transfer any property or assets to (other than in accordance with clause (g) above), or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates (including sales of Defaulted Receivables and other Eligible Receivables) except as expressly contemplated by this Agreement and the other Facility Documents, unless such transaction is upon terms no less favorable to the Borrower than it would obtain in a comparable arm's length transaction with a Person that

is not an Affiliate; *provided*, that any purchase or sale at par shall be deemed to comply with this Section 5.02(i).

(j) *Amendments to Credit Policies and Collection Policy.* The Borrower shall not make, and shall not permit or cause any Originator, the Seller or the Servicer, as applicable, to make any amendment, modification or supplement to any Credit Policy or Collection Policy without the prior consent of the Administrative Agent in its sole discretion; *provided, however*, that such consent shall not be required (but prior written notice to the Administrative Agent and the Initial Class B Lender shall be delivered by the Borrower in accordance with Section 5.01(d)(viii)) in the case of an amendment, modification or supplement of any term or provision in any Credit Policy or Collection Policy that is solely administrative or operational in nature and does not otherwise affect the Collateral, the Borrower's obligations, rights or remedies under the Facility Documents or the rights and remedies of the Secured Parties.

(k) *Investment Company Restriction.* It shall not become required to register as an "investment company" under the Investment Company Act.

(l) *Subject Laws.* It shall not utilize directly or indirectly the proceeds of any Advance for the benefit of any Person whose name appears on the List of Specially Designated Nationals and Blocked Persons maintained by OFAC, and shall maintain and require that the Servicer maintain, internal controls and procedures designed to ensure its continued compliance with the applicable provisions of the Subject Laws.

(m) *No Claims Against Advances.* Subject to Applicable Law, it shall not claim any credit on, make any deduction from, or dispute the enforceability of payment of the principal or interest payable (or any other amount) in respect of the Advances or assert any claim against any present or future Lender, by reason of the payment of any taxes levied or assessed upon any part of the Collateral.

(n) *Indebtedness; Guarantees; Securities; Other Assets.* It shall not incur or assume or guarantee any indebtedness, obligations (including contingent obligations) or other liabilities, or issue any additional securities, whether debt or equity, in each case other than (i) pursuant to or as expressly permitted by this Agreement and the other Facility Documents, (ii) obligations under its Constituent Documents or (iii) pursuant to customary indemnification and expense reimbursement and similar provisions under the Related Documents. The Borrower shall not acquire any Receivables or other property other than as expressly permitted hereunder and pursuant to the Receivable Purchase Agreement.

(o) *Validity of this Agreement.* It shall not (i) except as permitted by this Agreement, take any action that would permit the validity or effectiveness of this Agreement or any grant of Collateral hereunder to be impaired, or permit the lien of this Agreement to be amended, hypothecated, subordinated, terminated or discharged or permit any Person to be released from any covenants or obligations with respect to this Agreement and (ii) except as permitted by this Agreement, take any action that would

permit the Lien of this Agreement not to constitute a valid first priority security interest in the Collateral

(subject to Permitted Liens).

(p) *Subsidiaries*. It shall not have or permit the formation of any subsidiaries.

(q) *Name*. It shall not conduct business under any name other than its own.

(r) *Employees*. It shall not have any employees (other than officers and directors to the extent they are employees).

(s) *Non-Petition*. The Borrower shall not be party to any agreements other than the Facility Documents under which it has any material obligations or liability (direct or contingent) without including customary “non-petition” and “limited recourse” provisions therein (and shall not amend or eliminate such provisions in any agreement to which it is party).

(t) *Certificated Securities*. The Borrower shall not acquire or hold any certificated securities in bearer form (other than securities not required to be in registered form under Section 163(f)(2)(A) of the Code) in a manner that does not satisfy the requirements of United States Treasury Regulations section 1.165-12(c) (as determined by the Borrower).

(u) *Accounts*. The Borrower shall not assign or grant an interest in any rights it may have in the Collection Account to any Person other than the Administrative Agent. The Borrower shall not at any time invest, or permit any investment of, the funds deposited in the Collection Account. The Borrower shall not close or agree to close the Collection Account without the prior written consent of the Administrative Agent. The Borrower shall not, and shall cause its Affiliates not to, deposit amounts in the Escrow Account other than the Escrowed Amounts.

Section 5.03. Certain Undertakings Relating to Separateness. (a) Without limiting any, and subject to all, other covenants of the Borrower contained in this Agreement, the Borrower shall conduct its business and operations separate and apart from that of any other Person (including the holders of the Equity Interests of the Borrower and their respective Affiliates) and in furtherance of the foregoing, the Borrower shall:

(1) not become involved in the day-to-day management of any other Person;

(2) not permit Holdings or any of Holdings’ Affiliates to become involved in the day-to-day management of the Borrower, except as permitted hereunder or to the extent provided in the Facility Documents and the Borrower LLC Agreement;

(3) not engage in transactions with any other Person other than entering into the Facility Documents and those activities permitted by the Borrower LLC Agreement, the Facility Documents and matters necessarily incident or ancillary thereto;

(4) observe all formalities required of a limited liability company under the

laws of the State of Delaware;

(5) (i) maintain separate company records and books of account from any other Person and (ii) clearly identify its offices, if any, as its offices and, to the extent that the Borrower and its Affiliates have offices in the same location, allocate fairly and reasonably any overhead expenses that are shared with an Affiliate, including and for services performed by an employee of an Affiliate;

(6) except to the extent otherwise permitted by the Facility Documents, maintain its assets separately from the assets of any other Person (including through the maintenance of a separate bank account) in a manner that is not costly or difficult to segregate, identify or ascertain such assets;

(7) maintain separate financial statements (or if part of a consolidated group, then it will show as a separate member of such group), books and records from any other Person;

(8) allocate and charge fairly and reasonably any overhead shared with Affiliates;

(9) transact all business with Affiliates on an arm's length basis and pursuant to written, enforceable agreements, except to the extent otherwise provided in the Facility Documents;

(10) not assume, pay or guarantee any other Person's obligations or advance funds to any other Person for the payment of expenses or otherwise, except pursuant to the Facility Documents;

(11) conduct all business correspondence of the Borrower and other communications in the Borrower's own name, and use separate stationery, invoices, and checks;

(12) not act as an agent of any other Person in any capacity except pursuant to contractual documents indicating such capacity and only in respect of transactions permitted by the Borrower LLC Agreement, the Facility Documents and matters necessarily incident thereto;

(13) not act as an agent of Holdings or any of Holdings' Affiliates, and not permit Holdings or any of Holdings' Affiliates or agents of Holdings or any of Holdings' Affiliates to act as its agent, except for any agent to the extent permitted under the Borrower LLC Agreement and the Facility Documents;

(14) correct any known misunderstanding regarding the Borrower's separate identity from Holdings or any of its Affiliates;

(15) not permit any Affiliate of the Borrower to guarantee, provide

indemnification for, or pay its obligations, except for any indemnities and guarantees in connection with any Facility Documents or any consolidated tax liabilities, or except as permitted by the Borrower LLC Agreement;

(16) compensate its consultants or agents, if any, from its own funds;

(17) except for invoicing for Collections and servicing of the Eligible Receivables, share any common logo with or hold itself out as or be considered as a department of Holdings or any of Holdings' Affiliates, (b) any Affiliate of a general partner, shareholder, principal or member of Holdings or any of Holdings' Affiliates, or (c) any other Person;

(18) maintain adequate capital in light of its contemplated business purpose, transactions and liabilities;

(19) fail at any time to have at least one (1) Independent Manager on its board of managers; *provided, however*, if such Independent Manager is deceased, withdraws or resigns, the Borrower shall have ten (10) Business Days to replace such Independent Manager with another Independent Manager reasonably acceptable to the Administrative Agent; *provided, further, however*, that during such period, no matter which requires the vote of the Independent Manager under the Borrower LLC Agreement shall be voted;

(20) appoint any Person as an Independent Manager of the Borrower (A) who does not satisfy the definition of an Independent Manager or (B) with respect to any Independent Manager appointed after the Closing Date, without giving ten (10) Business Days' prior written notice to the Administrative Agent and the Lenders;

(21) not amend, restate, supplement or otherwise modify its Constituent Documents in violation of this Agreement or in any respect that would impair its ability to comply with the Facility Documents;

(22) conduct its business and activities in all respects in compliance with the assumptions contained in the legal opinions of Orrick Herrington & Sutcliffe LLP dated on or about the Closing Date relating to substantive consolidation issues (the "*Bankruptcy Opinion*"), unless within ten (10) Business Days of obtaining actual knowledge or receiving notice of any non-compliance with such assumptions, it has caused to be delivered to the Lenders a legal opinion of Orrick Herrington & Sutcliffe LLP (or other counsel acceptable to the Administrative Agent) that such non-compliance will not adversely affect the conclusions set forth in the Bankruptcy Opinion; and

(23) require any representatives of the Borrower to act at all times with respect to the Borrower consistently and in furtherance of the foregoing.

(b) The Borrower hereby acknowledges that the Administrative Agent and each Lender is entering into the transactions contemplated by this Agreement in reliance upon the Borrower's identity as a legal entity that is separate from its Affiliates.

Article VI Events of Default

Section 6.01. Events of Default. “Event of Default,” wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(ad) (i) a default in the payment, within one (1) Business Day from the due date thereof (or if the Borrower has provided the Administrative Agent with evidence of an operational issue with respect to such payment, within two (2) Business Days from the due date thereof), of any interest on any Advance, or any other payment or deposit required to be made hereunder, or under any other Facility Documents or (ii) the failure to reduce the outstanding Advances to \$0 on the Final Maturity Date; or

(ae) failure to satisfy the Maximum Advance Rate Test, the Class A Maximum Advance Rate Test or the Class B Maximum Advance Rate Test, in each case, for two (2) or more Business Days following the earlier of (x) written notice to the Borrower (which may be by email) by the Administrative Agent, and (y) actual knowledge of a Responsible Officer of the Borrower; or

(af) the Administrative Agent shall fail to have a first priority perfected security interest in the Collateral (other than with respect to a *de minimis* portion thereof and subject to Permitted Liens); *provided, however*, that if the Administrative Agent determines in its reasonable discretion that such failure is capable of being cured and so notifies the Borrower in writing, the Borrower shall fail to cure such event within five (5) Business Days following delivery of such notice by the Administrative Agent; or

(ag) the failure of any representation or warranty of the Borrower, Holdings, [the Permitted Holder](#), the Servicer, the Seller, the Backup Servicer made in this Agreement, in any other Facility Document (taking into account any grace or cure periods therein) or in any certificate or other writing delivered pursuant hereto or thereto or in connection herewith or therewith to be correct in each case in all material respects when the same shall have been made (except to the extent any such representation or warranty is already qualified by materiality, in which case such representation and warranty shall be true and correct in all respects) and such failure shall remain uncured for a period in excess of thirty
- (30) days following the earlier of (x) written notice to the Borrower (which may be by email) by the Administrative Agent, and (y) actual knowledge of a Responsible Officer of the Borrower ~~or~~ Holdings [or the Permitted Holder](#); or

(ah) a default in the performance or breach of the covenants set forth in Section 5.01(a)(ii), 5.01(b), 5.01(j), 5.02 or 5.03; *provided, however*, that if such default or breach is curable and the Administrative Agent shall have given notice to the Borrower to cure

such default or breach, failure to cure such default or breach within two (2) Business Days following such notice to the Borrower; or

(ai)– except as otherwise provided in this Section 6.01, a default in any material respect in the performance, or breach in any material respect, of any other covenant or other agreement of the Borrower~~-or~~, Holdings or the Permitted Holder under this Agreement or the other Facility Documents and the continuation of such default or breach for a period of thirty (30) days following the earlier of (x) written notice to the Borrower (which may be by email) by the Administrative Agent, and (y) actual knowledge of a Responsible Officer of the Borrower~~-or~~, Holdings or the Permitted Holder; or

(aj)– one or more non-appealable judgments or orders for the payment of an amount or adverse rulings (not fully paid or covered by insurance) shall be rendered against the Borrower~~-or~~, Holdings or the Permitted Holder (which, in the case of Holdings or the Permitted Holder, exceeds \$10,000,000) and with respect to which the Borrower~~-or~~, Holdings or the Permitted Holder has knowledge (or should have knowledge) and such judgment or ruling shall remain unsatisfied, unvacated, unbonded or unstayed for a period in excess of thirty (30) days; or

(ak) an Insolvency Event relating to the Borrower, Holdings, the Permitted Holder or the Seller shall have occurred; or

(al) (i) the Backup Servicing Agreement fails to be in place or is otherwise terminated and (ii) a successor Backup Servicer reasonably acceptable to the Administrative Agent is not appointed within forty-five (45) days following the date of such default, occurrence, failure or termination; or

(am) (i) either (A) any event that constitutes a Servicer Event of Default or an event relating to any Servicer that would have a Material Adverse Effect shall have occurred and be continuing, and with respect to a Servicer Event of Default, shall not have been waived by the Borrower with the written consent of the Administrative Agent or (B) the Servicing Agreement fails to be in place or is otherwise terminated and (ii) the Borrower fails to appoint a replacement servicer acceptable to the Administrative Agent within thirty (30) days following the date of such default, occurrence, failure or termination (and the Administrative Agent acknowledges that the appointment of Carmel Solutions LLC as a replacement servicer pursuant to the Backup Servicing Agreement is acceptable to the Administrative Agent); or

(an) a Change of Control shall have occurred; or

(ao) the Borrower becomes an investment company required to be registered under the Investment Company Act; or

(ap) the Borrower or the Servicer shall have failed to cause all Collections in respect of the Collateral to be deposited into the Collection Account pursuant to the terms of Section 5.01(k); or

(aq) (i) any Facility Document shall (except in accordance with its terms) terminate, cease to be effective or cease to be the legally valid, binding and enforceable

obligation of the Borrower, Holdings, [the Permitted Holder](#), the Seller, the Backup Servicer, the Servicer, the Collection Account Bank or the Custodian, as applicable, or (ii) the Borrower, Holdings, [the Permitted Holder](#), the Seller, the Backup Servicer, the Servicer, the Collection Account Bank and the Custodian shall, directly or indirectly, contest in any manner the effectiveness, validity, binding nature or enforceability of any Facility Document or any Lien purported to be created thereunder; or

(ar) Holdings [or the Permitted Holder](#) shall have defaulted or failed to perform under any (A) note, indenture, loan agreement, guaranty, swap agreement, loan and security agreement or similar credit facility or agreement for borrowed funds in an aggregate amount in excess of \$10,000,000 or (B) any other contract, agreement or transaction (including, without limitation, any repurchase agreement) to which it is a party in connection with payment obligations in an aggregate amount in excess of \$5,000,000, in each case after the earlier of (x) written notice to Holdings [or the Permitted Holder](#) by the Administrative Agent (which may be by email), and (y) actual knowledge of a Responsible Officer of Holdings [or the Permitted Holder](#); or

(as) a Limited Guaranty Event of Default shall have occurred and be continuing;
or

(at) on or after the date that is three (3) months following the Closing Date, the occurrence of any of the following:

- (i) the Three -Month Rolling Average Facility Pool Delinquency Ratio is greater than 4.10%; or
- (ii) the Three-Month Rolling Average Facility Pool Default Ratio shall be greater than 2.40%.

Section 6.02. Remedies upon an Event of Default.

(a) Upon the occurrence and during the continuance of any Event of Default, in addition to all rights and remedies specified in this Agreement and the other Facility Documents, including Article VII, and the rights and remedies of a Secured Party under Applicable Law, including the UCC, the Administrative Agent, following the direction of, or consent by, the Required Lenders, by notice to the Borrower, may declare the principal of and the accrued interest on the Advances and all other amounts whatsoever payable by the Borrower hereunder to be forthwith due and payable, whereupon such amounts shall be immediately due and payable without presentment, demand, protest or other formalities of any kind, all of which are hereby waived by the Borrower; *provided* that, upon the occurrence of any Event of Default described in clause (h) of Section 6.01, the Advances and all such other amounts shall automatically become due and payable, without any further action by any party; *provided, further*, that in the case of any Event of Default described in Section 6.01(a) that involves a default in the payment of or failure to deposit amounts due and payable solely to a Class B Lender, then the Administrative Agent shall not declare the principal of and the accrued interest on the Class B Advances (and all other amounts whatsoever payable by the Borrower to the Class B Lenders) to be immediately due and

payable without receiving the prior written consent of (i) the Initial Class B Lender or (ii) if the Initial Class B Lender is no longer a Class B Lender, one or more Class B Lenders having Class B Advances in an amount greater than 50% of the aggregate outstanding principal amount of all Class B Advances.

(b) Upon the occurrence and during the continuation of an Event of Default, following written notice by the Administrative Agent (provided in its sole discretion or at the direction of the Required Lenders) of the exercise of control rights with respect to the Collateral pursuant to and in accordance with the UCC (for the avoidance of doubt, which notice shall also be sent to the Class B Lenders), the Borrower will sell or otherwise dispose of any Eligible Receivable to repay the Obligations as directed by the Administrative Agent in its sole discretion, provided that any such sale or other disposition directed by the Administrative Agent shall be on commercially reasonable terms. The proceeds of any such sale or disposition shall be applied in accordance with the Priority of Payments.

Section 6.03. Class B Buyout Option.

(a) Both (i) on or after the occurrence and continuance of an Accelerated Amortization Event for more than thirty (30) consecutive days and (ii) upon the occurrence and continuance of an Event of Default for more than thirty (30) consecutive days (each a “*Class B Purchase Right Trigger*”), the Initial Class B Lender shall have the option to purchase all (but not less than all) of the Class A Lender Interests subject to the terms and conditions set forth in this Section 6.03 (the “*Class B Purchase Right*”). Within five (5) Business Days following receipt of a written request from the Initial Class B Lender following any Class B Purchase Right Trigger (such a request, the “*Class B Purchase Request*”), the Administrative Agent shall deliver written notice (including supporting detail) to the Initial Class B Lender of (i) the Class A Lender Interests then outstanding and unpaid as of such date, (ii) the Class A Lender Interests expected to accrue through the Class B Purchase Option Exercise Date (as defined below) and (iii) the amount of all liabilities (without duplication) that the Borrower has incurred or is expected to incur in the nature of indemnification obligations of the Borrower hereunder (including amounts due and owing or expected to be due and owing under Sections 2.09, 2.10, 12.03 and 12.04) which have resulted or could result in loss, cost, damage or expense (including reasonable attorneys’ fees and legal expenses) to the Class A Lenders (clauses (i), (ii) and (iii) collectively, the “*Expected Class A Lender Interests*”). The Class B Purchase Right shall be exercisable by the Initial Class B Lender for a period of ten (10) Business Days, commencing on the date on which the Administrative Agent provides notice to the Initial Class B Lender of the Expected Class A Lender Interests (the “*Class B Purchase Right Termination Date*”). Prior to the Class B Purchase Right Termination Date, the Initial Class B Lender may exercise the Class B Purchase Right upon written notice to the Administrative Agent (the “*Class B Purchase Option Notice*”), which notice shall be irrevocable (unless the final Class A Lender Interest Purchase Amount (as defined below) is more than

\$50,000 higher than the Expected Class A Lender Interests, calculated pursuant to the preceding sentence, in which case such Class B Purchase Option Notice may be revoked in the sole and absolute discretion of the Initial Class B Lender at any time prior to the Class B Purchase Option Exercise Date (as defined below). The Class B Purchase Option Notice shall specify the date on which the Class B Purchase Right is to be exercised by the Initial Class B Lender (such date, the

“Class B Purchase Option Exercise Date”), which shall be a Business Day not more than ten (10)

Business Days after receipt by the Administrative Agent of such Class B Purchase Option Notice. No later than 1:00 p.m. on the Business Day prior to the Class B Purchase Option Exercise Date, the Administrative Agent shall deliver written notice to the Initial Class B Lender specifying the final amount of the Class A Lender Interests of which it is then aware (collectively, the “*Class A Lender Interest Purchase Amount*”). On the Class B Purchase Option Exercise Date, the Class A Lenders shall sell to the Initial Class B Lender, and the Initial Class B Lender shall purchase from the Class A Lenders, all of the Class A Lenders’ right, title and interest in and to the Class A Lender Interests, and all proceeds of any and all of the foregoing.

(b) On the Class B Purchase Option Exercise Date, the Initial Class B Lender (i) shall pay to the Class A Lender as the purchase price therefor the Class A Lender Interest Purchase Amount and (ii) agrees to indemnify and hold harmless each Class A Lender from and against any loss, liability, claim, damage or expense (including reasonable fees and expenses of legal counsel) arising out of any claim asserted by a third party as a direct result of any acts by the Initial Class B Lender occurring after the date of such purchase (but excluding, for the avoidance of doubt, any such loss, liability, claim, damage or expense resulting from the gross negligence, fraud, bad faith or willful misconduct of such Class A Lender). The Class A Lender Interest Purchase Amount shall be remitted by wire transfer in immediately available funds to such bank accounts of each Class A Lender as such Class A Lender shall have designated in writing (no later than one (1) Business Day prior to the Class B Purchase Option Exercise Date) to the Initial Class B Lender for such purpose. If the amounts so paid by the Initial Class B Lender to the bank accounts designated by the Class A Lenders are received in such bank accounts after 5:00 p.m., interest to and including the next Business Day over the Class A Lender Interest Purchase Amount shall be calculated at the same rate applicable to the Borrower hereunder with respect to the Class A Advances and immediately paid by the Initial Class B Lender to the Class A Lender. If the full Class A Lender Interest Purchase Amount (together with any such interest) is not received by the Class A Lenders by 5:00 p.m. on the Business Day immediately after the Class B Purchase Option Exercise Date, the Class A Lender Interests shall not be deemed to have been sold to the Initial Class B Lender and any amounts remitted to the Class A Lenders shall be returned to the Initial Class B Lender (pursuant to instruction delivered by the Initial Class B Lender) no later than 5:00 p.m. on the second Business Day following the Class A Lender Interest Purchase Option Exercise Date.

(c) Any purchase pursuant to this Section 6.03 shall be expressly made without representation or warranty of any kind by the Class A Lenders as to the Class A Lender Interests or otherwise without recourse to the Class A Lenders, except that each Class A Lender shall represent and warrant: (i) as to the amount of the Class A Lender Interests being purchased and that the Class A Lender Interest Purchase Amount is true, correct and accurate, (ii) that such Class A Lender shall convey the Class A Lender Interests free and clear of any Liens or encumbrances of such Class A Lender or created or suffered by such Class A Lender, (iii) as to all claims made or threatened in writing against such Class A Lender related to the Class A Lender Interests and (iv) such Class A Lender is duly authorized and has taken all necessary corporate action to assign the Class A Lender Interests. Nothing in this Section 6.03 shall, or shall be deemed to, release or terminate any indemnification obligations of the Borrower which by their terms survive the payment of the Advances pursuant to the terms of this Agreement.

Article VII

Pledge of Collateral; Rights of the Administrative Agent

Section 7.01. Grant of Security. (a) The Borrower hereby grants, pledges, transfers and collaterally assigns to the Administrative Agent, for the benefit of the Secured Parties, as collateral security for all Obligations, a continuing first priority security interest in, and a Lien upon, all of the Borrower's right, title and interest in, to and under, the following property, in each case whether tangible or intangible, wheresoever located, and whether now owned by the Borrower or hereafter acquired and whether now existing or hereafter coming into existence (all of the property described in this Section 7.01(a) being collectively referred to herein as the "*Collateral*"):

(i) all Receivables and Related Documents (and all rights, remedies, powers, privileges and claims thereunder or in respect thereto, whether arising pursuant to the terms thereof or otherwise available to the Borrower at law or equity, including the right to enforce each such Related Document, both now and hereafter owned), including all Collections, insurance policies, insurance rights and other proceeds thereon or with respect thereto and all interest, dividends, distributions and other money or property of any kind distributed in respect of thereto;

(ii) the Collection Account and all Cash on deposit therein;

(iii) each Facility Document (other than this Agreement) and all rights, remedies, powers, privileges and claims thereunder or in respect thereto (whether arising pursuant to the terms thereof or otherwise available to the Borrower at law or equity), including the right to enforce each such Facility Document and to give or withhold any and all consents, requests, notices, directions, approvals, extensions or waivers under or with respect thereto, to the same extent as the Borrower could but for the collateral assignment and security interest granted to the Administrative Agent under this Agreement;

(iv) all rights to payment under all servicer contracts and other contracts and agreements associated with the Receivables and all recourse rights against the Seller;

(v) all accounts, chattel paper (including electronic chattel paper), deposit accounts, financial assets, general intangibles, instruments, investment property, letter-of-credit rights and other supporting obligations relating or credited to the foregoing (in each case as defined in the UCC), commercial tort claims and all other property of any type or nature in which the Borrower has an interest, whether tangible or intangible, and all other property of the Borrower which is delivered to the Administrative Agent or the Custodian by or on behalf of the Borrower (whether or not constituting Eligible Receivables);

(vi) all other general intangibles and payment intangibles of the Borrower, including all general intangibles of the Borrower which are delivered to the Administrative Agent (or any custodian on its behalf) by or on behalf of the Borrower or held by any Person by or on behalf of the Borrower;

(i) all security interests, Liens, collateral, property, equipment, guaranties, supporting obligations, insurance and other agreements or arrangements of whatever character from time to time supporting or securing payment of the assets, investments and properties described above; and

(ii) all Proceeds of any and all of the foregoing.

(b) All terms used in this Section 7.01 that are defined in the UCC but are not defined in Section 1.01 shall have the respective meanings assigned to such terms in the UCC. The Borrower hereby designates the Administrative Agent as its agent and attorney in fact to prepare and file any UCC financing statement, continuation statement and all other instruments, and take all other actions, required pursuant to Section 7.07. Such designation shall not impose upon the Administrative Agent, or release or diminish, the Borrower's obligations under this Section 7.01 or Section 7.07. The Borrower further hereby authorizes the Administrative Agent's, the Borrower's counsel to file, without the Borrower's signature, UCC financing statements that name the Borrower, as debtor and the Administrative Agent as secured party and that describe the Collateral in which the Administrative Agent has a grant of security hereunder and any amendments or continuation statements that may be necessary or desirable. The Borrower authorizes the UCC financing statement naming the Borrower as debtor to describe the Collateral therein as "all assets" or words of similar import.

(c) If Borrower acquires any commercial tort claim after the date hereof, Borrower shall promptly (but in any event within ten (10) Business Days after such acquisition) deliver to the Administrative Agent a written description of such commercial tort claim and shall deliver a written agreement, in form and substance satisfactory to the Administrative Agent, granting to the Administrative Agent, as security for the payment of the Obligations, a perfected security interest in all of Borrower's right, title and interest in and to such commercial tort claim.

Section 7.02. Release of Security Interest. If all Obligations have been paid in full, the Administrative Agent (for itself and on behalf of the other Secured Parties) shall, at the expense of the Borrower, promptly execute, deliver and file or authorize (or cause the Custodian to deliver) for filing such instruments as the Borrower shall reasonably request in order to reassign, release or terminate the Secured Parties' security interest in the Collateral. The Secured Parties acknowledge and agree that following the execution of a Consent and Release and upon the sale or disposition of any Collateral by the Borrower in compliance with the terms and conditions of this Agreement, the security interest of the Secured Parties in such Collateral shall immediately terminate and the Administrative Agent (for itself and on behalf of the other Secured Parties) shall, at the expense of the Borrower, execute, deliver and file or authorize (or cause the Custodian to deliver) for filing such instrument as the Borrower shall reasonably request to reflect or evidence such termination. Any and all actions under this Article VII in respect of the Collateral shall be without any recourse to, or representation or warranty by any Secured Party and shall be at the sole cost and expense of the Borrower. The Borrower shall not file, or consent to any third-party filing, any UCC financing statement or amendment thereof without the Administrative Agent's prior written consent.

Section 7.03. Rights and Remedies. The Administrative Agent (for itself and on behalf of the other Secured Parties) shall have all of the rights and remedies of a secured party under the

UCC and other Applicable Law. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may (and, subject to direction by the Required Lenders, shall), among other remedies: (i) instruct the Borrower (or the Custodian, as applicable) to deliver any or all of the Collateral, the Related Documents and any other documents relating to the Collateral to the Administrative Agent or its designees and otherwise give all instructions for the Borrower regarding the Collateral (including directing the Borrower (or the Servicer, as applicable) to cause a Transfer Event in respect of any Receivable); (ii) sell or otherwise dispose of the Collateral in a commercially reasonable manner, all without judicial process or proceedings; (iii) take control of the Proceeds of any such Collateral; (iv) subject to the provisions of the applicable Related Documents, exercise any consensual or voting rights in respect of the Collateral; (v) release, make extensions, discharges, exchanges or substitutions for, or surrender all or any part of the Collateral; (vi) enforce the Borrower's rights and remedies with respect to the Collateral; (vii) institute or prosecute legal and equitable proceedings to enforce collection of, or realize upon, any of the Collateral; (viii) require that the Borrower immediately take all actions necessary to cause the liquidation of the Collateral in order to pay all amounts due and payable in respect of the Obligations, in accordance with the terms of the Related Documents; (ix) redeem or withdraw or cause the Borrower to redeem or withdraw any asset of the Borrower to pay amounts due and payable in respect of the Obligations; (x) make copies of or, if necessary, remove from the Borrower's, the Backup Servicer's, the Servicer's and their respective agents' place of business all books, records and documents relating to the Collateral; and (xi) endorse the name of the Borrower upon any items of payment relating to the Collateral or upon any proof of claim in bankruptcy against an Obligor. The proceeds of any sale or disposition of the Collateral shall be applied in accordance with the Priority of Payments. For the avoidance of doubt, no disposition of any Collateral shall occur prior to the Class B Purchase Right Termination Date and if the Class B Purchase Right is exercised, then no such disposition shall occur without the prior written consent of the Initial Class B Lender; *provided, however*, that any sale process may be commenced, but no sale shall be consummated and no binding sale contract or agreements shall be entered into, prior to the Class B Purchase Option Exercise Date or the Class B Purchase Right Termination Date, as applicable, at the discretion of the Administrative Agent.

The Borrower hereby agrees that, upon the occurrence and during the continuance of an Event of Default, at the request of the Administrative Agent or the Required Lenders, it shall execute all documents and agreements which are reasonably necessary or appropriate to have the Collateral to be assigned to the Administrative Agent or its designee. For purposes of taking the actions described in clauses (i) through (xi) of this Section 7.03, the Borrower hereby irrevocably appoints the Administrative Agent as its attorney-in-fact (which appointment being coupled with an interest and is irrevocable while any of the Obligations remain unpaid, with power of substitution), in the name of the Administrative Agent or in the name of the Borrower or otherwise, for the use and benefit of the Administrative Agent (for the benefit of the Secured Parties), but at the cost and expense of the Borrower and, except as prohibited by Applicable Law, without notice to the Borrower.

Section 7.04. Remedies Cumulative. Each right, power, and remedy of the Administrative Agent and the other Secured Parties, or any of them, as provided for in this Agreement or in the other Facility Documents or now or hereafter existing at law or in equity or by statute or

otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy

provided for in this Agreement or in the other Facility Documents or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Administrative Agent or any other Secured Party of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise by such Persons of any or all such other rights, powers, or remedies; *provided, however*, that no Secured Party may exercise any rights or remedies hereunder other than through the Administrative Agent or as consented to by the Administrative Agent; *provided, further*, however, that the Required Lenders may exercise any rights and remedies hereunder if, after directing the Administrative Agent in writing, the Administrative Agent does not comply with such instructions for any reason.

Section 7.05. Related Documents. (a) The Borrower hereby agrees that, to the extent not expressly prohibited by the terms of the Related Documents, after the occurrence and during the continuance of an Event of Default, it shall (i) upon the written request of the Administrative Agent, promptly forward to the Administrative Agent, the Servicer and the Backup Servicer (or other successors servicer) all material information and notices which it receives under or in connection with the Related Documents relating to the Collateral, and (ii) upon the written request of the Administrative Agent, act and refrain from acting in respect of any request, act, decision or vote under or in connection with the Related Documents relating to the Collateral only in accordance with the direction of the Administrative Agent.

(b) The Borrower agrees that, to the extent the same shall be in the Borrower's possession, it will hold all Related Documents and other documents relating to the Collateral in trust for the Administrative Agent on behalf of the Secured Parties, and upon request of the Administrative Agent or following the occurrence and during the continuance of an Event of Default or as otherwise provided herein, promptly deliver the same to the Administrative Agent or its designee (including the Backup Servicer or the Custodian). In addition, in accordance with the Backup Servicing Agreement, on each Reporting Date, the Borrower shall, or shall cause the Servicer to, deliver to the Backup Servicer an electronic file containing all documents and information necessary to permit the Backup Servicer to service the Receivables and any other information relating to each such Receivable required by the Backup Servicing Agreement.

Section 7.06. Borrower Remains Liable. (a) Notwithstanding anything herein to the contrary, (i) the Borrower shall remain liable under the contracts and agreements included in and relating to the Collateral (including the Related Documents) to the extent set forth therein, and shall perform all of its duties and obligations under such contracts and agreements to the same extent as if this Agreement had not been executed, and (ii) the exercise by any Secured Party of any of its rights hereunder shall not release the Borrower from any of its duties or obligations under any such contracts or agreements included in the Collateral.

(b) No obligation or liability of the Borrower is intended to be assumed by the Administrative Agent or any other Secured Party under or as a result of this Agreement or the other Facility Documents, and the transactions contemplated hereby and thereby, including under any Related Document or any other agreement or document that relates to Collateral and, to the maximum extent permitted under provisions of law, the Administrative Agent and the other Secured Parties expressly disclaim any such assumption.

Section 7.07. Protection of Collateral. The Borrower shall from time to time execute and deliver, or caused to be executed and delivered, all such supplements and amendments hereto and file or authorize the filing of all such UCC financing statements, continuation statements, instruments of further assurance and other instruments, and shall take such other action as may be necessary or advisable or desirable to secure the rights and remedies of the Secured Parties hereunder and to:

- (vii) grant security more effectively on all or any portion of the Collateral;
- (viii) maintain, preserve and perfect any grant of security made or to be made by this Agreement or any other Facility Document including the first priority nature of the lien or carry out more effectively the purposes hereof;
- (ix) perfect, publish notice of or protect the validity of any grant made or to be made by this Agreement (including any and all actions necessary or desirable as a result of changes in law or regulations);
- (x) enforce any of the Collateral or other instruments or property included in the Collateral;
- (xi) preserve and defend title to the Collateral and the rights therein of the Administrative Agent and the Secured Parties in the Collateral against the claims of all third parties; and
- (xii) pay or cause to be paid any and all taxes levied or assessed upon all or any part of the Collateral.

The Borrower hereby designates the Administrative Agent as its agent and attorney in fact to prepare and file any UCC financing statement, continuation statement and all other instruments, and take all other actions, required pursuant to this Section 7.07. Such designation shall not impose upon the Administrative Agent, or release or diminish, the Borrower's obligations under this Section 7.07 or, in the case of the Borrower only, Section 5.01(c).

Article VIII Accountings and Releases

Section 8.01. Collection of Money. Except as otherwise expressly provided herein, the Administrative Agent may demand payment or delivery of, and shall receive and collect, directly and without intervention or assistance of any fiscal agent or other intermediary, all Money and other property payable to or receivable by the Administrative Agent pursuant to this Agreement, including all payments due on the Collateral, in accordance with the terms and conditions of such Collateral. The Administrative Agent shall segregate and hold all such Money and property received by it in trust for the Secured Parties and shall apply it as provided in this Agreement. The Collection Account shall be established and maintained under a Collection Account Control Agreement with the Collection Account Bank. The Collection Account may contain any number

of subaccounts for the convenience of the Administrative Agent or for convenience in administering the Collection Account or other Collateral. All monies deposited from time to time in the Collection Account pursuant to this Agreement shall be held by the Collection Account Bank as part of the Collateral and shall be applied to the purposes herein provided and released to the Borrower only (i) on Payment Dates to the extent of funds available under Section 9.01(f) and (ii) in accordance with Section 9.02.

Section 8.02. Release of Security. (a) In connection with any Permitted Sale of any Receivable (other than Permitted Sales of Ineligible Receivables), the Borrower shall deliver a Consent and Release to the Administrative Agent and the Lenders at least three (3) Business Days prior to the settlement date for any sale of such Receivable certifying that such sale is a Permitted Sale and requesting that the Administrative Agent release or cause to be released such Receivable from the Lien of this Agreement, which notice shall be revocable by the Borrower until such settlement date. The Lien on any Ineligible Receivable sold in a Permitted Sale by the Borrower shall be automatically released upon such Permitted Sale with no further action required on the part of the Administrative Agent or the Borrower.

(b) (i) The proceeds of any sale of a Receivable to Seller pursuant to the terms of the Receivable Purchase Agreement or to any other Person as permitted herein shall be deposited directly into the Collection Account, (ii) the proceeds of any sale of a Defaulted Receivable or Ineligible Receivable shall be deposited directly into the Collection Account following release from any applicable escrow arrangement and (iii) the proceeds of any Permitted Sale to a Securitization Vehicle shall be deposited into the Collection Account and shall be immediately applied to the payments described in Section 9.01.

(c) Subject to Borrower's compliance with this Section 8.02 and the Administrative Agent's execution of a Consent and Release, any Receivable that is sold pursuant to Section 8.02(a) shall automatically be released from the Lien of this Agreement.

(d) The Administrative Agent shall, upon receipt of a certificate of a Responsible Officer of the Borrower, at such time as all Obligations of the Borrower hereunder and under the other Facility Documents have been satisfied in full (other than contingent indemnity obligations not yet due and owing), release any remaining Collateral from the Lien of this Agreement.

(e) In connection with any release pursuant to this Section 8.02, the Administrative Agent is hereby irrevocably authorized by the Lenders to execute such documents as shall be reasonably requested by the Borrower (or the Custodian, as applicable) to evidence the release of the Lien of this Agreement and the other Facility Documents.

Article IX Application of Monies

Section 9.01. Disbursements of Monies from Collection Account. On each Payment Date, the Borrower shall direct the Collection Account Bank to disburse amounts deposited to the Collection Account with respect to the Collection Period ending immediately prior to such

Payment Date in accordance with the following priorities (the “*Priority of Payments*”) and the related Monthly Report:

(au) *first*, to the Servicer, any accrued and unpaid Servicer Fees and collection expense reimbursements (excluding indemnities) that are reimbursable to the Servicer pursuant to the Servicing Agreement, *plus* any Servicer Fees and collection expense reimbursements (excluding indemnities) that are reimbursable to the Servicer pursuant to the Servicing Agreement which were not paid when due on any prior Payment Date;

(av) *second*, on a pari passu and pro rata basis, to the Backup Servicer, the Collection Account Bank and the Custodian, any accrued and unpaid fees and reimbursable expenses (excluding indemnities) due and payable pursuant to the Facility Documents to which such Persons are a party, *plus* any fees and reimbursable expenses (excluding indemnities) due and payable to any such Person pursuant to such Facility Documents which were not paid when due on any prior Payment Date; *provided, however*, that the aggregate amount of expenses and other amounts payable under this clause (b) shall not exceed \$100,000 in aggregate in any calendar year;

(aw) *third*, to the Administrative Agent for distribution to each Class A Lender to pay (A) accrued and unpaid Interest on the Class A Advances, (B) amounts payable to each such Class A Lender under Section 2.10 and (C) accrued and unpaid Class A Unused Fees accrued during the related Interest Accrual Period due to each Class A Lender (in the case of each of subclauses (A), (B) and (C) above, *pro rata*, based on the respective amounts owed to each Class A Lender);

(ax) *fourth*,

(1) prior to the end of the Reinvestment Period, if the Class A Maximum Advance Rate Test is not satisfied as of the related Determination Date, to pay the outstanding principal of the Class A Advances of each Class A Lender (*pro rata*, based on each Class A Lender’s Percentage) until the Class A Maximum Advance Rate Test is satisfied (on a pro forma basis as at such Determination Date); and

(2) if an Accelerated Amortization Event (other than the occurrence of an Event of Default) has occurred and is continuing, to pay the outstanding principal amount of all Class A Advances of each Class A Lender (*pro rata*, based on each Class A Lender’s Percentage) until the Class A Effective Advance Rate is equal to no more than 68%; and

(3) if the Reinvestment Period has expired or an Event of Default has occurred and is continuing, to pay the outstanding principal amount of all Class A Advances of each Class A Lender (*pro rata*, based on each Class A Lender’s Percentage) until paid in full;

(ay) *fifth*, (A) an amount to the Administrative Agent for distribution *pro rata*

to each Class A Lender equal to any amounts due under Sections 2.09(a), 12.03(d) or 12.04, and any other fees, costs and expenses of or amounts due to the Administrative Agent or any Class A Lender and (B) an amount to the Administrative Agent for distribution to the Class A Lender equal to any Exit Fee, Prepayment Premium or Class A Minimum Utilization Fees accrued and unpaid; *provided, however*, that the aggregate amount of clauses (A) and (B) shall be subject to a cap of \$3,000,000;

(az) *sixth*, to the Administrative Agent for distribution to each Class B Lender or as directed by the Administrative Agent for distribution to the Class B Lender to pay (A) accrued and unpaid Interest on the Class B Advances, (B) amounts payable to each such Class B Lender under Section 2.10, and (C) accrued and unpaid Class B Unused Fees accrued during the related Interest Accrual Period due to each Class B Lender (in the case of each of subclauses (A), (B) and (C) above, *pro rata*, based on the respective amounts owed to each Class B Lender);

(ba) *seventh*,

(1) prior to the end of the Reinvestment Period, if the Class B Maximum Advance Rate Test is not satisfied as of the related Determination Date, to pay the outstanding principal of the Class B Advances of each Class B Lender (*pro rata*, based on each Class B Lender's Percentage) until the Class B Maximum Advance Rate Test is satisfied (on a pro forma basis as at such Determination Date); and

(2) if an Accelerated Amortization Event (other than the occurrence of an Event of Default) has occurred and is continuing, to pay the outstanding principal amount of all Class B Advances of each Class B Lender (*pro rata*, based on each Class B Lender's Percentage) until the Class B Effective Advance Rate is equal to no more than 85%; and

(3) if the Reinvestment Period has expired or an Event of Default has occurred and is continuing, to pay the outstanding principal amount of all Class B Advances of each Class B Lender (*pro rata*, based on each Class B Lender's Percentage) until paid in full;

(bb) *eighth*, (A) an amount to the Administrative Agent for distribution *pro rata* to each Class B Lender equal to any amounts due under Sections 2.09(a), 12.03(d) or 12.04, and any other fees, costs and expenses of or amounts due to the Class B Lender and

(B) an amount to the Administrative Agent for distribution to the Class B Lender equal to any Prepayment Premium or Class B Minimum Utilization Fees accrued and unpaid; *provided, however*, that the aggregate amount of clauses (A) and (B) shall be subject to a cap of \$3,000,000;

(bc) *ninth*, to the extent in excess of the cap specified in Section 9.01(e) above,

(A) an amount to the Administrative Agent for distribution *pro rata* to each Class A Lender equal to any amounts due under Sections 2.09(a), 12.03(d) or 12.04, and any other fees,

costs and expenses of or amounts due to the Administrative Agent or any Class A Lender and (B) an amount to the Administrative Agent for distribution to the Class A Lender equal to any Exit Fee, Prepayment Premium or Class A Minimum Utilization Fees accrued and unpaid;

(bd) *tenth*, to the extent in excess of the cap specified in Section 9.01(h) above,
(A) an amount to the Administrative Agent for distribution *pro rata* to each Class B Lender equal to any amounts due under Sections 2.09(a), 12.03(d) or 12.04, and any other fees, costs and expenses of or amounts due to the Class B Lender and (B) an amount to the Administrative Agent for distribution to the Class B Lender equal to any Exit Fee, Prepayment Premium or Class B Minimum Utilization Fees accrued and unpaid;

(be) *eleventh*, an amount equal to any other amounts due and owing to the Servicer, the Backup Servicer, the Collection Account Bank, the Custodian, or any other Secured Party pursuant to the Facility Documents shall be set aside in the Collection Account and paid to such Person, in such order, as the case may be, when due in accordance with the Facility Documents based on the amounts due and owing to each such Person as of the immediately preceding calendar month;

(bf) *twelfth*, (1) so long as no Unmatured Event of Default has occurred and is continuing, the remainder to the Borrower as directed by the Borrower and (2) if an Unmatured Event of Default has occurred and is continuing, the remainder to remain on deposit in the Collection Account.

Section 9.02. Permitted Withdrawals. Funds may be withdrawn from time to time from the Collection Account no more than once per Business Day at the request of the Borrower to the Administrative Agent, in the form attached hereto as Exhibit A-2 (each, a “*Notice of Withdrawal*”), on any Business Day during the Reinvestment Period (each such date, a “*Withdrawal Date*”); *provided*, that the withdrawal and transfer of such funds is subject to the satisfaction or waiver of the following conditions precedent as of the Withdrawal Date:

(a) after giving effect to such withdrawal, the amount on deposit in the Collection Account is not less than the Collection Account Required Amount;

(b) the Administrative Agent shall have received a Notice of Withdrawal with respect to such withdrawal prior to or on the Withdrawal Date (including the Maximum Advance Rate Test Calculation Statement attached thereto, all duly completed);

(c) together with delivery of the Notice of Withdrawal, the Administrative Agent shall have received a Maximum Advance Rate Test Calculation Statement, demonstrating that immediately after giving effect to such withdrawal and the acquisition of any Eligible Receivables on such Withdrawal Date (if any), each applicable Maximum Advance Rate Test shall be satisfied, as of such Withdrawal Date;

(d) each of the representations and warranties of the Borrower contained in this Agreement shall be true and correct in all material respects (except for representations and

warranties already qualified by materiality or Material Adverse Effect, which shall be true and correct) as of such Withdrawal Date (except to the extent such representations and warranties expressly relate to any earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date as if made on such date); and

(e) (i) no Unmatured Event of Default or Event of Default shall have occurred and be continuing at the time of such withdrawal or shall result upon such withdrawal and
(ii) if prior to or after giving pro forma effect to such withdrawal, the Class A Effective Advance Rate is greater than 68% or the Class B Effective Advance Rate is greater than 85%, no Accelerated Amortization Event shall have occurred and be continuing at the time of such withdrawal or shall result upon such withdrawal.

The Borrower hereby acknowledges and agrees that, by delivering a Notice of Withdrawal, the Borrower will be deemed to have represented and warranted that on such date and immediately after giving effect to the proposed withdrawal on the relevant Withdrawal Date each of the conditions precedent set forth in Section 9.02 is satisfied.

Article X

Administration and Servicing of Collateral

Section 10.01. Designation of the Servicer. The servicing, administering and collection of the Collateral shall be conducted by the Person designated as a servicer in accordance with this Agreement, the Servicing Agreement, or the Backup Servicing Agreement, as applicable. Borrower hereby acknowledges that each of the Secured Parties is a third-party beneficiary of the obligations taken by the Servicer and the Backup Servicer under the Servicing Agreement and the Backup Servicing Agreement, respectively.

Section 10.02. Authorization of the Servicer. The Borrower shall furnish the Servicer (and any successors thereto) with any powers of attorney and other documents reasonably necessary to enable such Servicer to carry out its collateral management duties under the Servicing Agreement, and shall cooperate with the Servicer to the fullest extent in order to ensure the collectability of the Collateral. Following the occurrence and continuance of an Event of Default (unless otherwise waived by the required parties in accordance with Section 12.01), the Administrative Agent (acting in its sole discretion or at the direction of the Required Lenders) may provide notice to the Servicer (and any successors thereto) (with a copy to the Backup Servicer) that the Secured Parties are exercising their control rights with respect to the Collateral in accordance with Section 6.02.

Section 10.03. Payment of Certain Expenses by Servicer. The Borrower acknowledges and agrees that the Servicer (so long as such Servicer is an Affiliate of the Borrower) will be required to pay all expenses incurred by the Servicer in connection with its activities under the Servicing Agreement, including fees and disbursements of its independent accountants, taxes imposed on the Servicer, and expenses incurred by the Servicer in connection with the production of reports pursuant to this Agreement; *provided* that the Borrower acknowledges that the Servicer is

entitled to the Servicing Fee (as defined in the Servicing Agreement) and all expenses and indemnities due

and payable to the Servicer, in accordance with the Priority of Payments. The Borrower acknowledges and agrees that the Servicer will be required to pay such expenses for its own account and shall not be entitled to any payment therefor other than as provided under Section 9.01.

Section 10.04. Appointment of Backup Servicer. Upon resignation of the Servicer under the Servicing Agreement or the occurrence and continuance of a Servicer Event of Default, the Administrative Agent may (with the consent of the Required Lenders) at any time require the Borrower to appoint the Backup Servicer, as servicer of the Receivables in accordance with the Backup Servicing Agreement. The Borrower shall promptly comply with any such request from the Administrative Agent. The Borrower shall provide direction to the applicable Backup Servicer with respect to modifications of the terms of the Receivables in accordance with the requirements set forth in the Servicing Agreement, and shall comply with all restrictions with respect to the release, discharge, termination or cancellation of any Receivable.

Article XI

The Administrative Agent

Section 11.01. Authorization and Action. Each Lender hereby irrevocably appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement and, to the extent applicable, the other Facility Documents as are delegated to the Administrative Agent by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, subject to the terms hereof. The Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein or in the other Facility Documents, or any fiduciary relationship with any Secured Party, and no implied covenants, functions, responsibilities, duties or obligations or liabilities on the part of the Administrative Agent shall be read into this Agreement or any other Facility Document to which the Administrative Agent is a party (if any) as duties on its part to be performed or observed. The Administrative Agent shall not have or be construed to have any other duties or responsibilities in respect of this Agreement and the transactions contemplated hereby. As to any matters not expressly provided for by this Agreement or the other Facility Documents, the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders; *provided* that the Administrative Agent shall not be required to take any action which exposes the Administrative Agent, in its judgment, to personal liability, cost or expense or which is contrary to this Agreement, the other Facility Documents or Applicable Law, or would be, in its judgment, contrary to its duties hereunder, under any other Facility Document or under Applicable Law. Each Lender agrees that in any instance in which the Facility Documents provide that the Administrative Agent's consent may not be unreasonably withheld, provide for the exercise of the Administrative Agent's reasonable discretion, or provide to a similar effect, it shall not in its instructions (or, by refusing to provide instruction) to the Administrative Agent withhold its consent or exercise its discretion in an unreasonable manner.

Section 11.02. Delegation of Duties. The Administrative Agent may execute any of its

duties under this Agreement and each other Facility Document by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

Section 11.03. Agent's Reliance, Etc. (a) Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it or them under or in connection with this Agreement or any of the other Facility Documents, except for its or their own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. Without limiting the generality of the foregoing, the Administrative Agent: (i) may consult with legal counsel (including counsel for the Borrower or any Servicer or any of their Affiliates) and independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (ii) makes no warranty or representation to any Secured Party or any other Person and shall not be responsible to any Secured Party or any Person for any statements, warranties or representations (whether written or oral) made in or in connection with this Agreement or the other Facility Documents; (iii) shall not have any duty to monitor, ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement, the other Facility Documents or any Related Documents on the part of the Borrower or any Servicer or any other Person or to inspect the property (including the books and records) of the Borrower or such Servicer; (iv) shall not be responsible to any Secured Party or any other Person for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of any Collateral, this Agreement, the other Facility Documents, any Related Document or any other instrument or document furnished pursuant hereto or thereto or for the validity, perfection, priority or enforceability of the Liens on the Collateral; and (v) shall incur no liability under or in respect of this Agreement or any other Facility Document by relying on, acting upon (or by refraining from action in reliance on) any notice, consent, certificate (including for the avoidance of doubt, the Monthly Report), instruction or waiver, report, statement, opinion, direction or other instrument or writing (which may be delivered by email) believed by it to be genuine and believe by it to be signed or sent by the proper party or parties. The Administrative Agent shall not have any liability to the Borrower or any Lender or any other Person for the Borrower's, any Servicer's or any Lender's, as the case may be, performance of, or failure to perform, any of their respective obligations and duties under this Agreement or any other Facility Document.

(b) The Administrative Agent shall not be liable for the actions or omissions of any other agent (including concerning the application of funds), or under any duty to monitor or investigate compliance on the part of any other agent with the terms or requirements of this Agreement, any Facility Documents or any Related Documents, or their duties thereunder. The Administrative Agent shall be entitled to assume the due authority of any signatory and genuineness of any signature appearing on any instrument or document it may receive (including each Notice of Borrowing received hereunder). The Administrative Agent shall not be liable for any action taken in good faith and reasonably believed by it to be within the powers conferred upon it, or taken by it pursuant to any direction or instruction by which it is governed, or omitted to be taken by it by reason of the lack of direction or instruction required hereby for such action (including for refusing to exercise discretion or for withholding its consent in the absence of its receipt of, or resulting

from a failure, delay or refusal on the part of the Required Lenders, to provide, written instruction to exercise such discretion or grant such consent from the Required Lenders) except as determined by a court of competent jurisdiction by final and non-appealable judgment that it was the result of the Administrative Agent's willful misconduct or gross negligence. The Administrative Agent shall not be liable for any error of judgment made in good faith unless it shall be determined by a court of competent jurisdiction by final and non-appealable judgment that the Administrative Agent was grossly negligent in ascertaining the relevant facts. Nothing herein or in any Facility Documents or Related Documents shall obligate the Administrative Agent to advance, expend or risk its own funds, or to take any action which in its reasonable judgment may cause it to incur any expense or financial or other liability for which it is not adequately indemnified. The Administrative Agent shall not be liable for any indirect, special, punitive or consequential damages (included but not limited to lost profits) whatsoever, even if it has been informed of the likelihood thereof and regardless of the form of action. The Administrative Agent shall not be charged with knowledge or notice of any matter unless actually known to a Responsible Officer of the Administrative Agent, or unless and to the extent written notice of such matter is received by the Administrative Agent at its address in accordance with Section 12.02. Any permissive grant of power to the Administrative Agent hereunder shall not be construed to be a duty to act. The Administrative Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, entitlement order, approval or other paper or document. The Administrative Agent shall not be liable for any error of judgment, or for any act done or step taken or omitted by it, in good faith, or for any mistakes of fact or law, or for anything that it may do or refrain from doing in connection herewith except as shall be determined by a court of competent jurisdiction by final and non-appealable judgment that it was the result of its willful misconduct or grossly negligent performance or omission of its duties.

(c) The Administrative Agent shall not be responsible or liable for delays or failures in performance resulting from acts beyond its control. Such acts shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, computer viruses, power failures, earthquakes or other disasters.

Section 11.04. Indemnification. Each of the Lenders agrees to indemnify and hold the Administrative Agent harmless (to the extent not reimbursed by or on behalf of the Borrower pursuant to Section 12.04 or otherwise) from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including reasonable and documented attorneys' fees and expenses) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Administrative Agent in any way relating to or arising out of this Agreement or any other Facility Document or any Related Document or any action taken or omitted by the Administrative Agent under this Agreement or any other Facility Document or any Related Document; *provided* that no Lender shall be liable to the Administrative Agent for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. The rights of the Administrative Agent and obligations of the Lenders under or pursuant to this Section 11.04 shall survive the

termination of this Agreement, and the earlier removal or resignation of the Administrative Agent hereunder.

Section 11.05. Successor Administrative Agent. (a) Subject to the terms of this Section 11.05, the Administrative Agent may resign as Administrative Agent in the Administrative Agent's sole discretion at any time upon thirty (30) days' notice to the Lenders and the Borrower. If the Administrative Agent shall resign then the Required Lenders shall appoint a successor agent. If for any reason a successor agent is not so appointed and does not accept such appointment within thirty (30) days of notice of resignation the Administrative Agent may appoint a successor agent. The appointment of any successor Administrative Agent shall be subject to the prior written consent of the Borrower (which consent shall not be unreasonably withheld, conditioned or delayed); *provided* that the consent of the Borrower to any such appointment shall not be required if (i) an Event of Default shall have occurred and is continuing or, (ii) if such successor Administrative Agent is a Lender or an Affiliate of such Administrative Agent or any Lender. Any resignation of the Administrative Agent shall be effective upon the appointment of a successor agent pursuant to this Section 11.05. After the effectiveness of the retiring Administrative Agent's resignation hereunder as the Administrative Agent, the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Facility Documents and the provisions of this Article XI shall continue in effect for its benefit with respect to any actions taken or omitted to be taken by it while it was the Administrative Agent under this Agreement and under the other Facility Documents. Any Person (i) into which the Administrative Agent may be merged or consolidated, (ii) that may result from any merger or consolidation to which the Administrative Agent shall be a party, or (iii) that may succeed to the properties and assets of the Administrative Agent substantially as a whole, shall be the successor to the Administrative Agent under this Agreement without further act of any of the parties to this Agreement.

–(b) The parties hereto hereby agree that, (i) if (A) no new Advances may be required from the Class A Lenders hereunder and (B) no further Obligations owing by the Borrower ~~or~~, Holdings [or the Permitted Holder](#) to the Class A Lenders or the Administrative Agent exist or are reasonably expected to exist, and (ii) if there are or are reasonably expected to be Obligations owing by the Borrower ~~or~~, Holdings [or the Permitted Holder](#) to the Class B Lenders, then the Initial Class B Lender hereby is authorized to deliver written notice to the Administrative Agent that it agrees to immediately and automatically assume the role of Administrative Agent under this Agreement and the other Facility Documents. So long as Section 11.05(b)(i) is true and accurate as of the date the Initial Class B Lender delivers the aforesaid written notice, then following (y) the Administrative Agent acknowledgement thereof by written notice to the Initial Class B Lender and (z) the Borrower's receipt of the Initial Class B Lender's written notice, the role of the Administrative Agent shall be deemed to have been immediately and automatically assigned from the then existing Administrative Agent to, and assumed by, the Initial Class B Lender. After the effectiveness of the retiring Administrative Agent's assignment hereunder as the Administrative Agent, the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Facility Documents and the provisions of this Article XI shall continue in effect for its benefit with respect to any actions taken or omitted to be taken by it while it was the Administrative Agent under this Agreement and under the other Facility Documents.

Section 11.06. Administrative Agent's Capacity as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such Person and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower or any Affiliate thereof as if it were not the Administrative Agent hereunder.

Section 11.07. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower, that at least one of the following is and will be true:

(xiii) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Advances or this Agreement,

(xiv) 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 Advances and this Agreement,

(xv) (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 Advances and this Agreement, (C) the entrance into, participation in, administration of and performance of the Advances 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 Advances and this Agreement, or

(xvi) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and

covenant in accordance with clause (iv) in the immediately preceding 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 not, for the avoidance of doubt, to or for the benefit of the Borrower, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Advances and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Facility Document or any documents related hereto or thereto).

Section 11.08. Erroneous Payments.

(a) If the Administrative Agent notifies a Lender or another, Secured Party, or any Person who has received funds on behalf of a Lender or another a Secured Party (any such Lender, Secured Party or other recipient, a "*Payment Recipient*") that the Administrative Agent has determined in its sole discretion that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Secured Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "*Erroneous Payment*") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two (2) Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Payment Recipient hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender, Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part):

(xvii) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(xviii) such Lender or Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one (1) Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 11.08(b).

(c) Each Lender and other Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender, or Secured Party under any Facility Document, or otherwise payable or distributable by the Administrative Agent to such Lender or Secured Party from any source, against any amount due to the Administrative Agent under immediately preceding clauses (a) and (b) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason from any Payment Recipient that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an “*Erroneous Payment Return Deficiency*”), upon the Administrative Agent’s notice to such Payment Recipient at any time, (i) such Payment Recipient, if a Lender, shall be deemed to have assigned its Advances (but not its commitments) of the relevant Class with respect to which such Erroneous Payment was made (the “*Erroneous Payment Impacted Class*”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Advances (but not commitments) of the Erroneous Payment Impacted Class, the “*Erroneous Payment Deficiency Assignment*”) at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Acceptance (and such Lender shall deliver any notes evidencing such Advances to the Administrative Agent, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable commitments which shall survive as to such assigning Lender and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Advances subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Advances acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Advances (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). For the

avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the commitments, if any, of any Lender and such commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Advances (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender or other Secured Party under the Facility Documents with respect to each Erroneous Payment Return Deficiency.

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any Affiliate thereof.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine.

(g) Each party’s obligations, agreements and waivers under this Section 11.08 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Facility Document.

Article XII Miscellaneous

Section 12.01. No Waiver; Modifications in Writing. (a) No failure or delay on the part of any Secured Party exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. Any waiver of any provision of this Agreement, and any consent to any departure by any party to this Agreement from the terms of any provision of this Agreement, shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

(b) No amendment, modification, supplement or waiver of this Agreement shall be effective unless signed by the Borrower, the Administrative Agent and the Required Lenders, *provided* that:

(xix) subject to clause (iii) below, any Fundamental Amendment shall require the written consent of each Lender;

(xx) no such amendment, modification, supplement or waiver shall amend, modify or otherwise affect the rights, duties, immunities or liabilities of the Administrative Agent without the prior written consent of the Administrative Agent; and

(xxi) the parties acknowledge and agree that increases in (A) the Class A Facility Amount (x) may be allocated at the Administrative Agent's sole discretion not on a pro-rata basis among the Class A Lenders and (y) shall be agreed to by the Borrower, the Administrative Agent and the relevant Class A Lenders providing such increased Class A Facility Amount or any new Class A Lender joining this Agreement (subject to the requirements of Section 13.02) and (B) the Class B Facility Amount (x) may be allocated at the Administrative Agent's sole discretion not on a pro-rata basis among the Class B Lenders and (y) shall be agreed to by the Borrower, the Administrative Agent and the relevant Class B Lenders providing such increased Class B Facility Amount or any new Class B Lender joining this Agreement (subject to the requirements of Section 13.02). Any such increases in the Facility Amount will be set forth in amendments to this Agreement executed solely by the parties listed in clause (iii)(A)(y) and clause (iii)(B)(y) above, as applicable.

Section 12.02. Notices, Etc. Except as otherwise provided herein, all notices and other communications hereunder to any party shall be in writing and sent by certified or registered mail, return receipt requested, by overnight delivery service, with all charges prepaid, by hand delivery, or by e-mail, to such party's address or e-mail address set forth in Schedule 3 hereto, or at such other address or e-mail address as such party may hereafter specify in a notice given in the manner required under this Section 12.02. All such notices and correspondence shall be deemed given (a) if sent by certified or registered mail, three (3) Business Days after being postmarked, (b) if sent by overnight delivery service or by hand delivery, when received at the above stated addresses or when delivery is refused and (c) if sent by electronic transmission, 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). The Borrower hereby irrevocably consents and agrees to the service of any and all legal process, summons, notices and documents out of any courts in any action, suit or proceeding in connection with this Agreement by serving a copy thereof upon the Borrower or by mailing copies thereof by regular or overnight mail, postage prepaid, to the Borrower at its address specified in Schedule 3. For the avoidance of doubt, with respect to any notices required to be delivered and sent to the Administrative Agent, the Administrative Agent shall use commercially reasonable efforts to distribute a copy thereof to the Lenders as soon as reasonably practicable; *provided, however*, that to the extent a Lender receives any such notice from the Borrower, Holdings, [the Permitted Holder](#) or any other Person, the Administrative Agent shall be deemed to have complied with this sentence.

Section 12.03. Taxes. (a) For purposes of this Section 12.03, the term Applicable Law includes FATCA.

(b) Any and all payments by or on account of any obligation of the Borrower under this Agreement and any other Facility Document shall be made, in accordance with this Agreement or the related Facility Document, free and clear of and without deduction for any and

all Taxes, except as required by Applicable Law. If the Borrower or Administrative Agent shall be required

by Applicable Law (as determined in the good faith discretion of the Borrower or Administrative Agent, as applicable) to deduct or withhold any Taxes from or in respect of any sum payable by it hereunder or under any other Facility Document to any Secured Party, then the Borrower or Administrative Agent, as applicable, 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 payment is an Indemnified Tax, the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions applicable to additional sums payable under this Section 12.03) such Secured Party receives an amount equal to the sum it would have received had no such deductions or withholding been made.

(c) In addition, the Borrower agrees to timely pay any present or future stamp, sales, court or documentary, intangible, recording, filing or similar Taxes or any other excise or property Taxes, charges or similar levies which arise from any payment made by the Borrower hereunder or under any other Facility Document or from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, this Agreement or under any other Facility Document, except any such Taxes that are Other Connection Taxes (other than an assignment made pursuant to Section 2.09(d)) (hereinafter referred to as “*Other Taxes*”).

(d) The Borrower agrees to indemnify each of the Secured Parties, within 10 days after demand therefor, for the full amount of Indemnified Taxes, including any Indemnified Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 12.03 payable by such Secured Party or required to be withheld or deducted from a payment to such Secured Party and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Secured Party (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Secured Party, shall be conclusive absent manifest error.

(e) As soon as practicable after the date of any payment of Taxes to a Governmental Authority pursuant to this Section 12.03, the Borrower will furnish to the Administrative Agent the original or a certified copy of a receipt issued by the relevant Governmental Authority evidencing payment thereof (or a copy of the return reporting such payment or other evidence of payment as may be reasonably satisfactory to the Administrative Agent).

(f) If any payment is made by the Borrower to or for the account of any Secured Party after deduction for or on account of any Taxes, and an indemnity payment or additional amounts are paid by the Borrower pursuant to this Section 12.03, then, if such Secured Party, in its sole discretion exercised in good faith, determines that it has received a refund of such Taxes (any such refund a “Tax Benefit”), such Secured Party shall reimburse to the Borrower such amount of any Tax Benefit received (net of reasonable out-of-pocket expenses incurred) as such Secured Party shall determine in its sole discretion to be attributable to the relevant Taxes; *provided* that in the event that such Secured Party is required to repay such Tax Benefit to the relevant taxing authority, the Borrower agrees to return the refund to such Secured Party. Notwithstanding anything to the contrary in this paragraph (f), in no event will the Secured Party be required to pay any amount to

the Borrower pursuant to this paragraph (f) the payment of which would place the Secured Party in a less favorable net after-Tax position than the Secured Party would have been in if the Tax subject to indemnification and giving rise to such Tax Benefit had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid.

(g) *Status of Lender.*

(iv) Each Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Facility 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 paragraphs (g)(ii) and (g)(iii) of this Section) shall not be required if in the reasonable judgment of the Lender 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.

(v) Without limiting the generality of clause (i), each Lender that is a “United States person” as that term is defined in Section 7701(a)(30) of the Code (a “*U.S. Person*”) hereby agrees that it shall, no later than the Closing Date or, in the case of a Lender which becomes a party hereto pursuant to Section 12.06, the date upon which such Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), deliver to the Borrower and the Administrative Agent, if applicable, two accurate, complete and executed copies of U.S. Internal Revenue Service Form W-9 or successor form, certifying that such Lender is on the date of delivery thereof entitled to an exemption from United States backup withholding tax.

(vi) Without limiting the generality of clause (i), each Lender that is not a U.S. Person (a “*Non-U.S. Lender*”) shall, no later than the date on which such Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), deliver to the Borrower and the Administrative Agent two copies of properly completed and duly executed copies of either U.S. Internal Revenue Service Form W-8BEN, W-8BEN-E, W-8ECI or W-8IMY or any subsequent versions thereof or successors thereto, in the case of a Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party, with respect to payments of interest hereunder, establishing an exemption from, or reduction of, U.S.

federal withholding Tax pursuant to the “interest” article of such tax treaty, and establishing an exemption from, or

reduction of, U.S. federal withholding Tax pursuant to the “business” profits or “other income” article of such treaty, with respect to any other applicable payments hereunder. In addition, in the case of a Non-U.S. Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code, such Non-U.S. Lender shall deliver to the Borrower and Administrative Agent (in such number of copies as shall be requested by the recipient), no later than the date on which such Non-U.S. Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), a certificate to the effect that such Non-U.S. Lender is not a bank for purposes of Section 881(c) of the Code, is not a 10-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Borrower and is not a controlled foreign corporation related to the Borrower (within the meaning of Section 881(c)(3)(C) of the Code) substantially in the form of Exhibit E hereto (a “*U.S. Tax Compliance Certificate*”), and such Non-U.S. Lender agrees that it shall notify the Borrower and the Administrative Agent in the event any such certificate is no longer accurate. In addition, to the extent a Non-U.S. Lender is not the beneficial owner, such Non-U.S. Lender shall also provide a U.S. Tax Compliance Certificate or other certification documents from each beneficial owner, as applicable, provided that if the Non-U.S. Lender is a partnership and one or more direct or indirect partners of such Non-U.S. Lender are one or more direct or indirect partners of such Non-U.S. Lender are claiming the portfolio interest exemption, such Non-U.S. Lender may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner. Such forms shall be delivered by each Non-U.S. Lender on or before the date it becomes a party to this Agreement and on or before the date, if any, such Non-U.S. Lender designates a new lending office. In addition, each Non-U.S. Lender shall deliver such forms as promptly as practicable after receipt of a written request therefor from the Borrower or the Administrative Agent. Notwithstanding any other provision of this Section 12.03, a Non-U.S. Lender shall not be required to deliver any form pursuant to this Section 12.03(g) that such Non-U.S. Lender is not legally able to deliver.

(vii) Each Non-U.S. 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 about the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 12.03(g) 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.

(h) If any Secured Party requires the Borrower to pay any additional amount to such Secured Party or any taxing Governmental Authority for the account of such Secured Party or to

indemnify such Secured Party pursuant to this Section 12.03, then such Secured Party shall use reasonable efforts to designate a different lending office for funding or booking its Advances hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if such Lender determines, in its sole discretion, that such designation or assignment (i) would eliminate or reduce amounts payable pursuant to this Section 12.03 in the future and (ii) would not subject such Secured Party to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Secured Party. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(i) Nothing in this Section 12.03 shall be construed to require any Secured Party to make available its tax returns (or any other information relating to its taxes that it deems confidential) to the Borrower or any other Person.

(j) *Compliance with FATCA.* If a payment made to a Lender under this Agreement 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, if any, to deduct and withhold from such payment. Solely for purposes of this clause (j), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(k) *Survival.* Each party's obligations under this Section 12.03 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender and the repayment, satisfaction or discharge of all amounts owing under any Facility Document.

Section 12.04. Costs and Expenses; Indemnification. (a) The Borrower agrees to pay all reasonable and documented out-of-pocket costs and expenses of the Administrative Agent, the Servicer, the Backup Servicer, the Collection Account Bank, the Custodian, and the other Lenders in connection with the preparation, review, negotiation, reproduction, execution and delivery of this Agreement and the other Facility Documents, including the reasonable fees and disbursements of outside counsel for each of the Administrative Agent, the Servicer, the Backup Servicer, the Collection Account Bank, the Custodian, and the other Lenders and any auditors, accountants, consultants, appraisers and rating agency or other professional advisors and agents engaged by the Administrative Agent; UCC filing fees and all other related fees and expenses in connection therewith; and in connection with any modification or amendment of this Agreement or any other Facility Document; *provided, however*, that the reasonable and documented out-of-pocket fees of Chapman and Cutler LLP, as counsel to the Administrative Agent and Initial Class A Lender, on or prior to the Closing Date (but not thereafter), shall not exceed \$200,000. Further, subject to the

Priority of Payments, the Borrower shall pay (A) all reasonable and documented out-of-pocket costs and expenses (including all reasonable and documented fees, expenses and disbursements of legal counsel), and any auditors, accountants, consultants or appraisers or other professional advisors and agents engaged by the Administrative Agent and incurred by the Administrative Agent in the preparation, execution, delivery, filing, recordation, administration, performance or enforcement of this Agreement or any other Facility Document or any consent, amendment, waiver or other modification relating thereto, (B) all reasonable out-of-pocket costs and expenses of creating, perfecting, releasing or enforcing the Administrative Agent's security interests in the Collateral, including filing and recording fees, expenses and Other Taxes, search fees, and title insurance premiums, and (C) after the occurrence of any Event of Default, all costs and expenses incurred by the Administrative Agent and the other Secured Parties in connection with the preservation, collection, foreclosure or enforcement of the Collateral subject to the Facility Documents or any interest, right, power or remedy of the Administrative Agent and the other Secured Parties or in connection with the collection or enforcement of any of the Obligations or the proof, protection, administration or resolution of any claim based upon the Obligations in any insolvency proceeding, including all reasonable and documented fees and disbursements of attorneys, accountants, auditors, consultants, appraisers and other professionals engaged by the Administrative Agent and the other Secured Parties. The undertaking in this Section shall survive repayment of the Obligations, any foreclosure under, or modification, release or discharge of, any or all of the Related Documents, termination of this Agreement and the other Facility Documents and the resignation or replacement of the Administrative Agent. Without prejudice to its rights hereunder, the expenses and the compensation for the services of the Administrative Agent are intended to constitute expenses of administration under any applicable bankruptcy law.

(b) The Borrower agrees to indemnify and hold harmless each Secured Party and each of their Affiliates and the respective officers, directors, employees, agents, managers of, and any Person controlling any of, the foregoing (each, an "*Indemnified Party*") from and against any and all claims, damages, losses, liabilities, obligations, expenses, penalties, actions, suits, judgments and disbursements of any kind or nature whatsoever (including the reasonable and documented fees and disbursements of counsel) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or by reason of the execution, delivery, enforcement, performance, administration of or otherwise arising out of or incurred in connection with this Agreement, any other Facility Document, any Related Document or any transaction contemplated hereby or thereby (and regardless of whether or not any such transactions are consummated) (collectively, the "*Liabilities*"), including any such Liability that is incurred or arises out of or in connection with, or by reason of any one or more of the following: (i) preparation for a defense of any investigation, litigation or proceeding arising out of, related to or in connection with this Agreement, any other Facility Document, any Related Document or any of the transactions contemplated hereby or thereby; (ii) any breach of any covenant by the Borrower, Holdings, [the Permitted Holder](#), the Collection Account Bank, the Custodian, the Seller, any Servicer or any Backup Servicer contained in any Facility Document; (iii) any representation or warranty made or deemed made by the Borrower, Holdings, [the Permitted Holder](#), the Collection Account Bank, the Custodian, the Seller, any Backup Servicer or any Servicer contained in any Facility Document or in any certificate, statement or report delivered in connection therewith is false or misleading; (iv) any failure by the Borrower, Holdings, [the Permitted Holder](#), the Collection Account Bank, the Custodian, the Seller, any Servicer or any Backup Servicer to

comply with any Applicable Law or contractual obligation binding upon it; (v) any failure to vest, or delay in vesting, in the Administrative Agent (for the benefit of the Secured Parties) a perfected first priority security interest in all of the Collateral free and clear of all Liens; (vi) any action or omission, not expressly authorized by the Facility Documents, by the Borrower or any Affiliate of the Borrower which has the effect of reducing or impairing the Collateral or the rights of the Administrative Agent or the Secured Parties with respect thereto; (vii) the failure to file, or any delay in filing, financing statements, continuation statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other Applicable Law with respect to any Collateral, whether at the time of any Advance or at any subsequent time; (viii) any dispute, claim, offset or defense (other than the discharge in bankruptcy of an Obligor) of an Obligor to the payment with respect to any Collateral (including a defense based on any Receivable (or the Related Documents evidencing such Eligible Receivable) not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from any related property; (ix) the commingling of Collections on the Collateral at any time with other funds; (x) any failure by the Borrower to give reasonably equivalent value to any Seller, in consideration for the transfer by such Seller to the Borrower of any item of Collateral or any attempt by any Person to void or otherwise avoid any such transfer under any statutory provision or common law or equitable action, including any provision of the Bankruptcy Code; and (xi) any Unmatured Event of Default or Event of Default; *provided*, that the Borrower shall not be liable (A) for any Liability or losses arising due to the deterioration in the credit quality or market value of the Eligible Receivables or other Collateral hereunder to the extent that such credit quality or market value was not misrepresented in any material respect by the Borrower or any of its Affiliates or (B) to the extent any such Liability is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnified Party's fraud, bad faith, gross negligence or willful misconduct; *provided* however that in no event will such Indemnified Party have any liability for any special, exemplary, indirect, punitive or consequential damages in connection with or as a result of such Indemnified Party's activities related to this Agreement or any Facility Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein; *provided, further*, that any payment hereunder which relates to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim, or additional sums described in Sections 2.09 or 2.10, shall not be covered by this Section 12.04(b).

(c) All amounts due under this Section 12.04 shall be payable not later than five (5) Business Days after written demand containing evidence of amounts due.

Section 12.05. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement. Delivery of an executed signature page of this Agreement by facsimile or other electronic transmission shall be effective as delivery of a manually executed counterpart hereof. The parties hereto agree that "execution," "signed," "signature," and words of like import in this Agreement, shall be deemed to include electronic signatures, authentication, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based record keeping system, as the case may be, to the extent and

as provided for in any Applicable Law, including the Electronic Signatures in Global and National

Commerce Act, the Uniform Electronic Transactions Act as in effect in any state, the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301-309), the Illinois Electronic Commerce Security Act (5 ILCS 175/1-101 et seq.), or the Uniform Commercial Code, and the parties hereto hereby waive any objection to the contrary.

Section 12.06. Assignability. The Borrower may not assign its rights or obligations hereunder or any interest herein without the prior written consent of the Administrative Agent and the Initial Class B Lender. The Lenders may assign their rights, interests or obligations under this Agreement as permitted under Section 13.02. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns (including by operation of law).

Section 12.07. Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF (EXCEPT FOR SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

Section 12.08. Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 12.09. Confidentiality. Each Secured Party agrees to keep all Borrower Information confidential; *provided* that nothing herein shall prevent any Secured Party from disclosing any Borrower Information (a) in connection with this Agreement and the other Facility Documents and not for any other purpose, (x) to any Secured Party or any Affiliate of a Secured Party, or (y) any of their respective Affiliates, employees, directors, agents, representatives, consultants, attorneys, accountants and other professional advisors (collectively, the “*Secured Party Representatives*”), it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Borrower Information, (b) subject to an agreement to comply with the provisions of this Section (or other provisions at least as restrictive as this Section), (i) to any actual or bona fide prospective permitted assignees and Participants in any of the Secured Parties’ interests under or in connection with this Agreement, (ii) to any prospective agent or co-agent of the Administrative Agent (iii) as reasonably required by any direct or indirect contractual counterparties or professional advisors thereto, to any swap or derivative transaction relating to the Borrower and the Obligations, and (iv) to any provider of credit protection to a Lender or any provider of a hedge for the benefit of a Lender, (c) to any Governmental Authority purporting to have jurisdiction over any Secured Party or any of its Affiliates or any Secured Party Representative, (d) in response to any order of any court or other Governmental Authority or as may otherwise be required or requested to be disclosed pursuant to any Applicable Law, (e) that is a matter of general public knowledge or that has heretofore been made available to the public by any Person other than any Secured Party or any Secured Party Representative in violation hereof,

(f) any rating agency or a nationally recognized statistical rating organization in connection with Rule 17g-5 promulgated by the SEC, (g) in connection with the exercise of any remedy

hereunder or under any other Facility Document and (h) to [the Permitted Holder](#), the Seller, the Servicer, the

Backup Servicer, the Collection Account Bank, and the Custodian in connection with the administration of this credit facility or the enforcement of the Facility Documents. In addition, each Secured Party may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Secured Parties in connection with the administration and management of this Agreement and the other Facility Documents.

Section 12.10. Merger. This Agreement and the other Facility Documents executed by the Administrative Agent or the Lenders taken as a whole incorporate the entire agreement between the parties thereto concerning the subject matter thereof and such Facility Documents supersede any prior agreements among the parties relating to the subject matter thereof.

Section 12.11. Survival. The agreements in Sections 2.09, 2.10, 2.13, the final sentence of Section 7.02, 7.06(b), 12.02, 12.03, 12.04, 12.07, 12.08, 12.12, 12.13, 12.14, 12.16, 12.18 and 12.19 and this Section 12.11 shall survive the termination of this Agreement in whole or in part and the payment in full of the principal of and interest on the Advances.

Section 12.12. Submission to Jurisdiction; Waivers; Etc. Each party hereto hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement or the other Facility Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York located in the County of New York, the courts of the United States of America for the Southern District of New York, and the appellate courts of any of them;

(b) consents that any such action or proceeding may be brought in any court described in Section 12.12(a) and waives to the fullest extent permitted by Applicable Law any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such party at its address referenced in Section 12.02 or at such other address as may be permitted thereunder;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding against any party hereto or any Secured Party arising out of or relating to this Agreement or any other Facility Document any special, exemplary, indirect, punitive or consequential damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty

imposed by any applicable legal requirement).

Section 12.13. Waiver of Jury Trial. Each of the parties hereto hereby irrevocably and unconditionally waives trial by jury in any legal action or proceeding relating to this Agreement or any other Facility Document or for any counterclaim therein or relating thereto.

Section 12.14. Service of Process. EACH OF THE PARTIES HERETO WAIVES PERSONAL SERVICE OF PROCESS AND IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 12.15. Waiver of Setoff. The Borrower hereby waives any right of setoff it may have or to which it may be entitled under this Agreement from time to time against any Lender or its assets.

Section 12.16. PATRIOT Act Notice. Each Lender and the Administrative Agent hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law on October 26, 2001)) (the “*PATRIOT Act*”) and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower, a Beneficial Ownership Certification and other information that will allow the Lenders to identify the Borrower in accordance with the PATRIOT Act and the Beneficial Ownership Regulation. The Borrower shall provide to the extent commercially reasonable, such information and take such actions as are reasonably requested by any Lender in order to assist such Lender in maintaining compliance with the PATRIOT Act and the Beneficial Ownership Regulation.

Section 12.17. Business Days. In the event that the date of any Payment Date, date of prepayment or Final Maturity Date shall not be a Business Day, then notwithstanding any other provision of this Agreement or any Facility Document, payment need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on the nominal date of any such Payment Date, date of prepayment or Final Maturity Date, as the case may be, and interest shall accrue on such payment for the period from and after any such nominal date to but excluding such next succeeding Business Day.

Section 12.18. Third-Party Beneficiary. The parties hereto acknowledge and agree that the Indemnified Parties and the Affected Persons are third party beneficiaries of this Agreement.

Section 12.19. No Fiduciary Duty. The Administrative Agent, each Lender and their Affiliates (collectively, solely for purposes of this paragraph, the “*Lenders*”), may have economic interests that conflict with those of the Borrower, its stockholders or their Affiliates. The Borrower agrees that nothing in the Facility Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and the Borrower, its stockholders or its Affiliates, on the other. The Borrower acknowledges and agrees that (i) the transactions contemplated by the Facility Documents

(including the exercise of rights and remedies hereunder and thereunder) are arm's length commercial transactions between the Lenders, on the one hand, and the Borrower, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of the Borrower, its stockholders or its Affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise the Borrower, its stockholders or its Affiliates on other matters) or any other obligation to the Borrower except the obligations expressly set forth in the Facility Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of the Borrower, its management, stockholders, creditors or any other Person. The Borrower acknowledges and agrees that it has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. The Borrower agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Borrower, in connection with such transaction or the process leading thereto.

Section 12.20. Non-Reliance on Administrative Agent and other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Affiliates or the respective officers, directors, employees, agents, managers of, and any Person controlling any of, the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Affiliates or the respective officers, directors, employees, agents, managers of, and any Person controlling any of, the foregoing, and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Facility Document or any related agreement or any document furnished hereunder or thereunder.

12.21. Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Facility Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Facility Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

- (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other
-

instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Facility Document; or

- (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

Section 12.22. Acknowledgement Regarding Any Supported QFCs. To the extent that the Facility Documents provide support, through a guarantee or otherwise, for hedging agreements or any other agreement or instrument that is a QFC (such support, “*QFC Credit Support*” and each such QFC a “*Supported QFC*”), the parties acknowledge and agree with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “*U.S. Special Resolution Regimes*”) in respect of such Supported QFC and QFC Credit Support (with this Section 12.22 applicable notwithstanding that the Facility Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York or of the U.S. or any other state of the U.S.) that in the event a Covered Entity that is party to a Supported QFC (each, a “*Covered Party*”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the U.S. or a state of the U.S. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Facility Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Facility Documents were governed by the laws of the U.S. or a state of the U.S.

Section 12.23. Non-Petition.

(bg) Each of the parties hereto (other than the Administrative Agent acting at the direction of the Required Lenders) hereby covenants and agrees that, prior to the date that is one (1) year and one (1) day after the payment in full of all outstanding Advances, it shall not institute against, or join any other Person in instituting against, the Borrower any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States or any other jurisdiction.

(bh) Each of the parties hereto (other than Administrative Agent acting at the

direction of the Required Lenders) hereby covenants and agrees that it shall not at any time institute against, solicit or join or cooperate with or encourage any institution against Borrower of, any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under any United States federal or state bankruptcy or similar law.

(bi) Nothing in this Section 12.23 shall preclude, or be deemed to estop, any of the foregoing Persons from taking (to the extent such action is otherwise permitted to be taken by such Person hereunder) or omitting to take any action prior to such date in (i) any case or proceeding with respect to Borrower voluntarily filed or commenced by or on behalf of Borrower under or pursuant to any such law or (ii) any involuntary case or proceeding pertaining to Borrower under or pursuant to any such law, which involuntary use was not commenced by any of the foregoing Persons.

Article XIII Syndication

Section 13.01. Syndication. The Lenders may at any time sell, assign or participate any portion or all of the Advances and the Facility Documents to one or more Persons subject to the terms and conditions of this Article XIII.

Section 13.02. Assignment of Advances, Participations and Servicing, Appointment of Agent. (a) The Lenders may, at their individual option, sell and assign all or any part of their right, title and interest in, and to, and under the Advances and this Agreement, on a pro rata basis, in the sole discretion of such Lender, subject to the prior written consent of the Administrative Agent (the “*Syndication*”), to one or more additional lenders; *provided, however*, that no assignment shall be made to (x) a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person), or (y) the Borrower or any of the Borrower’s Affiliates. Each additional Lender shall enter into an Assignment and Acceptance whereby the existing Lender (the “*Assigning Lender*”) assigns to such new Lender a portion of its rights under the Advances, and pursuant to which the new Lender accepts such assignment. From and after the effective date specified in the Assignment and Acceptance (i) each new Lender shall be a party hereto and to each applicable Facility Document to the extent of the applicable percentage or percentages and, if applicable, priorities, set forth in the Assignment and Acceptance and, except as specified otherwise herein, shall succeed to the rights of the Assigning Lender hereunder in respect of the Advances, and (ii) the Assigning Lender shall, to the extent such rights and obligations have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights and be released from its obligations hereunder and under the Facility Documents.

The liabilities of each of the Lenders shall be several and not joint, and any Lender’s Percentage shall be reduced by the amount of each such Assignment and Acceptance. No Lender shall be responsible for the obligations of any other Lender.

(b) The Borrower agrees that it shall reasonably cooperate, in connection with any sale of all or any portion of the Advances permitted under Section 13.02(a), whether in whole or to an

additional Lender or Participant, to furnish to Administrative Agent, any information as reasonably requested by any additional Lender or Participant in performing its due diligence in connection with its purchase of an interest in the Advances.

(c) The Borrower acknowledges that the Administrative Agent shall have the sole and exclusive authority to execute and perform this Agreement and each Facility Document on behalf of itself and as agent for the Secured Parties. The Lenders acknowledge that the Administrative Agent shall retain the exclusive right to grant approvals and give consents required to be delivered hereunder. Except as otherwise provided herein, the Borrower shall have no obligation to recognize or deal directly with any Lender, and no Lender shall have any right to deal directly with the Borrower with respect to the rights, benefits and obligations of the Borrower under this Agreement, the Facility Documents or any one or more documents or instruments in respect thereof, except as explicitly provided herein or therein. The Borrower may rely conclusively on the actions of the Administrative Agent to bind the Lenders, notwithstanding that the particular action in question may, pursuant to this Agreement be subject to the consent or direction of some or all of the Lenders.

(d) Notwithstanding any provision to the contrary in this Agreement, the Administrative Agent shall not have any duties or responsibilities except those expressly set forth herein and no covenants, functions, responsibilities, duties, obligations or liabilities of the Administrative Agent shall be implied by or inferred from this Agreement or any other Facility Document, or otherwise exist against Administrative Agent.

(e) Except to the extent its obligations hereunder and its interest in the Advances have been assigned pursuant to one or more Assignments and Acceptances, if the Administrative Agent is also a Lender, the Administrative Agent shall have the same rights and powers under this Agreement as any other Lender and may exercise the same as though it were not the Administrative Agent, respectively. The Lenders and their respective Affiliates may accept deposits from, lend money to, act as trustee under indentures of, and generally engage in any kind of business with, the Borrower, or any Affiliate of the Borrower and any Person who may do business with or own securities of the Borrower or any Affiliate of the Borrower, all as if they were not serving in such capacities hereunder and without any duty to account therefor to each other.

(f) If required by any Lender, the Borrower hereby agrees to execute notes in the principal amount of such Lender's Percentage of the Advances, and such note shall (i) be payable to order of such Lender, (ii) be dated as of the effective date specified in the Assignment and Acceptance (or, if later, the date that such Lender became a Lender hereunder), and (iii) mature on the Termination Date. Such note shall provide that it evidences a portion of the existing Obligations hereunder and not any new or additional indebtedness of the Borrower.

(g) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and principal amounts (and stated interest) of the Advances owing to, each Lender pursuant to the terms hereof from time to time (the "*Register*"). The entries in the Register shall be conclusive

absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each

Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be made available by the Administrative Agent for inspection by the Borrower and any Lender, at any reasonable time and from time to time, upon reasonable prior written request to the Administrative Agent.

(h) Any Lender may at any time, with the prior written consent of the Administrative Agent (such consent not to be unreasonably withheld), sell participations to any Person (other than (A) a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person), or (B) the Borrower or any of the Borrower's Affiliates or subsidiaries) (each, a "*Participant*") in all or a portion of such Lender's rights or obligations under this Agreement (including all or a portion of the Advances owing to it); *provided that* (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Administrative Agent and Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the payments made under Section 2.09 with respect to any payments made by such Lender to its Participant(s).

(i) Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 12.01 that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.09, 12.03 and 12.04 (subject to the requirements and limitations therein, including the requirements under Section 12.03(g) (it being understood that the documentation required under Section 12.03(g) 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 shall not be entitled to receive any greater payment under Section 2.09 or 12.03, 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 Applicable Law that occurs after the Participant acquired the applicable participation. 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 Advances or other obligations under the Facility 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 Facility 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) and proposed Section 1.163-5 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.

(j) Notwithstanding any other provision set forth in this Agreement, any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including amounts owing to it in favor of any Federal Reserve Bank in accordance with Regulation A of the Board of Governors of the Federal Reserve System), provided that no such security interest or the exercise by the secured party of any of its rights thereunder shall release such Lender from any of its funding obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 13.03. Cooperation in Syndication. (a) The Borrower agrees to use commercially reasonable efforts to assist the Lenders and the Administrative Agent, upon reasonable request, in completing a Syndication. Such assistance may include (i) direct contact between senior management and advisors of the Borrower and the proposed Lenders, (ii) assistance in the preparation of a confidential information memorandum and other marketing materials to be used in connection with the Syndication, (iii) the hosting, with the Lenders and the Administrative Agent, of one or more meetings of prospective Lenders or with the credit rating agencies, (iv) the delivery of appraisals reasonably satisfactory to the Lenders and the Administrative Agent if required, and (v) working with the Lenders and the Administrative Agent to procure a rating for the Advances by the credit rating agencies.

(b) The Lenders and the Administrative Agent shall manage all aspects of any Syndication of the Advances, including decisions as to the selection of institutions to be approached and when they will be approached, when their commitments will be accepted, which institutions will participate, the allocations of the commitments among the Lenders and the amount and distribution of fees among the Lenders. To assist the Lenders and the Administrative Agent in their Syndication efforts, the Borrower agrees promptly to prepare and provide to the Lenders and the Administrative Agent all information with respect to the Borrower, Holdings, [the Permitted Holder](#), the Seller and the Servicer contemplated hereby, including all financial information and projections (the “*Projections*”), as the Lenders and the Administrative Agent may reasonably request in connection with the Syndication of the Advances. The Borrower hereby represents and covenants that (i) all information other than the Projections (the “*Information*”) that has been or will be made available to the Lenders and the Administrative Agent by the Borrower or any of their representatives is or will be, when furnished, complete and correct in all material respects and does not or will not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made and (ii) the Projections that have been or will be made available to the Lenders and the Administrative Agent by the Borrower or any of its representatives have been or will be prepared in good faith based upon reasonable assumptions. The Borrower understands that in arranging and syndicating the Advances, the Administrative Agent, the Lenders and, if applicable, the credit rating agencies, may use and rely on the Information and Projections without independent verification thereof.

(c) If required in connection with the Syndication, the Borrower hereby agrees to:

(xxii) deliver updated financial and operating statements and other information

reasonably required by the Lenders and the Administrative Agent to facilitate the Syndication;

(xxiii) deliver reliance letters reasonably satisfactory to the Lenders and the Administrative Agent with respect to any environmental assessments and reports delivered to the Lenders and the Administrative Agent, which will run to the Lender and their respective successors and assigns;

(xxiv) execute modifications to the Facility Documents required by the Lenders, provided that such modification will not change any material or economic terms of the Facility Documents, or otherwise materially increase the obligations or materially decrease the rights of the Borrower pursuant to the Facility Documents; and

(xxv) if the Lenders and the Administrative Agent elect, in their respective individual sole discretion, prior to or upon a Syndication, to split the Advances into two or more parts, or any note into multiple component notes or tranches which may have different interest rates, principal amounts, payment priorities and maturities, the Borrower agrees to cooperate with Lenders and the Administrative Agent, at no cost or expense to the Borrower, in connection with the foregoing and to execute the required modifications and amendments to any note, this Agreement and the other Facility Documents and to provide opinions necessary to effectuate the same. Such notes or components may be assigned different interest rates, so long as (x) with respect to Class A Advances, the weighted average of such interest rates does not exceed the Class A Interest and (y) with respect to Class B Advances, the weighted average of such interest rates does not exceed the Class B Interest, in each case, without giving effect to any deviation attributable to the imposition of any Post-Default Rate or prepayments pursuant to Section 2.06 hereof and without the prior consent of the Borrower and the Administrative Agent.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

Divvy Peach, LLC,
as Borrower

By:_____ Name:
Title:

Goldman Sachs Bank USA,
as Administrative Agent and Initial Class A Lender

By: _____ Name:
Title:

Powerscourt Investments XX, L.P.,
as Initial Class B Lender

By: _____ Name:
Title:

**CERTIFICATION PURSUANT TO
RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, René Lacerte, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Bill.com Holdings, 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 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.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting, which are reasonably likely to adversely affect
the registrant's ability to record, process, summarize and report financial information; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 4, 2022

Bill.com Holdings, Inc.

/s/ René Lacerte
René Lacerte
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO
RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, John Rettig, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Bill.com Holdings, 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 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.
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting, which are reasonably likely to adversely affect
the registrant's ability to record, process, summarize and report financial information; and
 - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 4, 2022

Bill.com Holdings, Inc.

/s/ John Rettig

John Rettig

Chief Financial Officer and Executive Vice President, Finance and
Operations

(Principal Financial Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, René Lacerte, Chief Executive Officer of Bill.com Holdings, Inc. (the “Company”), do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

1. The Quarterly Report on Form 10-Q of the Company for the fiscal quarter ended March 31, 2022 (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition, and results of operations of the Company.

Date: November 4, 2022

Bill.com Holdings, Inc.

/s/ René Lacerte

René Lacerte
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO
RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, John Rettig, Chief Financial Officer of Bill.com Holdings, Inc. (the "Company"), do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

1. The Quarterly Report on Form 10-Q of the Company for the fiscal quarter ended March 31, 2022 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition, and results of operations of the Company.

Date: November 4, 2022

Bill.com Holdings, Inc.

/s/ John Rettig

John Rettig

Chief Financial Officer and Executive Vice President, Finance and
Operations

(Principal Financial Officer)